

Ireneusz Pawel Karolewski and Roland Benedikter

Is Poland Really Lost?

Poland's Contested Governance Reforms and the further Role of the Central Eastern European area (CEE) in the EU

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*The authors*

*Karolewski and Benedikter are Professors of Political Science at the Willy Brandt Center for German and European Studies (WBC) of the University of Wroclaw/Breslau, Poland. Karolewski is Professor and Chair of Political Science at the WBC and Adjunct Professor of Political Science at the University of Potsdam. He was Pierre Keller Visiting Professor 2015 at the Weatherhead Center and Research Fellow 2014 at the Minda de Gunzburg Center for European Studies, both Harvard University. Benedikter is Research Professor of Multidisciplinary Political Analysis at the WBC, Senior Affiliate of Georgetown University, Senior Research Scholar of the Council on Hemispheric Affairs Washington D.C., Trustee of the Toynbee Prize Foundation Boston and Full Member of the Club of Rome. He was Visiting Scholar / Research Affiliate 2009-13 at Stanford's Europe Center, Full Academic Fellow 2008-12 of the Potomac Institute for Policy Studies Washington D.C. and Research Scholar 2008-15 (2009-13 in the role of European Foundation Research Professor of Multidisciplinary Political Analysis in residence) at the Orfalea Center for Global and International Studies of the University of California, Santa Barbara. Corresponding author e-mail: [rolandbenedikter@yahoo.de](mailto:rolandbenedikter@yahoo.de).*

Abstract

On January 13, 2016 for the first time in its history the European Union launched an investigation against one of its full member states, i.e. Poland. The dispute is about new Polish laws that allegedly disempower the national constitutional court and the public media thus breaching EU democracy standards. The newly elected Polish government in charge since November 2015 denies this and calls its "reforms" legitimate, even necessary to achieve a government better capable of acting in order to renew the economy and the political and social system. The dispute reaches far beyond Poland and questions the state and perspectives of integration of the Central Eastern European (CEE) nations into the EU. It is both effect and motor of the current pluri-dimensional European crisis. In essence, the EU-Poland dispute is the outcome of the combination of the specific problems of governance in the Central Eastern European (CEE) nations with a superficial institutionalism of the EU that long neglected the area's developmental issues. Poland's democracy problems show that new attention of the EU to its CEE member states is needed which were for many years ignored because of other concerns such as the economic and financial crises since 2007 and the subsequent debt crisis since 2012, latest because of the threat of a "Brexit", of Britain leaving the EU. In order to save the European integration project, it will be crucial for the credibility and acceptance of the EU to help the CEE nations to reform their socio-economic systems. The case of Poland is the chance for a debate about how the EU and its CEE member states can cooperate better instead of arguing. This debate will be an important pillar of

the ongoing overall discussion about the future of the European Union in the coming years.

### Keywords

Poland, Central Eastern Europe, European Union, Integration, Crisis, Renationalization, Conservative Turn, Authoritarian Turn, European East-West dispute, Institutionalism

On January 13, 2016 for the first time in its history since the founding treaty of Rome in 1958 and the advanced treaty of Maastricht in 1993, as well as since the internal border-abolishing treaties of Schengen in 1985 and 1995 (Schengen I) and 2005 (Schengen II), the European Union (EU) opened up a formal investigation against one of its full member states and member of the borderless internal European Union zone, Poland. The investigation is intended to question whether new laws introduced by the government of the conservative *Law and Justice* party (*Prawo i Sprawiedliwość*, PiS) in charge since November 2015 are breaking EU democracy rules and whether or not they are in accordance with the rule of law and the fundamental democratic values of greater Europe. The PiS is led by Jarosław Kaczyński, the - equally charismatic as controversial - twin brother of former Polish president Lech Kaczyński, who died while in charge in 2010 in a still not fully clarified plane crash in Russia. Jarosław Kaczyński attributes it to a conspiracy of unclear origins against the PiS.

As the EU First Vice-President and Commissioner for Better Regulation, Inter-Institutional Relations, Rule of Law and Charter of Fundamental Rights Frans Timmermans announced, the goal of the procedure is to conduct a “structured dialogue”<sup>1</sup> with the current Catholic-rightist Polish government under premier Beata Szydło according to the “Rule of law framework” of the European Union introduced in March 2014<sup>2</sup>. “Making sure that the rule of law is preserved in all member states is a key part of the Commission’s responsibilities”<sup>3</sup>, Timmermans declared. And he added in a somewhat paradoxical sentence typical of the “prudent interventionism” of the EU: “That has nothing to do with politics.”<sup>4</sup> Nevertheless it does, of course, and even with the core of European unification and integration politics, since it touches the future role of Central and Eastern European (CEE) countries in the EU.

Poland is the second of the Central and Eastern European countries that raises fears of an authoritarian backslide in the CEE region after Hungary. Both countries were long viewed as CEE role models with regard to their political and economic transformation from communism (or the so-called “real existing socialism” as political purists would have it) to democracies starting in 1989-91 until their accession negotiations with the EU (1998-2002). These negotiations led to both countries’ EU membership in 2004,

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<sup>1</sup> EU Commission press release: Readout by first Vice President Timmermans of the College Meeting of 13 January 2016, January 13, 2016, [http://europa.eu/rapid/press-release\\_SPEECH-16-71\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-16-71_en.htm). Cf. Valentina Pop: EU Launches Review of Polish Government’s Court Changes. Move comes after new government ignored constitutional court ruling and replaced judicial appointees, January 13, 2016, <http://www.wsj.com/articles/eu-places-polands-rule-of-law-under-increased-scrutiny-1452690539>.

<sup>2</sup> European Commission: European Commission presents a framework to safeguard the rule of law in the European Union, 11 March 2014, [http://europa.eu/rapid/press-release\\_IP-14-237\\_en.htm](http://europa.eu/rapid/press-release_IP-14-237_en.htm).

<sup>3</sup> EU Commission press release: Readout by first Vice President Timmermans of the College Meeting of 13 January 2016, loc cit.

<sup>4</sup> Reuters: Timmermans says EU only interested in rule of law, not in internal Polish politics, 13 January 2016, <http://www.reuters.com/article/poland-eu-timmermans-idUSL8N14X2N220160113>.

together with a number of other, even more “Eastern” CEE countries such as the Baltic post-Soviet republics together referred to as A8 countries.

Since the 2010 victory of the conservative *Fidesz* party under prime minister Viktor Orbán and its re-election in 2014, Hungary has introduced encompassing “systemic reforms” allowing for changes of the liberal-democratic constitution, a firmer government’s grip on the Constitutional Court and controversial media laws, accompanied by a rise in nationalist discourse in public media. Even the official name of the Republic of Hungary was changed into Hungary in 2012, which to many observers was more than just an exercise in linguistic thrift but rather an ethnic redefinition of Hungary’s national identity. While the EU despite all “sharp critique” has been unable to impact such contested Hungarian domestic politics in effective ways over the past years, Hungary’s neo-nationalist premier Viktor Orbán reacted rather cooperatively to the EU’s requests to explain his government’s controversial reforms. In contrast, the new Polish rightist government showed more recalcitrance to the EU’s pressure, thus provoking the formal investigation procedure of 2016 by the European Commission.

Indeed, the step of January 2016 by the European Commission, the formal government of the European Union not elected by its citizens, but nominated by the governments of the 28 member states, to initiate a formal investigation against Poland, one of its full member states, is unprecedented. It came after Szydło’s government implemented controversial laws which enable the conservative government to directly appoint the heads of public TV and radio with the consent of president Andrzej Duda, in December 2015 and January 2016. At the same time, new laws drastically change the set-up of Poland’s constitutional court and its rules of decision-making, allowing the government to interfere with the appointment of its judges and forcing it to make decisions exclusively with a two-third majority, which makes it *de facto* difficult for the court to act at all. These two moves have been seen as disempowerment of the check-and-balance principle based on the independence of institutions vital for democratic pluralism by many observers and parts of the citizenry.<sup>5</sup>

After the announcement of the EU-investigation, a third highly controversial was implemented with effective start on 7 February 2016: The new Polish police law which allows the law enforcement agencies much broader surveillance measures.<sup>6</sup> The timeline of its implementation was read by many as an act of defiance against the EU. According to the new law signed by president Duda, the police and other security services are enabled to collect digital and phone data of citizens also without court order. Only the contents of e-mails are not accessible to them without judiciary directive, while the names of contacts can be gathered without constraints.

Interestingly enough, the PiS government seems to use the Hungarian roadmap for its reforms, as references to Orbán in particular and Hungary in general abound in the Polish public sphere these days. The mastermind behind the electoral successes of the PiS, the party leader Jarosław Kaczyński, met with Viktor Orbán half-officially in the

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<sup>5</sup> Jan Puhl: Learning Right. The Escalating Fight for Poland’s Future. In: Der Spiegel, January 27, 2016, <http://www.spiegel.de/international/europe/opposition-to-right-wing-polish-government-grows-a-1073775.html>.

<sup>6</sup> BBC News Europe: Poland surveillance law approved by president, 5 February 2016, <http://www.bbc.com/news/world-europe-35501677>.

town of Niedzica in Southern Poland on 6 January to discuss a joint strategy vis-à-vis the EU.

In turn, the EU has threatened consequences. Should the envisaged “dialogue” between the EU and Poland not lead to minimal consensus about adaptations or corrections of the laws in question, sanctions might impend, even the suspension of voting rights of Poland as a full member in the EU – also an unprecedented step in the post-WWII history of European integration. As a reaction, Prime Minister Szydło argued that “defamatory statements” were behind the measure of the EU and denied that there were any attempts by her government to impede democratic values and pluralism in Poland.<sup>7</sup>

What are the backgrounds of these dramatic developments? And what is their potential impact on relations with neighboring Germany as the leading EU member state, with the other Central European partners and the EU as a whole?

Given the escalating events, some outside observers have understandable difficulties to grasp the all too complex origins of the Polish crisis. Reductionist readings have been abounding. For example, like many others Daniel Kelemen and Mitchell Orenstein in their *Foreign Affairs* article “Europe’s Autocracy Problem: Polish Democracy’s Final Days?”<sup>8</sup> are already counting the days of Polish democracy and see its only rescue in the pressure of the EU on the Polish government. Others, such as Ivan Krastev with his “Plane crash conspiracy theory”<sup>9</sup> in *Foreign Policy*, Judy Dempsey with her assertion that Poland’s case is crucial for the future of the EU and must therefore be handled “strongly” in *Carnegie Europe*<sup>10</sup>, as well as Roland Freudenstein and Konrad Niclewicz in *Vocal Europe* with their request for a strong EU intervention against what they call “the new Polish government’s illiberalism”<sup>11</sup>, follow similar paths. Some observers though particularly from Poland itself, like *Open Europe*’s Pawel Swidlicki, while recognizing the existence of a serious “domestic” problem asserted that an intervention of the EU in Poland held the risk that it might backfire by both turning out to be counter-productive and infecting the greater CEE area in unpredictable ways thus creating new instabilities.<sup>12</sup>

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<sup>7</sup> Gabriela Baczyńska: Polish prime minister tells EU that Warsaw breached no laws. In: Reuters, 19 January 2016, <http://www.dailymail.co.uk/wires/reuters/article-3407129/Polish-prime-minister-tells-EU-Warsaw-breached-no-laws.html>. Cf. BBC News Europe: EU launches probe into new Polish laws, 13 January 2016, <http://www.bbc.com/news/world-europe-35303912>.

<sup>8</sup> R. Daniel Kelemen and Mitchell A. Orenstein: Europe’s Autocracy Problem. Polish Democracy’s Final Days? In: *Foreign Affairs*, January 7, 2016, <http://www.foreignaffairs.com/articles/poland/2016-01-07/europes-autocracy-problem>.

<sup>9</sup> Ivan Krastev: The Plane Crash Conspiracy Theory That Explains Poland. Five years after the country’s president and 95 others went down in a forest in Russia, Poland’s new leaders are pouring fuel on the cover-up fire. In: *Foreign Policy*, December 21, 2015, <http://foreignpolicy.com/2015/12/21/when-law-and-justice-wears-a-tinfoil-hat-poland-russia-smolensk-kaczynski/>.

<sup>10</sup> Judy Dempsey: Why Poland Matters. In: *Carnegie Europe*, January 4, 2016, <http://carnegieeurope.eu/strategieurope/?fa=62389>.

<sup>11</sup> Roland Freudenstein and Konrad Niclewicz: The new Polish government’s illiberalism: What the EU should do about it. In: *Vocal Europe*, January 11, 2016, <http://www.vocaleurope.eu/2016/01/11/the-new-polish-governments-illiberalism-what-the-eu-should-do-about-it/>.

<sup>12</sup> Pawel Swidlicki: European Commission should be weary of intervening in Polish domestic politics. In: *Open Europe*, 7 January 2016, <http://openeurope.org.uk/today/blog/european-commission-should-be-wary-of-intervening-in-polish-domestic-politics/>.

All in all, the voices on the case both from within and outside Poland cover the full spectrum of options from the request of resolute intervention to cautious restraint – and from clear condemnation of the actions of the PiS government as “illiberal” or even “anti-democratic” to silent acceptance of its democratic legitimacy.

As in many cases, the truth may lie somewhere in between these polarizing opinions - thus making a more balanced and conciliatory standpoint necessary. On the one hand it can be argued that the “state-reshaping” measures of the Polish government - pushed through in rapid succession immediately after the power takeover - are questionable, are splitting the population and require explaining both at the national and European level not least with regard to their actual and potential relation to the overall European development. On the other hand, a historically more accurate investigation than most observers have offered as at yet is needed to grasp the origins and mechanisms behind the current constellation. Any explanation has to reach farther into the past than just to the victories of the current national-conservative PiS government in May (presidential elections) and October (parliamentary elections) 2015. Those who want to appropriately understand the deeper causes of the political situation in Poland have to explore the recent history that led to the current developments, and in particular to consider the greater socio-economic and socio-political environment in which this history took place.

First of all, the greater European environment has to be taken into consideration. Seen from a longer-ranging, more encompassing and objective perspective, according to its own leaders such as former EU commission president José Manuel Durão Barroso in his farewell speech in Strasbourg on 21 October 2014<sup>13</sup>, the EU has been transiting through multiple crises over the past eight years. Some of these crises have rather been made by external factors such as the Russia-Ukraine crisis since 2014 and the refugee crisis since 2015. Others have rather been self-made such as the sovereign debt crisis with Greece at its center since 2009, or the economic turmoil with several recessions in core Eurozone member states such as Italy since 2007. Most of these crises to the present day remain unsolved.

The 2015-16 tensions between the newly elected Polish government and the EU are in many ways part of the second category: they are widely self-made, particularly under two viewpoints.

On the one hand the new Polish government seems to not fully understand the European partner’s concerns by reacting less than diplomatically desirable. See, for example, the open letter of the Polish Justice minister Zbigniew Ziobro to the German EU Commissioner for Digital Economy and Society Günther Oettinger on 9 January 2016, blaming the EU to judge predeceasing Polish governments including the one of acting president of the European Council (the formal government of the European Union) Donald Tusk (president since 1 December 2014, former prime minister of Poland from 2007-14) and the current one by double standards.<sup>14</sup>

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<sup>13</sup> José Manuel Durão Barroso: Valedictory Speech by President Barroso: In: European Commission Press Release database, 21 October 2014, [http://europa.eu/rapid/press-release\\_SPEECH-14-707\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-14-707_en.htm).

<sup>14</sup> Reddit Europe: Open letter from Polish minister of Justice to UE commissioner Günther Oettinger, 09 January 2016, [https://www.reddit.com/r/europe/comments/408an8/open\\_letter\\_from\\_polish\\_minister\\_of\\_justice\\_to\\_ue/](https://www.reddit.com/r/europe/comments/408an8/open_letter_from_polish_minister_of_justice_to_ue/).

In turn, the continuity of these crises seems to have blinded parts of the European elites despite all their efforts and goodwill to fully grasping the meaning of the coming into power of the conservatives. The Polish elections of October 2015 produced a major victory of the Catholic-conservative PiS with 37.6% of the votes and the majority of 235 out of 460 seats (51 percent) as well as the victory of the conservative candidate Andrzej Duda in the antecedent Presidential elections of May 2015 with 51.55% of the votes.

Again, surfacing across the events rather than investigating their undergrounds, there are mainly *two* simplifying explanations for the victory of the *PiS* in 2015, similar to those of its Hungarian counterpart *Fidesz* in 2010 and 2014.

The *first* of these simplifications goes: Poland's right-wing politicians succeeded in manipulating this still democratically somewhat naïve Central Eastern European (CEE) society into voting for the nationalist and anti-European Right in order to restrict democracy and establish some form of "soft" authoritarian regime by taking advantage of the overflowing crisis psychology.<sup>15</sup>

The *second*, even more polemic one reads: the victory of the PiS, even though democratic, has finally shown the true face of CEE societies, as these societies seem to remain nationalist at core and have merely been pretending to accept the shared norms of liberal democracy, only to reap the economic and financial fruits of their EU membership.

The latter seems to be a less pronounced argument, but rather an underlying tone in many analyses of the democratic transformation of the past 25 years in the CEE area. The renowned transitologist David Ost already believed in the early 1990s that "the danger of new dictatorships in Eastern Europe comes from the bottom [i.e. out of an unripe political culture, note by the authors], not from the top".<sup>16</sup> Also, Ivan Krastev prophesized in 2007 that liberal democracy in Central Europe may be sooner or later coming to an end given the lasting structural (economic and social) problems not ended with the end of communism, only to pave the way for nationalism, populism and religious fundamentalism.<sup>17</sup>

However, although they may hit hidden blind spots in the public self-perception of the CEE nations, in reality both these explanations miss the real causes and prescribe doubtful solutions, the preferred one being "strong" pressure by the EU on the Polish government or even, in its more radical though not very likely version, the threat of a potential (temporary) suspension of Poland's membership in the EU.

Judging according to the historical reality, the most important reason for the electoral victory of the Polish Right in October 2015 - as a consequence of which the *PiS* was able

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<sup>15</sup> Mitchell A. Orenstein: Paranoid in Poland. How Worried Should the West be About the Law and Justice Party's victory? In: Foreign Affairs, November 1, 2015, <https://www.foreignaffairs.com/articles/poland/2015-11-01/paranoid-poland>.

<sup>16</sup> David Ost et al.: Is Latin American the Future of Eastern Europe? In: Problems of Communism, May-June 1994, p. 49.

<sup>17</sup> Ivan Krastev: The Strange Death of the Liberal Consensus. In: Journal of Democracy 18/2007, no. 4, p. 56.

to form the first single party government in Poland since 1989 - is a structural one. It lies exactly at the intersection of two major socio-economic phenomena in the CEE area and greater Europe: *the notorious pathologies of economic governance in Central and Eastern Europe* and the notorious *weakness of the European integration project*. There are several aspects that have to be considered in this regard.

First, after 25 years of democratic development, the CEE version of capitalism all too often remains neoliberal in its practice, excluding relevant portions of the CEE societies from the benefits of liberal capitalism or distributing the costs and benefits asymmetrically. Over decades CEE economic governance has shown serious limitations regarding its ability to integrate the societies of the CEE nations, including Hungary and Poland. The neoliberal model was highly successful during the unprecedented economic and political transformation that took place in the CEE area after 1989 leading to the creation of new economic middle and financial upper classes, the attraction of foreign capital and comparatively solid GDP growth.

On the other hand, due to the neoliberal approach considerable parts of the CEE societies saw themselves unable to increase their social mobility, to find a steady job and to live without fear of socio-economic decline. Many found their post-communist hopes of participatory, shared and just social progress shattered. Although oligarchic politico-economic structures were more widespread in some CEE countries such as the Czech Republic rather than in Poland, the neoliberal economic governance produced socio-economic exclusion within a relative short period of two and a half decades in all CEE countries. Many citizens started to see a prevalence of the drawbacks of transformation. According to the 2013 CBOS survey on the assessment of the post-communist transformation by Polish citizens, a 59% majority of Poles believe that the democratization of 1989 was necessary and worthwhile. Still, 60% of Polish citizens think that the transformation costs were too high and 59% even believe that Poland has not used all chances that the historic breakthrough offered.<sup>18</sup>

In fact, both young people and senior citizens in the CEE region, including Poland, have been living under existential pressure for many years, as their governments despite the import of mainly Western models of democracy and participation have not been able to substantially strengthen the welfare state, which by many people in the CEE nations had been regarded as the pinnacle of positive liberal-democratic development. In the last 10 years more than 2.3 million Poles have emigrated to Great Britain, Ireland, the Netherlands and Germany, as the labor market in Poland (and other CEE countries) remains difficult for many young people. It should not be forgotten that the threat of the UK leaving the European Union after the in/out referendum on its membership set for 2017 has one main reason in "the huge surge in migration from Eastern Europe – especially Poland – with EU enlargement since 2004."<sup>19</sup>

One of the reasons for the notorious difficulties is an only partially reformed and ineffective education system, which remains largely uncoordinated with the demands of the labor market. While the general unemployment rate in Poland has been falling under

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<sup>18</sup> Centrum Badań Opinii Społecznej (CBOS): CZY WARTO BYŁO ZMIENIAĆ USTRÓJ? SPOŁECZNA OCENA PRZEMIAN PO 1989 ROKU. In: Komunikat Badan, BS/73/2013, Warszawa, czerwiec 2013, [http://www.cbos.pl/SPISKOM.POL/2013/K\\_073\\_13.PDF](http://www.cbos.pl/SPISKOM.POL/2013/K_073_13.PDF).

<sup>19</sup> Laurence Peter: EU reform: What's in it for the others? In. BBC News Europe, 1 February 2016, <http://www.bbc.com/news/world-europe-32890895>.

the 10% threshold<sup>20</sup> for some time, it is particularly the high levels of youth unemployment that pose a problem. The unemployment rate of young people decreased from 27.3% in 2013 to 21.1% in 2015.<sup>21</sup> However, this improvement is largely due to corresponding negative demographic trends, since the share of young people in the general population over the same period decreased from 15% to 12%. Many senior Polish citizens have to live on \$450 a month and are forced to pay for their medication in full, as the public health system partially operates on levels of developing countries due to its permanent underfunding, for instance regarding cancer treatment. Consequently, the majority of Polish citizens have to use private medical services despite the fact that the average household net financial wealth per capita is at \$10,919 in comparison to the OECD average of \$67,139. In addition, Polish pensioners are heavily indebted, as their accumulated debt burden equals around \$500 million.

Not all of the socio-economic numbers are equally drastic though. For instance, the unemployment rate, in particular the Polish youth unemployment rate, is certainly not as high as in Greece (51.2%), Spain (51.7%) or Italy (42%). Due to their low international investment and financial integration and their comparatively low economic and financial profile, Poland, Hungary and the Czech Republic were only marginally hit by the international economic and financial crisis of 2007-10. There was no major banking crisis, no sovereign debt crisis, and no major problems with borrowing at the international money markets. The GDP of Poland has been growing by more than 3% for years, in 2015 by 3.6%. The public debt remains modest by European standards at 52% of the GDP, while the budget deficit stays within the European parameters at around -2.8 to -3.0%. Not even the Russian sanctions against the Polish food products, introduced in 2014 as retaliation measures against the sanctions of the EU after the Russian annexation of the Crimea and the destabilization of Eastern Ukraine, were able to disturb the economic growth. Polish producers were not only able to quickly find substitutes for the Russian market, but even expanded their sales. In 2015, for the first time in 27 years, the Polish economy experienced a trade surplus.

That means that the macro-economic data *per se* do not explain the widespread sentiment of failure of economic governance over decades. It is rather a *second* factor that has to be taken into account.

After 1989 basically all governments, including the one of incumbent EU commission president Donald Tusk, used state agencies and state enterprises for cronyism and politico-economic clientelism thus producing a drainage of financial resources from the state budget that could have been invested otherwise into improving higher education, research, health care and pension systems. Foreign capital was not only unable to substitute this structural misuse, but also produced its own problems such as real-estate bubbles or dubious mortgages denominated in Swiss francs. Corporations, banks and consultancies mushroomed, but the CEE nations, namely Poland, the Czech Republic, Slovakia and Hungary, virtually became assembly lines for foreign producers that did - and do - not hold their Research and Development (R&D) departments in the CEE area nor pay their taxes there. They pay them preferably in other EU countries such as

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<sup>20</sup> Central Statistical Office of Poland Information Portal: Unemployment rate 1990-2015, <http://stat.gov.pl/en/topics/labour-salaries/registered-unemployment/unemployment-rate-1990-2015,3,1.html>.

<sup>21</sup> Eurostat: Unemployment statistics European Union and Eurozone, December 2015, [http://ec.europa.eu/eurostat/statistics-explained/index.php/Unemployment\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Unemployment_statistics).



Ireland, Belgium or Liechtenstein due to lower corporate taxes and VAT. Not by chance are some of these countries currently facing EU investigations because of alleged unfair competition practices.

Polish political parties on all levels of government became (all too willingly or in some cases under pressure of international financial institutions) complicit in this development, dragging their feet on the necessary reforms of the higher education, the health care and the pension systems for years. In this sense, post-communist democratic political parties and governments transformed to become guardians of the pathologies of the CEE governance practice, while their countries began taking a slow, but steady turn towards a kind of Latin American type of inequality capitalism, rather than the Western European welfare state. That was at least as it was perceived by a majority of the CEE populations over time, including Poland.

Occasional tape scandals disclosing the weakness of the state and the degree to which the self-serving government elites used the state for their personal and narrow political goals were often catalysts for the expression of people's frustration in CEE. In Hungary, such a tape scandal considerably weakened the post-communist government of Ferenc Gyurcsány in 2006<sup>22</sup> and paved the way for the later victory of Viktor Orban. In Poland, a similar tape scandal in 2014<sup>23</sup> deepened the disillusionment with the PO-PSL government that ended in an electoral debacle for it in 2015.

Despite the progress in many areas it brought, and irrespective of welcome good-will rhetoric, the EU membership of Poland since May 1, 2004, has in reality not changed much in this respect. All CEE countries, including Poland, had been regarded as consolidated democracies *before* they joined the EU; and the impact of the EU on daily life quality in the CEE area remained marginal in the first decade of membership.<sup>24</sup>

On the contrary, in many CEE nations the EU is being perceived by a noticeable part of the populations through the lens of two core problems that have been discussed on many occasions in the CEE area but have never been taken seriously to greater EU public debates: 1) democracy deficit and 2) superficial institutionalism. Both the democracy deficit and the superficial institutionalism reflect the fundamental weakness of the European integration project, which comes to the fore when it overlaps with the specific pathologies of the political cultures of single member areas, in Poland's case with those of CEE economic governance.

1) *Democracy deficit.* Many Europeans are of the opinion that the commissioners of the EU are not entirely legitimate since they are not democratically elected but chosen according to often intransparent criteria by the member states. In particular, from the Polish historical experience with former transnational "super-states" such as the Soviet Union or the "Communist bloc", they are sometimes viewed especially by senior citizens

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<sup>22</sup> BBC News: We lied to win, says Hungary PM, 18 September 2006, <http://news.bbc.co.uk/2/hi/europe/5354972.stm>.

<sup>23</sup> Martin M. Sobczyk: Poland Cabinet Ministers Dismissed Over Tape Scandal. Ruling center-right camp tries to overcome crisis ahead of elections. In: The Wall Street Journal, June 10, 2015, <http://www.wsj.com/articles/poland-cabinet-members-dismissed-over-tape-scandal-1433967477>.

<sup>24</sup> Simon Lightfoot et al: Mesmerized by enlargement. The EU's Eastern Neighborhood Policy and New Member State Transition Experience. In: East European Politics & Societies, February 19, 2016, <http://eep.sagepub.com/content/early/2016/02/18/0888325416632041.abstract>.

as more modern “apparatchiks” who judge everything, including (important) details, from a 10,000 feet perspective and preach water but drink wine. In this view, the EU has not energetically enough supported deeper governance reforms in the CEE member states, nor did it help Poland to solve its most pressing problems already mentioned: funding and efficiency offensives for higher education, health care and the pension system. In addition, as CEE media do not miss to report on a regular basis, around 70 cent on every Euro Poland and other CEE countries receive from the EU return to the old EU member states, as it is the German, Italian and British firms that build roads in Poland or deliver trains for the Polish railway. Also, Polish farmers annually receive \$1.67 billion, while the French ones receive \$10.87 billion - i.e. 8 times as much, with a population less than twice as numerous (France: 67 million; Poland: 38 million). That is why the rhetoric of sanctions against Poland is seen as hypocrisy by many Poles.

2) *Superficial institutionalism*. Interestingly, similar perceptions are common also in the main Western founding nations of the EU and in the crisis-ridden Southern states overwhelmed by youth unemployment and the “broken borders”<sup>25</sup> of the refugee crisis. They are the reason why the EU is seen positively by just 37 percent of the overall European Union population according to polls of January 2016<sup>26</sup>, and why it is perceived by many CEE citizens - including a majority of Poles - as being more about regulation and superficial institutionalism of benchmarks and best practices than about real development. For example, in 2006 the EU Commission stated Lithuania was not fit to join the Eurozone, as inflation was too high: 3.5 percent were apparently “much higher” than the overall EU target of 3.0 percent. But in the view of Polish citizens shortly before this, the EU accepted falsified Greek statistics on public spending and inflation to have as many countries as possible on board to jointly establish the *Euro* currency. Most Poles saw this *post factum* as unequal treatment – to the disadvantage of the CEE area. And they saw it not as an occasional discrimination, but as a more systematic one, i.e. one rooted in the mentality of Western EU members towards the allegedly “notoriously underdeveloped” CEE nations in general. Be this in reality the case or not: this image of the EU as an implicitly discriminating organization slowly developed after 2006 to become a popular myth in many CEE countries.

This myth has to be taken into account to understand the socio-cultural backgrounds of the subsequent victories of PiS in 2015. Fewer and fewer Poles think that the EU should integrate further - in 2009 it was 48%, while in 2013 it was only 34%, long before the refugee crisis. Moreover, the number of people seeing benefits of the EU membership for Poland dramatically decreased: from 65% in 2010 to 54% in 2013.<sup>27</sup> Although these numbers returned to higher percentages in 2014 particularly in the framework of overall polls about Poland’s relation with the West in general<sup>28</sup>, it can be predicted that the approval rate of Poland’s EU membership will once again decrease for 2015 and 2016 in the wake of the EU investigation largely independent of voter affiliation, as

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<sup>25</sup> Lukas Kaelin: Europe’s Broken Borders. How to Manage the Refugee Crisis. In: Foreign Affairs, September 2, 2015, <https://www.foreignaffairs.com/articles/western-europe/2015-09-02/europes-broken-borders>.

<sup>26</sup> Austrian Press Agency (APA): Polls Show: EU Skepticism is growing all over Europe (APA: Umfrage enthüllt: EU-weit wächst Europa-Skepsis), 27 January 2016.

<sup>27</sup> Beata Roguska: Stosunek Polaków do członkostwa Unii Europejskiej. In: Centrum Badania Opinii Społecznej (CBOS), s.a., [http://www.cbos.pl/PL/wydarzenia/27\\_debata/3\\_CBOS\\_UniaEuropejska\\_BR.pdf](http://www.cbos.pl/PL/wydarzenia/27_debata/3_CBOS_UniaEuropejska_BR.pdf).

<sup>28</sup> Transatlantic Trends: Country Profiles: Poland 2014, <http://trends.gmfus.org/transatlantic-trends/country-profiles-2014/country-profiles-poland-2014/>.

previous similar cases such as the one of the informal EU member state sanctions against Austria in 2000 have shown in the past.<sup>29</sup>

Unfortunately, (perceived) low-points have happened frequently throughout Poland's relation with the EU, in particular with the European Commission, since 2004. In the view of Polish citizens powerful member states were allowed to "walk free", while others were held responsible for every (critical) step. For example, the German government, then considered the "sick man of Europe" before chancellor Gerhard Schröder's reforms of 2005 (the so-called *Agenda 2010*), repeatedly violated the so-called EU Stability Pact from 1998 to 2005. The foreign minister of Poland, Witold Waszczykowski, recently argued that Germany at the same time introduced an unjustified long transition period for Polish citizens in 2004 who were in consequence unable to access the German labor market, even though Poland had been a member of NATO since 1999. The EU decision of late 2015 to build the *North Stream 2* pipeline in the midst of the Russia-Ukraine conflict has been perceived in Poland as a serious blow to the EU's trustworthiness, in particular in the context of the European solidarity narrative that the EU commission has been using extensively since 2014 to motivate its member nations to impose sanctions against Russia which is an important trade partner of Poland.

All these disappointments with the EU became manifest in the recent speech of foreign minister Waszczykowski on the priorities of Polish diplomacy, held in the parliament in Warsaw on 29 January 2016.<sup>30</sup> As he underscored, the Polish foreign ministry highlights strong cooperation with other CEE countries and Great Britain - to the detriment, as some observers argued, of relations with Germany. Also, any further European integration has been questioned by Waszczykowski: "Proponents of close integration of the Eurozone want economic governance to be coordinated and a *de facto* political union to be established. Unfortunately, today there is no fair and democratic way of electing legitimate authorities of such a union".<sup>31</sup>

Against this background, the electoral victory of the Right in Poland cannot be regarded mainly as an "immature" ideological shift to the right, but rather as a psychological response to the combination of the highly complex crisis of the European project and the specific problems of CEE governance. To put it in one sentence: The institutionalism of the EU was perceived as merely being able to regulate superficial problems, rather than to meet the existing deeper socio-economic challenges – and that has been one main cause of the nationalist and (neo-)conservative turn in the CEE countries of the past few years, including Poland most recently.

Paradoxically from a European view, the new *conservative* governments in Poland and Hungary immediately embraced "strong" *redistributive* measures common in nations with "Christian-democratic" and/or center-leftist (eco-)social market economies like

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<sup>29</sup> Konstantin Richter: EU Sanctions on Austria Build Support or Conservative Chancellor Schüssel. In: The Wall Street Journal, August 8, 2000, <http://www.wsj.com/articles/SB965678846156130460>.

<sup>30</sup> Ministry of Foreign Affairs, Republic of Poland: Minister Witold Waszczykowski on priorities of Polish diplomacy. Chief of Polish diplomacy Witold Waszczykowski delivered information by the Minister of Foreign Affairs on the Government of the Republic of Poland's foreign policy in 2016 to the Sejm, 29 January 2016,

[http://www.msz.gov.pl/en/news/minister\\_witold\\_waszczykowski\\_on\\_priorities\\_of\\_polish\\_diplomacy](http://www.msz.gov.pl/en/news/minister_witold_waszczykowski_on_priorities_of_polish_diplomacy).

<sup>31</sup> Ibid.

Germany, France and Italy but largely omitted by previous governments in the CEE area. The PiS government is about to introduce additional children support and to free senior citizens above the age of 75 from paying for prescription medicine - and all this by extracting additional taxes from the banking sector and multinational corporations, as the plan goes. In this sense, the rightist PiS government pursues an almost classical leftist agenda.

With this, to some extent it continues one paradoxical mechanism of the late EU: that “leftist” governments usually cut into the welfare net and the social system to introduce liberalization, competitiveness and efficiency reforms, and rightist governments *nolens volens* have to mitigate social differences and inequality in order to retain popular consent and thus remain credible as “people’s parties” in societies increasingly split 50:50 between center-left and center-right. An example for the first mechanism was the Social Democrat Gerhard Schröder’s “Agenda 2010” (2005) which is now imitated, with 10 years delay, by the young prime ministers of Italy (Matteo Renzi) and France (Manuel Valls), who are both representatives of leftist parties and alliances, but *de facto* have to enact a center-liberal program out of the needs of their countries. The PiS is one of the examples of the opposite: a center-right party that in many ways pursues a clear “socialist” agenda – including more and better surveillance of the citizens. The irony built into these contemporary European contradictions is that since Schröder it has been the conviction of many experts and politicians that only leftist governments can implement cuts and “serious” reforms of the social system, because they are the only ones who can convince the lower classes, i.e. their voters, of the necessity to do so, while only rightist governments can convince the economy to concede a better social share to the broader community.

The controversies surrounding the disempowerment of the Polish Constitutional Court and the public media have to be seen in this complex framework, particularly in the context of the conservative government’s conviction that the current governance problems of Poland (and other CEE nations) are so serious - and at the same time so widely ignored by the EU partners - that they require an exceptionally far-reaching governmental capacity to act similarly to a government of “national unity”. Only such a much empowered government would be able to break vested interests and remove the all too well-known pathologies of CEE governance. Since the PiS has not forged an alliance of “national unity” with other parties in the parliament nor sought respective consensus through public debate though, critics argue that the government is not legitimized to launch game-changing emergency measures appropriate only to a government of “national unity”, since they modify the rules of the system, not only its applications.

In its own view though, the PiS government is introducing an encompassing restructuring of the state, as it enjoys democratic legitimacy both in the parliament and in the presidential office. The key to these plans is a comprehensive removal of officials, politicians and journalists connected to the formerly ruling parties and the preceding political mainstream, believed to having contributed to the persistence rather than the solution of socio-economic problems. Both the controversial PiS law on the Constitutional Court and its law on public media are part of this strategy.

The interesting aspect of both laws is that they are actually not entirely new, but follow the steps of previous governments.<sup>32</sup> The PO-PSL government - the alliance between the center-right *Civic Platform* PO and the Christian-democratic *Polish Peasants' Party* PSL - that ruled Poland from 2007 to 2015 wrote its own law on the reform of the Constitutional Court in June 2015, trying to rig the court's set-up in its favor. That was after the PO-PSL alliance lost the presidential elections in May 2015 and headed for disaster in the parliamentary elections later won by the PiS. In doing so, the PO-PSL government politicized the Court against its original setup as an independent institution. In consequence, the PiS sees its 2015-16 law on the Constitutional Court as a remedy to unconstitutional steps taken by the preceding government.

A last aspect has to be noted here to advance a balanced and sober diachronic view. The public media have always been for grabs after every government change in Poland (and also in other CEE countries for that matter). The now oppositional PO party was not necessarily less ruthless in placing their "own people" as heads of public TV and radio stations. Neither the European Commission nor leading EU member states were seriously protesting against these steps, since most of them were introduced rather silently and without much confrontation. Independent of the without doubt biased view of acting prime minister Szydło who argued in a recent interview that the EU pressure on the new Polish government allegedly comes from interest groups in the CEE neoliberal networks, even the former prime minister and former leader of the post-Communist party SLD, Leszek Miller, who can hardly be suspected of sympathy for the PiS, argued that there was no reason to believe that the PiS was a danger to the Polish democracy as such.<sup>33</sup> Independent of the truth or falsity of these judgments, the uncommon solidarization between the Left and the Right suggests a new Anti-EU sentiment in Poland, embracing both sides of the aisle in rarely seen manners – for which the causes at the interface between Brussels and Warsaw are as complex as for the EU-CEE constellation in general.

The question in this situation is, if the 2016 intervention of the EU with a formal investigation against the PiS government could mark the beginning of a new crisis – a crisis in which, to make matters worse, the main role could be played by a European Union itself plagued by the historical threat of breaking apart in different sectors and at different levels. At the same time, the Poland-EU crisis might have even more serious consequences on the specific problems of Central Eastern European nations than the North-South tensions during the European sovereign debt crisis. This is because the case of Poland relates to the East-West axis of the European integration project, which is still younger and more unstable than most other internal relations within the EU.

The EU refugee crisis could make things - at least temporarily - even worse, mainly psychologically, e.g. regarding the trust between the member states. Currently, European decision-makers seem to tiptoe around the UK because London could leave the EU after the 2017 referendum, whereas the CEE countries are heavily criticized for

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<sup>32</sup> Adrian Karatnycky: Poland's Long Fall From Grace. Through a series of political scandals, a heroic people that shook off communism are revealing themselves as an ordinary, flawed nation. In: *The Atlantic*, 29 February 2016, <http://www.theatlantic.com/international/archive/2016/02/lech-walesa-law-and-justice-poland/471366/>.

<sup>33</sup> WP Wiadomosci: Leszek Miller dla "Wprost": Histeria wokół sędziów, 08.12.2015, <http://wiadomosci.wp.pl/kat,1329,title,Leszek-Miller-dla-Wprost-histeria-wokol-sedziow,wid,18030148,wiadomosc.html?ticaid=116734&ticsn=3>.

their apparent lack of European solidarity in the migration crisis. But while Italy, Spain and Greece have been hit with migration waves for many years, most European lead nations, among them the UK and France, have hardly batted an eye due to their own problems with parallel societies. Today's calls for more European solidarity by the EU are accompanied by voices of European politicians to cut the European funds to the CEE area – a call which understandably does not exactly enhance the EU approval rate with CEE voters.

What is the outlook? Can there be a pro-positive perspective for - as much as possible amicably - solving what has been to some extent imprecisely branded the Polish crisis, but should rather be called the Poland crisis, or even more accurately, the Poland-EU crisis? Can there be cooperative solution-finding instead of mutually depreciative visions of rebellion, punishment and doom? Can Poland and the EU find a productive agreement that instead of further poisoning the fountain carries things forward towards a better union for all and everybody by compromise and solidarity?

Without doubt, the re-nationalization trend in Poland under the new PiS government is both a mirror and a constituent part of the crisis of the European integration project. On the other hand, the European project seems to be in need of “deep” reforms independent of the Polish turmoil. Can the case of Poland thus be an origin of - and catalyst for - renovation of the European Union?

That will require a pro-active compromising approach by both Poland and the EU rather than a nationalist one on the one side and a punitive one on the other. Any win-win solution requires Poland to take a step back and the EU to take a step forward – first and most importantly to solve the notorious CEE economic and governance problems.

On the one hand, *Poland* should show better willingness to communicate and cooperate and to find moderate and dialogical agreements on its implemented and intended governance reforms. To oppose a superficial nationalism against a superficial institutionalism of the EU is no lasting and sustainable solution in a historical crisis constellation, where Poland and the EU need each other like probably never before.

The signals of the governing PiS are mixed though and may remain so over the years ahead. After the ruling of the Polish Constitutional Court on 9 March 2016 that many of the changes the new conservative government has implemented by law in its regard are “unconstitutional” since they are “dramatically limiting” its functionality and thus the overall independence of the court system, Poland to many observers seems to be heading towards a constitutional crisis, given that “the government has indicated it will not recognise the Constitutional Court's judgment [on the issue]”<sup>34</sup>, poiting towards a biased standpoint of the judges.

In addition, the PiS government on 4 February 2016 re-opened the investigation into the Smolensk plane crash of 2010.<sup>35</sup> In the accident near the Russian town of Smolensk the then president Lech Kaczyński, the twin brother of today's PiS leader Jarosław Kaczyński, and 95 other people, mostly high officials of the Polish state, including all

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<sup>34</sup> BBC Europe: Poland's Constitutional Court Clashes with new government, 9 March 2016, <http://www.bbc.com/news/world-europe-35766482>.

<sup>35</sup> BBC News Europe: Smolensk air crash: Poland re-opens investigation, 4 February 2016, <http://www.bbc.com/news/world-europe-35498400>.

heads of the Polish armed forces and the president of the Central Bank, died in what was described as unfortunate combination of events by Russian officials and by the representatives of the PO-PSL government then in charge.

However, for many PiS politicians the catastrophe's real causes still remain in the dark, and the (then) Tusk government as well as the Kremlin are to blame for serious mistakes, lacking professionalism during the investigation. The case shows Poland's historical mistrust against Russia (fueled by the problematic Russian investigation into the causes of the catastrophe), but also to a certain extent against the West which was not very supportive regarding the examination of the crash for the fear of annoying Russia and endangering the so-called "reset" in the relations with Moscow.

Many in Europe (and elsewhere) continue to underestimate the extraordinary influence and power of history in Polish politics, in particular with regard to Polish foreign relations, where the remembrance of repeated military and humanitarian tragedies, genocides that irrupted both from the West and the East, expulsion and partition by the hand of its neighbors throughout history remains more than alive. History is to blame for that particular (and in many cases subconscious) sensitivity, not Poland's current PiS government. But at the same time this government has to do more to free itself from the unfortunate ghosts of the past when it comes to establish forward-looking programs and agreements with its partners.

As a consequence, in face of the EU investigation Poland should not start to ask itself the question many Western commentators are (exaggeratedly) asking at the moment: "Is Poland lost"? There is a trend to do so against the background of Poland's historical experience. But two aspects in particular should help Warsaw to relax.

First, since is contested whether the actions of the EU are legally backed by the EU-Charta or not the EU will have to act with great tact, reticence and sensitivity.

Second, although the case of Poland is formally speaking unique in EU history so far, it is not entirely true that the EU has not entertained actions against member governments in the past. There is, for example, the above mentioned case of the informal, but diplomatically coordinated "sanctions" of the then EU14 against Austria under Chancellor Wolfgang Schüssel from 2000-2007. Schüssel had forged his government with the participation of the FPÖ, a party considered populist and of right-wing character.<sup>36</sup> It was then considered a taboo to let such a party be a member of a EU government. In that occasion, some other EU governments, namely France, Germany and Belgium, aligned in a strategy of "organized unfriendliness" factually excluding Austrian representatives from EU joint work and keeping contacts at the minimum in order to isolate the Schüssel government, with the potential goal of letting it fail domestically. But in reality, the sanctions built domestic support for the government. In the end, after a few months of European turmoil, things calmed down with the judgment of three experts, sent to Austria to examine the constellation who reported that the Austrian governmental coalition had not done anything that would justify measures against it according to European law.<sup>37</sup>

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<sup>36</sup> Konstantin Richter: EU Sanctions on Austria Build Support or Conservative Chancellor Schüssel, loc cit.

<sup>37</sup> Anthony Teasdale: Haider Affair. In: Anthony Teasdale and Timothy Bainbridge: The Penguin Companion to European Union, 01/10/2012,

What can - and should - be learned by Poland from this case is that things are not always as bad as they seem in the first instance. Knowing this, a more conciliatory standpoint should be possible. It is out of question that first and foremost the government has to reconcile with the Constitutional Court by finding more consensual and dialogical positions. Then, some other reforms should rather be oriented towards following best practice examples of the EU and OECD through mutual exchange and advisory rather than unilaterally and in the framework of an emergency psychology.

The *European Union* by its side should not exaggerate in depicting the reform actions of the Polish government as alarming and thus exercise to some extent in bigotry. Although all contested measures will have to be evaluated with great accuracy and in detail, and although the respective investigation is legitimate interest of the EU in its sixth-biggest member state, one must not forget that in many European nations the heads of public TV and radio have been or are appointed by the government, e.g. in Germany and in Italy, where young prime minister Matteo Renzi is trying to implement a new reform after scandals in the public broadcast RAI followed the many reforms since the advent of the “media democracy” of Silvio Berlusconi in the second half of the 1990s. Similarly, the UK and other European and Western nations have had increased surveillance and police powers for years not least as a consequence of the increasing terror threats, and the USA have seen a strong militarization of its policy forces unknown in the CEE area. Also, the UK and other nations - with the alleged exception of Italy, which claims to have the strongest privacy rights in Europe - have featured an expanding surveillance net by *de facto* subsequently reducing citizen privacy rights since the 1990s, as the case of Edward Snowden (together with other similar ones) has revealed.

Third and most important, it is high time for *both Poland and the European Union* to look to the real origins of the crisis, and to work towards respective in-depth solutions for the structural problems of the greater CEE area including insufficiently modernized and adapted economic and financial practices, the poor quality of daily life, forced emigration and crisis psychology. Cooperation on problems has to replace institutional pressure in the medium term. Any anti-democratic trend of the PiS has to be questioned and where necessary restrained and corrected through dialogue and best practice comparisons that should be an offer of the EU (and collaborating bodies such as the OECD) to Poland rather than an impeding threat. But the more important issue in the long-term perspective is to improve the conditions of life in the CEE area by putting more constructive and creative pan-European attention than in the past to this particular area with its specific historical heritage and laws of development. Democratic elections are never about right or wrong choices; they rather reflect current concerns which have been neglected by the political elites. Thus, the demonizing of political parties, in particular democratically winning ones, is never the best approach. The popular consensus in Poland may change over the next years depending on how seriously the concerns of the people in the CEE area will be taken. Despite all criticism from the EU, Viktor Orban and his Fidesz were reelected in 2014 but this time without constitutional majority.<sup>38</sup>

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[http://penguincompaniontoeu.com/additional\\_entries/haider-affair/](http://penguincompaniontoeu.com/additional_entries/haider-affair/). Cf. BBC News Europe: Austria welcomes EU sanctions report, 9 September 2000, <http://news.bbc.co.uk/2/hi/europe/917099.stm>.

<sup>38</sup> BBC News Europe: Hungarian PM Orban loses two-thirds ‘super-majority’, 22 February 2015, <http://www.bbc.com/news/world-europe-31576491>.



Overall, the discussions on Poland should be viewed as a positive chance to introduce deeper reforms, rather than the next exercise of EU institutionalism. The so-called “Venice Commission” of the Council of Europe – i.e. the “European Commission for Democracy through Law” which is the Council of Europe's advisory body on constitutional matters of its member states<sup>39</sup> - will play a decisive role in mitigating the spirits, and to transform a heated debate into a more constructive discussion for the benefit of both Poland and the future of the European Union.<sup>40</sup> Poland could indeed become a catalyst for renovation of the European project, based on a sound - and long overdue - debate on what type of community the EU is supposed to be: a mono-bloc led by some particularly strong nations, or a more differentiated body where diverse culturo-geographic areas with different historical experiences, speeds and needs are considered and balanced with care. Should this chance for a deepened debate not be taken, the EU might be indeed on its way to become a self-subverting organization, torn by internal differences and missing a “soul”, as U2's Bono put it on the occasion of the European People's Party congress in Dublin on 7 March 2014, asserting that “Europe is a thought that still needs to become a feeling”.<sup>41</sup>

Europe is certainly still not an exciting feeling in the CEE area. To start becoming a sustainably positive one is not only a question of engagement or development of a joint East-West-North-South European civil religion, which has its own sensibilities in the Central Eastern European area that have (and in the present moment of transition should) to be taken into account.

At the same time, Poland has to start to think positively - just as the EU should do. As the first line of the Polish national anthem *Mazurek Dąbrowskiego* (Dąbrowski's Mazurka) of 1797 by poet Joseph Wybicki says: *Poland is not yet lost*. That line became proverbial not only in Poland, but also in many other European countries such as Germany, Austria, Italy or France. It stands for “The situation is not desperate, but can be reversed; be hopeful!”

With exactly that meaning this adage should become proverbial again today - when many choose to paint a gloomy picture of the EU-Poland relation. But in contrast, the respective dialogue about joint future perspectives may bear more forward potential than some believe, or want to concede.

The authors

*Ireneusz Pawel Karolewski, Dr., holds the Chair of Political Science at the Willy Brandt Centre for German and European Studies, University of Wrocław, Poland. He also is adjunct professor of Political Science at the University of Potsdam, Germany. He obtained his Ph.D. in Political Science from the University of Potsdam where he was assistant professor in 1999-2008. He has been visiting professor and visiting scholar at the Harvard University, Université de Montréal, New York University, Pondicherry University (India), University of*

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<sup>39</sup> The Venice Commission of the Council of Europe:

[http://www.venice.coe.int/WebForms/pages/?p=01\\_Presentation&lang=EN](http://www.venice.coe.int/WebForms/pages/?p=01_Presentation&lang=EN).

<sup>40</sup> The Venice Commission of the Council of Europe on Poland, March 2016:

<http://www.venice.coe.int/webforms/events/>.

<sup>41</sup> S.a.: Transcript: Bono's speech at the European People's Party Congress in Dublin, 7<sup>th</sup> March 2014,

[http://one.org.s3.amazonaws.com/pdfs/bono\\_european\\_peoples\\_party\\_congress\\_speech\\_march\\_2014.pdf](http://one.org.s3.amazonaws.com/pdfs/bono_european_peoples_party_congress_speech_march_2014.pdf)

*California in Santa Barbara and the Institut des Sciences Politiques in Lille (France). His main areas of research are European integration and democratic governance including citizenship, identity politics, civil society and nationalism in Europe. His recent publications include "European Identity revisited (Routledge, 2016), "Extraterritorial Citizenship in Postcommunist Europe (Rowman & Littlefield, 2015), "Religion and Politics (Edinburgh University Press, 2014), "Citizenship and Identity in the Welfare State" (Nomos, 2013), "Civic Resources and the Future of the European Union" (Routledge, 2012), "The Nation and Nationalism in Europe" (Edinburgh University Press, 2011), "Citizenship and collective Identity in Europe" (Routledge, 2010) and "Multiplicity of Nationalism in Europe" (Lexington, 2009).*

*Roland Benedikter (Corresponding author), Dott. Dr. Dr. Dr., is Research Professor of Multidisciplinary Political Analysis at the Willy Brandt Center for German and European Studies of the University of Wroclaw/Breslau, Senior Research Fellow of the Council on Hemispheric Affairs Washington D.C., Senior Affiliate of Georgetown University, Trustee of the Toynbee Prize Foundation Boston and Full member of the Club of Rome. Previously, he was Visiting Scholar / Research Affiliate 2009-13 at the Europe Center, Stanford University, Research Scholar 2008-2015 at the Orfalea Center for Global and International Studies of the University of California at Santa Barbara (2009-13 in the role of European Foundation Professor of Multidisciplinary Political Analysis in residence) and Full Academic Fellow of the Potomac Institute for Policy Studies Washington D.C. 2008-12. He is member of multiple political expert bodies and political award committees in Europe and co-author of two Pentagon and U.S. Joint Chiefs of Staff White Papers on the Ethics of Neurowarfare (February 2013 and April 2014) and of Ernst Ulrich von Weizsäcker's Report to the Club of Rome 2003: Limits to Privatization, as well as of more than a dozen books on international and global strategic issues (Europe, Italy, France, USA, China, Chile), having developed a 6-dimensional multidisciplinary method of how to read the present phase of globalization in the view of strategic policy foresight and anticipation, praised by peers such as Bruce Mazlish (MIT). Roland has served more than eight years (1995-2003) in European politics and has published more than 300 essays and book chapters in specialized journals such as Foreign Affairs, Harvard International Review (where he is on the Advisory board), The National Interest, Georgetown Journal of International Affairs, European Foreign Affairs Review, New Global Studies, Global Policy, Global Social Policy, Welttrends Berlin and Challenge: The Magazine of Economic Affairs. He is a frequent commentator for the newspapers Die Welt Berlin, Wiener Zeitung, Amtsblatt der Republik Österreich Vienna, the political magazine The European Berlin and the Italian national broadcast RAI – Radiotelevisione Italiana. Contact: [rolandbenedikter@yahoo.de](mailto:rolandbenedikter@yahoo.de).*