



Normative Power Europe

A case study on Poland

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Abstract

Poland has long politicly been divided and the economic integration with the EU did not manage to heal the gap or help the rise of nationalism decrease. The triggering of Article 7 has both showed the strength and the limits to EU normative power, and while Poland long has been the prime example of successful liberal democracy in the East-Central region, the 2015 election of the anti-European PiS party showed, that the integration process is not fully complete. There are strong forces in Polish society fighting the democratic progress and the problem for the EU is that the traditional normative tools seems to be insufficient. The PiS government is undermining the rule of law with its new supreme court law and threatening one of the fundamental values of the EU.

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Introduction

The EU is currently facing many challenges such as Brexit, a lack of support and commitment to the Union and the refugee crisis, and all while many European states are still recovering from the financial crises in 2008. Lately, Europe has also experienced a rise in nationalism which has not happened since World War II and it is a development that causes concern in Brussels as the EU is established on a democratic foundation with the aim of avoiding the horrors of the Nazi regime from ever happening again. Post-World War II, the transfer of sovereignty from the nation state to the EU institution was seen as necessary action in order to bind the European states closer together to ensure that cooperation between states would lead to a continued peace in Europe. But in recent elections across Europe there has been a rise in support of politicians such as Marine Le Pen in France, Sebastian Kurz in Austria and Geert Wilders in the Netherlands, who all criticized the EU for not being able to handle the large number of refugees coming to Europe. In addition, they have also spoken out against the transfer of power from the nation state to the EU and argued that their countries should have more control over domestic issues.

Poland has also caused much concern in the EU, since the 2015 election of the conservative Law and Justice Party resulted in Poland being in serious breach with the rule of law which is considered a fundamental principle of the EU. Poland joined the EU back in 2004 when the EU enlargement was seen as a strong opportunity to further stabilize Europe to the east. *“The goal was to build a post-Cold-War Europe ‘whole, free and at peace’; to renew the transatlantic alliance; and to reposition the United States and Europe to address new global challenges. But as successful as the strategy of enlargement has been, the world has changed dramatically since it was forged. The United States and Europe face new risks and opportunities on Europe’s periphery and need to recast their strategy accordingly for a new era”* (Asmus 2008, p. 95). Originally the rebuilding of Europe after 1945 was an important issue for the United States and many resources were sent overseas since the US itself saw a stable Europe as a strong ally but US priorities have also changed a lot over the past twenty years with the War on Terror and wars fought in Afghanistan and Iraq. The EU is no longer the main focus of the US and US resources are now being redirected to countries in the Middle East (Asmus 2008, p. 95-96), so the EU is no longer getting the same transatlantic support as earlier. Times have also changed in Russia and the country is no longer *“a weak, quasi-democratic state that wanted to become part of the West. Now, a more powerful, nationalist, and*

less democratic Russia is challenging the West. Moscow sees itself as an independent Eurasian power, offering its own authoritarian capitalist model of development as an alternative to democratic liberalism” (Asmus 2008, p. 96). So in this new political landscape the EU is challenged from many sides but this project will specifically focus on Poland and the recent actions taken by the Polish government which has lead the EU to trigger Article 7. The Polish government has adopted a new law which the EU is deeply concerned about since it negatively affects the Tribunal and the independence of judges.

Article 7 is specifically designed as a framework for the EU on how to handle a case where a member state continuous to ignore and respect the rule of law and it explains what options the EU has to change the situation and it states what consequences a member state faces if it refuses to comply with EU law. Furthermore, this project will focus on how the EU Commission chooses to approach the Polish government with and how the correspondence between the two is conducted.

Problem formulation

Why has the EU, as a normative power, failed to keep the Polish government committed to EU norms and values?

Methodology

In this section, the methodological focus of the project will be explained the following way. First, the section on research design will explain why a case study method is used in this project. Second, the choice of theory and choice of data is explained, followed by an explanation of two key elements of this project and last, a delimitation of other theories and areas not relevant to this case study.

Research design

This project will examine the current relationship between Poland and the European Union. Specifically, the focus will be on the correspondence between the EU Commission and the Polish government regarding Poland’s breach with the rule of law, which is considered one of the cornerstones of the EU. Additionally, the project will focus on the EU’s normative approach on how

to solve the difficult situation by examining the steps taken by the Commission in order to get the Polish government to change its course and recommit to the rule of law. Therefore, for this project, a case study is relevant as it allows for a deep and close examination and analysis of a single case (Bryman 2012, p. 66). This project will closely examine how the relationship between the EU and Poland has evolved and what some of the reasons for joining the European Union were. Furthermore, the project will give a historical overview of Poland in order to gain a deeper understanding of the actions taken by the Polish government. The history of Poland is in this case important as it shows how Poland for decades has been under foreign rule and it helps explain why joining the EU became an opportunity to realize the country's full potential.

In terms of research method this project is mainly built on qualitative data as it applies best to a case study and allows for an in-depth analysis. Furthermore, the research design is explanatory as it explains why the actions of the Polish government have resulted in the unprecedented triggering of Article 7 of the Lisbon Treaty.

Epistemology

Social constructivism

This section will explain the social constructivist paradigm of the project. Social constructivism focuses *"on human awareness or consciousness and its place in world affairs. Much IR theory, and especially neorealism, is materialist; it focuses on how the distribution of material power, such as military forces and economic capabilities, defines balances of power between states and explains the behaviour of states. Constructivists reject such a one-side material focus"* (Jackson & Sørensen, 2013, p. 209). In this project social constructivism will be used, together with Ian Manners Normative Power Europe theory, to show how the EU Commission is trying to reason with the Polish government through political dialog and not through military force or economic sanctions. The establishment of institutions such as the EU, and especially the UN, has given world leaders a platform where they, through dialog and meetings, can come together and discuss global issues in a forum where war and military action are hoped to be avoided. The establishment of such institutions shows that military power no longer is considered the most effective way to settle international disagreements and that world wars should at all cost be stopped from happening

again. The same applies to this project as the EU is using diplomacy in the negotiations with the Polish government to keep the situation from escalating.

Choice of theory

For this project Ian Manners theory on Normative Power Europe has been chosen as it best applies to the analysis of the current troubles in Poland regarding the rule of law and the EU Commissions options to rectify the situation.

In his theory, Manners is particularly pointing to three events which helped transform the global community and the international order over the past two decades. First, in 1989 communism collapsed, then happened the 9/11 terrorist attacks and in 2008 the global financial crisis hit the world hard. The world was changed by these events *“and the transformation they led to say something about the power of ideas and ideation in world politics”* (Manners 2009, p. 2) and in more defined term *“the concept of normative power, in its ideal or purest form, is ideational rather than material of physical. This means that its use involves normative justification rather than the use of material incentives or physical force”* (Manners 2009, p. 2). This notion that the pen is stronger than the sword will be used later in the analysis and this project will also argue that the strength of the EU not only lies in its economic size or military capacity but also in its ability to spread its norms and values through global politics. The power of ideas and ideation helped to influence the development of the European Community into the EU in the post-Cold War period and helped to ensure that the EU was concerned about other aspects than just economic policies. The EU’s exercising of normative power is increasingly found in the Unions engagement with the outside world and through many of its development policies (Manners 2009, p. 2).

Manners further highlights two examples of power of ideas which are promoted and practiced by the EU. First is the idea of ‘sustainable development’ and second is the idea of ‘humanitarian intervention’, which both stems from the UN system but has been fully adopted into the treaty base of the EU as well (Manners 2009, p. 2).

In terms of action, normative power should always be perceived as persuasive in its promotion of a certain set of norms and values and this project will examine what arguments the EU Commission is using to persuade Poland to stay on the right course. *“If normative justification is*

to be convincing or attractive, then the actions taken must involve persuasion, argumentation, and the conferral of prestige or shame” (Manners 2009, p. 3). The chance of being either shamed or admired by the international community can have a strong effect on public opinion, just like public opinion forced the Polish EU-sceptic party’s to adapt a more moderate attitude after Poland joined the EU and experienced economic growth.

Choice of data

The data for this project was found on the official website of the European Union, where all official documents and publications from all EU institutions are free to access. The data is available in any official EU language which makes the correspondence between the Polish government and Commission applicable for the analysis since the sources of this project are limited to those in English. For this project qualitative data in form of reports from the EU Commission is use for the analysis since the project is based on the Commissions point of view. The reports are chosen as qualitative data as they are produced for the Commission by Franz Timmermans, who is First Vice-President of the European Commission and Commissioner for Better Regulation, Interinstitutional Relations, the Rule of Law and the Charter of Fundamental Rights (ec.europa.eu), and therefore responsible for handling the situation when a member state is violating the rule of law.

Rule of Law

The rule of law is a key element of this project and it is by the EU defined as the guarantee of fundamental rights and values and it is defined as one of the fundamental values upon which the EU is built on. In case a member states violates of the rule of law, the Commission can trigger Article 7 which is specifically designed to prevent emerging threats to the rule of law from escalating (ec.europa.eu).

Article 7 of the Treaty on European Union

Article 7 is a mechanism for the EU to trigger in case a member states is in *“a clear risk of serious breach”* (Lisbon-treaty.org) with the EU values and the rule of law. The article allows the EU to discipline Poland after it has been establish that the actions of the Polish government is violating EU

norms and values. Article 7 is provided with a framework that in three steps explains the process. First is the situation assessed by the Commission, then the Commission will formulate a set of recommendations and last, a monitoring of the member states and its adaption of the Commission's recommendations. Should a member state chose not to act upon those recommendations the country risk being hit with a set of far-reaching sanctions (ec.europe.eu.).

Delimitations

The EU is a complicated institution to analyse as it is a large institution consisting of many branches with different functions and responsibilities. It is simply not possible to analyse the EU as a single unit since the structure and purpose of each body would need to be examined individually in order to analyse it properly. Therefore this project will be based on the findings of the EU Commission and not the EU parliament of the Council.

In terms of theory, normative power Europe is best applicable in this project as the theory describes a process where problems are solved through political discussion and argumentation and not with military force. However, other theories are worth to consider even though they were not chosen for this project. One is Duchêne's theory of a civilian power Europe and a second is Bull's theory of a military power Europe and although both theories still are relevant in today's discussion about the EU's role as a global actor they have been excluded due to the projects main focus on the diffusion of EU norms and values. First, the notion of a civilian power Europe was developed in the early 1970's at a time when the EU was still relative young and the concept is termed by Duchêne the following way. *"Europe at age 20 represented a 'civilian power' which was 'long on economic power and relatively short on armed force'"* (Manners 2002, p. 236). Additionally civilian power is contains three key elements that helps to show how civilian power differs from normative power. First is the central focus on economic power as a tool for achieving national goals, second is the diplomatic co-operation to settle international disputes and last a willingness to use legally-binding supranational institutions to secure international progress (Twitchett 1976, p. pp. 1-2; Maull 1990, pp. 92-3). Civilian power and normative are closely linked but they do differ in terms of how the use trade as an instrument to strengthen EU role in international relations. Civilian power uses trade as a tool to gaining influence whereas normative power uses trade to spread its norms and values to other countries.

Military power Europe differs more from the theory of normative power but with the establishment of the Common Security and Defence Policy (CSDP), the EU does have an element of military power which makes the theory relevant to consider. Bull criticized in 1982 civilian power for being ineffective and advocated *“that the EC should become more self-sufficient in defence and security”* (Manners 2002, p. 237) since Bull found Europe becoming an international actor unlikely (Bull 1982, p. 151). The establishment of the CSDP does provide an argument for the EU being a military power but it can also be argued that the CSDP is not enough, with its main focus on peace-keeping missions and conflict prevention, to be characterised as a military power.

Qualitative data

This case study is based on qualitative data in form of four reports from the EU Commission with recommendations and a final proposal for a Council decision regarding the serious breach with the rule of law that has happened in Poland. The qualitative data is a primary sources directly available on the EU’s website. The qualitative data is exploratory as it provides an insight into the reasons why and actions made by the EU Commission.

Report no. 1.

Commission recommendation (EU) 2016/1374 of 27 July 2016 regarding the rule of law in Poland. The EU Commission becomes aware of the political situation in Poland and asks to be informed about the situation and starts initial proceedings under the rule of law framework.

Report no. 2.

Commission recommendation (EU) 2017/146 of 21 December 2016 regarding the rule of law in Poland complementary to Recommendation (EU) 2016/1374

Dialog between the EU Commission and the Polish government continues without Poland adopting the recommendations from the previous report.

Report no. 3.

Commission recommendation (EU) 2017/1520 of 26 July 2017 regarding the rule of law in Poland complementary to Recommendations (EU) 2016/1374 and (EU) 2017/146

The Polish government reacts to the complementary recommendations with a negative response and offers no further indications of changing its course.

Report no. 4

Reasoned proposal in accordance with Article 7(1) of the Treaty on the European Union regarding the rule of law in Poland. Proposal for a Council decision on the determination of a clear risk of a serious breach by the Republic of Poland of the rule of law.

The EU Commission formulates in December the 20th 2017 a reasoned proposal for the triggering of Article 7 after a two year long dialogue has ended without Poland recommitting to the values of the EU or the rule of law.

Historical overview

Polish foreign policy has been through turbulent times with the fall of the Soviet Union and the collapse of the Iron Curtain. Poland went from being a core state of the Soviet Union to a loyal member of NATO and the EU. Furthermore, Poland became an active actor in global politics, a change not only made possible by globalization or the restructuring of the political landscape after the breakdown of the Soviet Union, but also due to the growing international role of the EU. (Kaminska 2014, p. 1). Common for all post-communist states were a determination *“to be recognized as an equal member of the democratic community”* (Kaminska 2014, p. 18) but in terms of what the transformation process should constitute varied between states. The states different experiences and situations, and the importance an EU membership, were very much at play when the respective governments dealt with the question of the EU membership and democracy. In regards to Poland, the question of security in the early 1990s was very important since Poland was left fearing to choose its future partners. As a result, the Polish Western direction became the answer, together with a desire for democracy, and membership of the European democratic community (Kaminska 2014, p. 18).

In addition, when Polish decision makers were asked about reasons for joining the EU two of the biggest factors were *“the community of values and the community of interest between Poland and the EU”* (Trzeciak 2012, p. 37). The notion of a strong community was shared by both

the EU and Poland, and the fact that Poland felt like a European country also had a strong impact on the decision process and although Polish national identity was developed without being built around an independent state like most European nations, Poland still felt a shared European culture (Trzeciak 2012, p. 38). *“Even when Poland regained independence after the First World War, the inter-war generation was introduced to an image of their country as European. Hence, after the communist regime collapsed, Poles, instead of using the term ‘joining Europe’, preferred using the term ‘re-joining’ or ‘reunification’* Trzeciak 2012, p. 38).

Furthermore, there was a broad consensus between the Central and Eastern European countries (CEEC) that the EU was responsible for healing the divided Europe which meant that gaining EU membership also would have a strong symbolic value. For Poland, there was also an element of historical justice in being acknowledged as a European state after having been suppressed by communist rule since 1945, as a result of the Yalta conference which the majority of Poles saw as a *“betrayal of Poland by its allies when the Western powers agreed with the Soviet determination to include Poland in the Soviet sphere of interest”* (Trzeciak 2012, p. 38). In 1945, Poland was still formally an independent state but at the same time heavily influenced by the Soviet Union when it came to politics, the economy or the military up until 1989 when Poland was reestablished as a democratic state.

Geographically, Poland was also in a tough position since the country was *“positioned between two strong states and former enemies that have erased Poland from the map many times in the past, and being aware of its own limitations as what Wivel and Mouritzen term a ‘non-pole power,’ Poland had limited choices”* (Kasminska 2014, p. 18). Poland was in a serious position but with a weak Russia, with an unknown future, the strongest option was to lean in a Pro-Euro-Atlantic direction. In addition, Germany had been unified and the EU offered to help with the democratic transition so joining the EU seemed like the best way forward. All though, there was still the issue of a full reconciliation between Germany and Poland but even considering challenging relations between states and a tough European process to get through, an EU membership was still more attractive than a new partnership with Russia (kasminska 2014, p. 19). Especially the possibility of being protected by both NATO and the EU was appealing.

“The choice of reliable friends with the resources to provide security guarantees was directly connected with the country’s experiences. The strong link between Poland and the West was

believed to provide the basis for change and a stable, predictable future” (Kaminska 2014, p. 19). The issues of security was obviously an important one, after being under foreign rule for decades, but joining the EU was not an quick process. In order to gain full EU membership, Poland had to show a willingness to cooperate and make peace with its neighboring countries, which Poland succeed at. In the early 1990s, Poland had made rapid improvements on the difficult and hostile relationships between Poland and the neighboring Eastern countries by introducing a new policy of good cooperation and by supporting Eastern countries on their way to become democratic (Kaminska 2014, p. 19).

Poland has, due to its position as the biggest state of the Central European region, a self-perception of being the regional leader, which they used actively to help with the regional development and in the formation of organizational structures of the Central and Eastern European countries (CEE). Poland has actively been very involved in EU councils, organizations and initiatives maintaining that *“regional cooperation serving to stabilize the region and strengthen Poland’s position and active participation (...) especially in Poland’s nearest neighbourhood, thus assuring to our country a position adequate to its political, economic and military potential” (Kaminska 2014, p. 20).* Furthermore, *“this active participation in regional organizations has enabled Poland to develop its self-perception as regional representative, standing up for CEE interests in wider fora, including the EU. With the clear prospect of membership in the NATO and the EU, and having gone through the most difficult period of transitioning, Poland has started to regard the role of regional leader as a crucial step in strengthening its negotiation position in the future Euro-Atlantic community” (Kaminska 2014, p. 20).* The geopolitical location of Poland is also a huge plus for the country in its fight to become the regional leader. Poland has the ability to function as a link between East and West and that way advocating for both sides. In EU relations Poland can serve as an advocate for its Eastern neighbours and then turn around and advocate for the EU in the Eastern countries, especially Ukraine and Belarus. Poland has intentionally fought to serve as a kind of mediator between East and West in order to strengthen its own position, both in the EU and in international relations (Kaminska 2014, p. 21).

Joining the EU may at first largely have been a question of security but the Polish Minister of Foreign Affairs also saw a membership of the union as an opportunity to realize Poland’s full potential. In the 1990’s, the EU was considered a “prosperity club” Poland stated to see it as the

best option for strengthen a weak Polish economy and joining the EU was no longer just a question of protection. The question of economy and international influence arose and Poland now had the opportunity to use its history, and its relationship with the other eastern countries, as an advantage. *“EU foreign policy became therefore a very important arena in which Poland could strengthen its position by contributing its experience and knowledge of Eastern Europe. Thus, the Eastern direction became a tool to build a stronger negotiating position within the EU and then in the wider neighborhood”* (Kaminska 2014, p. 21). The relationship between Poland and the East obviously became very important and a huge advantage for Poland but the accession process was till a big challenge.

The accession process was tough since all candidates had to adapt all existing EU laws and norms, and at the same time be exposed to the same Europeanization pressure as the other EU member states constantly are under. In addition, new institutions were created and enforced together with a set of international norms that were made conditionally for the accession (Kaminska 2014, p. 22). Poland first established a political dialog with the European community when a European Union Association Agreement (AA) was signed in 1994 which finial came into effect in 1994 (Kaminska 2014, p. 22). The accession process was initially criticized for the lack of a stable and regular framework for contact and the political dialog was limited to consultations regarding the most critical issues. Polish decision makers also criticized the process calling it too general and left both the public and many Polish members of parliament poorly informed (Kaminska 2014, p. 23). However, the situations was improved after the EU began to consulate candidate states on a range of important issues but still, EU members were not obligated to follow any of the candidates opinions.

Poland had in the time between 1994 and 2000 joined about 500 declarations regarding issues from the Balkan conflict to military conflict in both Asia and Africa to arms control, and human rights protection. Again the goal was to present Poland as a highly active actor in EU relations and secure its position as the front-runner among the candidate states. In 2000, Poland was invited to participate in meetings concerning Convention work on the future Constitution Treaty (Kaminska 2014, p. 24) and during the debates Poland mainly focused on strengthen the relationship and cooperation between the EU and NATO. *“The priority of the NATO in the security area and enhanced cooperation between the EU and the NATO, in order to avoid the duplication and*

marginalization of NATO in Europe, remained a priority for the Polish representatives in the Convention. These continuous efforts combined with conditionality resulted in a feeling of tiredness and annoyance with the EU" (Kaminska 2014, p. 25). This development resulted in a situation where NATO was seen as being much more friendly to Poland than the EU and since NATO came with a security guarantee, a strong alliance between NATO and the EU was strongly desired by Poland.

In the final stage of the accession process European integration had gained strong support from the public in Poland and *"even though there was basic concern over the loss of national identity, the opinion polls indicated very strong support for integration in the EU"* (Kaminska 2014, p. 25). Poland fully gained EU membership in 2004 but since Poland up until recently was a part of the Soviet Union, Poland lacked experience in many areas relating to foreign affairs, and engaging in global politics through the EU was a challenge for the Polish government post accession. Furthermore, *"in the early post-accession months, Poland lacked strategic priorities in international relations and in the EU and apart from the Eastern Dimension and strengthening the ties with the NATO, Polish governments did not know what kind of European union they wanted. It also seemed that in the early post-Enlargement months the new dynamic of foreign policy overwhelmed the Polish decision makers"* (Kaminska 2014, p. 27). The Polish government had to deal with questions regarding the war in Iraq, being pressured by the US, engagement in missions, the Orange Revolution in Ukraine and democratic transition in Eastern Europe (Kaminska 2014, p. 27). The Polish government was simply not prepared for event like these and did not know how to handle being pressured by the international community, and in relation to the security question and the EU defense policy The Common Foreign and Security (CFSP), Poland has struggled to make a real impact due to the country's limited knowledge and capacity for handling foreign affairs.

Similar problems occurred in Brussels, where Poland found it hard, with limited resources and experience in global politics, to navigate through the EU institutions which ultimately lead to the country's image being damaged (Kaminska 2014, p. 27).

The lack of a well-defined Polish foreign policy continued to cause problems as *"the lack of clear objectives in foreign policy was connected with big ambitions and too limited tools or resources to operationalize them, as polish diplomacy was highly underfinanced and understaffed. This caused many problems for policy formulation and implementation as due to the CFSP the areas of*

participation and interest had widened largely while resources remained unchanged” (Kaminska 2014, p. 28).

In 2006, the newly formed Polish government set out to further enhance Poland’s position within the EU, and change the face that Polish foreign policy previously was made under pressure and “on knees” (Kaminska 2014, p. 27) to be formulated based on the country’s own national interest. The rhetoric coming out of Poland also started to become more aggressive towards the EU, which only confirmed the suspicion of those member states who believed that Poland was far from ready to gain an EU membership but then in the years after 2006, the economy started to grow as a result of “high inflow of structural funds and financial aid” (Kaminska 2014, p. 28), which was a direct consequence of the EU membership. This meant that the public opinion grew stronger in favour of the EU and its institutions, which further pressured the government to adapt a more pro-EU attitude. In 2007 new parliament elections had to be held after the coalition government collapsed (Kaminska 2014, p. 28) and kept the Law and Justice party in opposition until 2015, when the party won the parliamentary election again, and this time with a solid majority.

Analysis

In 2014, the European Commission’s Rule of Law Framework was adopted as a tool for the Commission to use in case a member state violated the rule of law, as seen in Poland. The Commission is further expected to keep check of all EU institutions and Member states and make sure they comply with EU law. The responsibility of the Commission goes all the way back to 1951, when it was still the European Coal and Steel Community, and gives the Commission the authority and power to take action against non-compliant member states and eventually take the case to the European Court of Justice (Kochenov & Pech 2016). The protocol has been successfully use countless times against member states who have violated EU law (Lenaerts 2013), but in 1999 the EU found it necessary to expand the tools given to fight violations of a more serious character, such as the rule of law, and formulated on that background Article 7. The new article was adopted into the Treaty on European Union (Kochenov & Pech 2016) and was never expected to be enforced but merely have a preventing effect against democratic backsliding. The need to further protect democracy and the rule of law came when Poland and many Eastern European countries where

about to join the EU (Sadurski 2010), and was meant as a tool for the EU to help handle any unforeseen challenges.

In the case of Poland both the creditability and the legitimacy of the European Union is potentially in danger, and it is a complicated situation with the threat coming from inside the system. In this case the EU no longer represents a united union because the internal conflict creates a divide between the member states, and taking action against Poland may be a difficult step but if the Commission does nothing, the effectiveness of the union can quickly be questioned. For the EU to be successful the union must be able to keep its members committed to EU law, and its norms and values because full commitment among the member states is what makes the union strong. In 2013, the former president of the Commission, felt it necessary to for the EU to have additional tools to deal with breaches of the rule of law as the present options of infringement described in Articles 258-260 TFEU and the 'nuclear option' in Article 7 TEU (Barroso 2012) needed a new element between those two. *"This call for a new instrument was largely warranted as both procedures suffer from a number of shortcomings, with the consequence that Article 7 TEU has never been used whereas the infringement procedure, as interpreted and applied by the Commission itself, has proven ineffective to remedy systemic violations of EU values"* (Kockenov & Pech 2016, p. 1064). This shows that triggering Article 7, even before it was done against Poland, caused concern within the EU and it could be difficult to achieve any result due to the structure of Article 7. The big problem is that sanctions against a member state require unanimity in the EU Council and *"in addition, the current presence of two 'illiberal' national governments in the EU would seem to make the deployment of the 'biting' clause of Article 7 virtually impossible, unless both countries are tackled de concert considering that Hungary has committed itself to blocking any eventual sanctions against Poland"* (Scheppele 2016b).

This shows the limits of the Commissions power and in case Poland decides to ignore the recommendations of the Commission or the ruling of the ECJ, there is very little to do about it, and it is in a situation like this that the effectiveness of normative power also seems limited. The EU does not have the option of forcing Poland with military power but it is clear that the EU needs new powers when dealing with a situations that potentially could reach a standstill. Then in 2014, the Rule of Law framework was adopted, consisting of three steps to stop member states from violating the rule of law. First step is an assessment of the situation, next is the recommendations from the

Commission to the government will be given and finally, the Commission will monitor the implementation of the recommendations (Kochenov & Pech 2016). The new Rule of Law Framework *“showed that the Commission finally understood the serious, if not existential, threat posed by the solidification of authoritarian regimes within the EU”* (Kochenov & Pech 2016, p. 1066). In a democracy there are no mechanisms stopping authoritarian politicians from getting elected in fair and free elections and that is a fundamental issue with democracy, even a dictator such as Hitler was elected by the people to run the country and the same goes for the PiS party in Poland. The European Court of Justice has also warned the EU that the *“legal structure is based on the fundamental premise that each Member State shares with all the other Member States, and recognises that they share with it, a set of common values on which the EU is founded”* (Kochenov & Pech 2016, p. 1066). This means that in order for the EU to stay relevant all member states must commit and support the fundamental principles of the EU, otherwise the EU is in danger of becoming meaningless.

Furthermore, the Rule of Law framework has also been criticized due to a number of shortcomings. First, the new framework is based on the assumption that a discursive approach will result in a positive outcome (Kochenov & Pech 2016), but that seems unlikely in cases where the people in power deliberately have chosen to implement new policies that directly undermines EU values. And second, the Commission’s recommendations are non-legally binding, which means that Poland is not legally bound to implement any of them (Kochenov & Pech 2016). Despite this the Commission activated the Framework and reached out to the Polish government to start a dialogue.

Benefits from an EU membership

Since Poland became a member of the European Union, the country’s economy has benefited greatly and that is an important factor to analyse together with the actions of the Polish government. The Polish economy was the biggest one of all the new countries who joined the EU in 2004 (Kundera 2014) and after the accession the liberalization process started and Poland committed to all four freedoms, free trade, freedom of movement, freedom of capital and services. Poland also joined the Economic and Monetary Union and the EU common policies, which contained several sectors of the Polish economy such as competition, agriculture and regional policy (Kundera 2014). The liberalization of the Polish economy has been a big step for the country and *“Polish*

participation in various integration stages of European integration process has had an important influence on Polish economy. It involved all sectors of Polish economy, changed public policy, the environment of many firms, and the position of consumers”(Kundera 2014, p. 378). Furthermore, it also meant that Poland, and Polish exporters, had a much larger market to export their goods and services to, and it opened up the country for foreign investments, and gave Polish people the opportunity to work anywhere in the EU on non-discriminatory conditions (Kundera 2014).

The integration process may have benefited Poland and the Polish people in many ways but implementing a new system often comes with a cost, and in some cases, the cost of the integration process may be higher than the benefits but in order to avoid such a situation the EU has different corrective mechanisms which helps balance the costs and benefits. *“In the Eu the function of the corrective mechanism is provided by two structural policies: the regional policy and the common agriculture policy (Cap)”* (Kundera 2014, P. 379). Overall, the benefits of economic integration within the EU have been extensive and substantial for all the member states, and with the creation of the Customs Union, the Eu became the biggest trading block in the world (Kundera 2014). In addition, *“the access to a large marked increased efficiencies of scale and productivity of the firms, gave business new investments opportunities and transfer of technology, affected migration of capital and people”* (Kundera 2014, p. 379). EU economic integration also resulted in higher competition and helped improve the distribution of economic resources, and the common economic policy further introduced a stable framework for business cooperation and public policies (Kundera 2014).

The EU also helped support failing markets and less developed countries *“however, despite much success, today crises in the Euro Area indicates that there are also a lot of hurdles on the way to a final goal as the common European economy”* (Kundera 2014, p. 379). In the case of Poland, the country has benefited greatly from the trade expansion with other member states and with access to the single market Poland became the country with the highest dynamics of growth in terms of trade among the EU members, and during the financial crisis Polish export grew from € 95.6 billion in 2010 to € 105.6 billions in 2011 (Kundera 2014). In 2013, Polish export increased to € 152.77 billions while import reached a total € 155.09 billions causing a € 2.3 billion deficit. The development of the Polish economy caused some concern among economists who feared that trade liberalization and an aggressive market would cause Polish import to outgrow their export and

deteriorate Polish economy but despite a global trade deficit of € 2.3 billions in 2013 that number was still an improvement from 2012 where the global trade deficit almost reached € 8.3 billions. In addition, in 2013 trade with the EU reached a € 24.2 billion surplus which showed that the Polish economy was strong enough to compete on the single market and prove the concerned economists wrong (Kundera 2014).

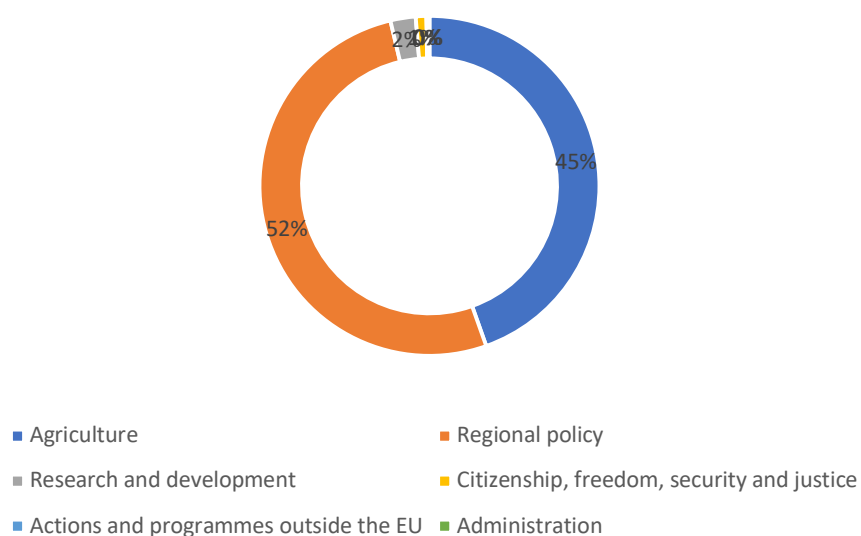
Free migration is another important factor to analyse and the *“continued ability to attract foreign direct investment (Fdi) occurred to be one of the basic factor of successful integration between Poland and the EU. After 2004 the Polish economy received a lot of Fdi and Poland continued to lead in attracting such investments in Central European region”* (Kundera 2014, p. 384). The interest in Poland as an investment opportunity came with the high growth in Gdp, a new market and the cheap Polish labour force used for export development. In the years between 2004 and 2010 the annual flow of fdi was roughly between € 7 and € 16 billions and made Poland the largest recipient of fdi among the 10 new member states. (Kundera 2014). The continued ability to keep attracting fdi is an important factor in the successful Polish transformation and integration with the EU however, Poland struggled to keep up the level of fdi in 2012 and in 2013 the fdi balance was negative and a decrease in fdi could be hurtful for the Polish economy because of the importance of the role fdi plays in economic growth and modernization of the Polish economy (Kundera 2014).

In times of crisis, the Eu offers structural assistance, and *“the accession of Poland to the Eu is to be positive in terms of the balance of structural aids. The structural funds for Poland stimulated catching up processes and helped the Polish economy to avoid negative consequences of crisis in the Euro Area”* (Kundera 2014, p. 387). The financial support from the EU rose every year, except in 2008, after accession, starting from € 1.1 billion the first year reaching € 11.19 in 2013. Since becoming a member, the EU’s structural funds have been responsible for thousands of projects in Poland and the funds have has a positive impact on economic growth and helped improve many sectors such as transportation, education, environment protection and both small and medium sized enterprises (Kundera 2014). The structural funds were mostly spent on improving the Polish roads and transportation system and with the financial help in the period between 2007 and 2013 *“Poland modernized km 1,594 of railway lines, paid for km 42,651 of broadband internet,*

took investment of 408 in renewable energy, built 506 new research centres and 1,649 new laboratories” (Kundera 2014, p. 388).

The common agriculture policy is another tool the EU uses to support the agricultural sector and it has also help in Poland. The export and access to the single market has resulted in higher wages among farmers and made the sector more profitable, and both the restructuring and the modernization of Polish farms have accelerated (Kundera 2014). There were some cost involved for the Polish farmer as they had to invest in modernized cowshed, milk storage, ventilation, lightning systems and commit to environmental protection, and after 2004 a temporary and limited negative impact of the EU was observed (Kundera 2014). Overall the Polish economy has continued to grow and all though the pace of growth rate fell in 2012 and 2013 it was still positive. The unemployment rate was almost at 20% when Poland joined the EU and the positive economic effects help get the number down to 8% in 2008 but with the financial crisis unemployment rose higher than 13% in 2013-2014 (Kundera 2014). The structural funds helped prevent recession in Poland during the financial crisis and *“it is worth noting that, in the period of 2014-2020 Poland will receive another huge potential of € 73 billion of structural funds”* (Kundera 2014, p. 394). Furthermore, Poland received € 10.64 billion of EU funds in 2016, making Poland the largest recipient EU regional policy funds where € 5.50 billions of the funds where spent (europarl.europa.eu). In contrast, Poland payed € 3.55 billion to the EU budget in 2016 (europarl.europa.eu)

EU spending in Poland 2016



Latest available numbers show

Source: europarl.europa.eu

Political consequences of the Polish parliamentary election of 2015

The 2015 election was a huge victory for the Law and Justice (PiS) party because it was the first time a single party, in democratic Poland, was able to form a government without having to form a coalition as well. This was not because of large changes among voters but happened mostly because of a high number of votes being wasted due to a 5% threshold for political parties and 8% for party coalitions (Markowski 2016). The parliamentary election was influenced by a number of aspects, and in this case, the economy was not the dominant factor. The performance of the Polish economy seemed irrelevant to the voters, however, it is important to note that in the years between 2007 and 2015, Poland reached a growth in GDP close to 24%, despite the EU being hit by the global financial crisis, experienced a decline in income inequalities and saw unemployment fall to a single digit number (Markowski 2016). It was also a time where Poland began to influence the EU and the international scene with politicians such as Jerzy Buzek and Donald Tusk being appointed to key positions in the EU, and despite a high level of general satisfaction in terms of jobs and lives, the distrust between the people and the politicians remained equally high. The distrust in society benefitted the PiS party and in the party's campaign to win the election "*PiS, the major opposition party during the 2007-2015 period, and a new populist movement set up by a rock star, Pawel Kukiz, sought to persuade voters that Poland was in the hands of a corrupt elite*" (Markowski 2016, p. 1312). The opposition further called Tusk and former president Komorowski for traitors, and argued both the Polish economic development could grow faster and that the country suffered under maladministration. The narrative push forward by the PiS party and the constant repetition of these claims resulted in a rise of distrust in the ruling government among voters who began to believe the corruption allegations.

In the campaign against the government the PiS also gained followers as the party promised the public universal child benefits, to reverse the PO-PSL government's widely criticized plan to push the retirement age to 67 and to increase the tax-free income threshold (Komorowski 2016). The aim of the campaign was to reach those voters who had lost out in the modernisation of

Poland, but the most effective aspect of the campaign was the party's decision was to move the most radical and divisive politicians out of the spotlight and turn focus to the moderate PiS politicians who appeared more attractive and less threatening to democratic policy. The trick worked and the PiS gained new followers among the younger population, the well-educated, the urban and entrepreneurial voters who were disappointed by the PO government and its move away from a market oriented roots (Komorowski 2016). The PO government had during its time in office pulled back on its promise to reduce taxes and stop privileged pensions that only selected professional groups enjoyed, and the government was additionally accused of illegally dismantling the obligatory private fund (OFE) (Komorowski 2016).

The ruling PO government was struggling with many of these allegations up to the 2015 parliamentary election but the most damaging blow came when recordings of government ministers and known public people during private meetings were published. The recordings did not capture anything illegal but what make the public angry was the vulgar language the politicians used (Komorowski 2016). Also, the Catholic Church, had a significant role in the outcome of the 2015 election, and *"according to a poll conducted after the 2011 election of those respondents who reported that parish priests had openly indicated the party for which a Catholic should vote, 9 out of 10 said that the party in question was PiS"* (Komorowski 2016, p. 1313). The cooperation between PiS and the Catholic Church became more visible up to the 2015 election and included *"open mobilisation of the electorate of their favoured party as well as assisting voters in getting to the polls"* (Komorowski 2016, p. 1314). The campaign proved to be effective, the help from the church and the critique of the current government led the PiS to win 235 out of the 460 seats in parliament (Komorowski 2016), and that way secure the party's ability to rule as a one-party government with 37% percent of the votes. But it was also possible due to the high number of wasted votes which counted for 16%.

The result of the election might have been a surprise to some but *"far from reshaping the face of Polish party politics, the election result largely confirms the presence of a divide that has been emerging over the course of the last decade between two roughly equal nationalist-populist and centrist-liberal camps"* (Komorowski 2016, p. 1316). This divide in Polish society is an issue the EU should be aware of in its efforts to solve the problems with Poland because the EU risk fuelling the anti-European nationalists attitude towards the EU even more with the unions demands. The

integration process has clearly not been accepted in all parts of Polish society and the idea of giving up nationalism and sovereignty in exchange for joining the EU seem to have failed among many nationalists politicians. The consequences of the election came almost immediately after it and it soon became clear that the PiS party deliberately had hidden some of the party's most unpopular members away during the campaign. Since PiS became a one-party government there were no democratic procedures in place to foster pluralism and there were no compromises to be made in order to form a coalition. PiS had the freedom to decide its own course and the language in Polish politics quickly became more nationalist and anti-European (Komorowski 2016, p. 1319).

The new government further launched campaigns against Poles protesting the PiS government for its violation of the constitution and referred to these people as *"the worse sort of Poles"* and *"genetically prone to treason"* (Komorowski 2016, p. 1319).

Unfortunately, the government also started to reverse the democratic progress made in Poland and within the first three months after the election, PiS had frozen the Constitutional Court of 1997, taken direct control of public media and taking control over both the appointment and the dismissal of civil servants (Komorowski 2016, p. 1319). It is clear that the EU normative principles in this case have failed to work and *"these three attacks on the pillars of democracy and the legally valid constitutional order are only the most prominent among many other attempts to change the political realities in Poland"* (Komorowski 2016, p. 1319). This also shows that the conflict between the EU and Poland is far from over, and even though the Polish government recently accepted the ruling of the ECJ is are still strong sense of nationalism and negative attitude towards the EU. Still, *"neither during the eight years of PO-PLS government, nor at the time of the 2015 election, was there any evidence to suggest a significant public appetite for the post-electoral programme implemented by the PiS government"* (Komorowski 2016, p. 1320). Yet, the PiS government will remain a single ruler until next election.

The rise of the PiS party is also largely due to the populism that has been sweeping through Europe in recent time and the PiS can be describes as *"contemporary authoritarian populism"* (Norris 2016). The rise of such populism is mostly seen as a cultural backlash fighting social change and, even though the PiS are using economic arguments, economic development is not the main focus of the party as it so often is. The party is protesting *"against the checks and balances introduced to prevent the people's direct rule"* (Pelinka 2013), and by "the people", the PiS

is referring to people who, according to them, are “true” Poles. The sharp rhetoric is used to undermine universal democracy and is spreading unprecedented polarization, xenophobia and aggressive nationalism through many important sectors of Polish society (Fomina & Kucharczyk 2016, p. 59). The PiS also continues to use the refugee crisis to criticise both the former Polish government and the EU Commission since it especially was the Commission’s decision that all EU members should accept a quota of Syrian refugees, gave new rise to Polish Populism. The international support of the opposition is helping it fight back against the government but as long as the deep divide in Polish society is there confrontation between critics and the authoritarian populists will remain (Fomina & Kucharczyk 2016).

Applying the theory

In the conflict with Poland the EU has tried throughout the process to find a diplomatic solution through open dialogue with Poland and though it has taken many years Poland finally accepted the ruling of the ECJ in late 2018 (Reuters.com). The activation of Article 7 and the possibility of losing their voting rights and risk of financial sanctions put a lot of pressure on the Polish government and the change in attitude in Poland has been an important step forward. Mina Andreeva, spokeswoman of the Commission said in a regular new briefing that *“we are satisfied that change is happening and going in the right direction. We will now analyse these changes and it is also in this view that first vice President Timmermans will update the college (of commissioners) tomorrow at their weekly meeting”* (Reuters.com). This was a positive development and a small victory for the political process in the EU but *“the Commission also takes note that the Polish authority’s proposal to amend the supreme court law has now been signed by the President yesterday but we note that the law still has to be published,”* Andreeva said (Reuters.com). This means that the EU has to continue to monitor the situation and keep putting pressure on Poland in order to make sure the Polish government takes the final steps and fully accepts the ruling of the ECJ.

The EU has followed protocol step by step and proved that normative power can have a strong effect in a conflict. Critics how argue that the EU has moved in a more military direction with the Common Security and Defence Policy will in this case have been proven wrong since the EU never threatened Poland with military actions. Ian manners strongly argues that *“the EU has*

been, is and always will be a normative power in world politics" (Manners 2008, p. 45), and the reason for this argument is that *"the EU promotes a series of normative principles that are generally acknowledged, within the United Nations system, to be universally applicable"* (Manners 2008, p. 46). The principles, promoted by the EU, are according to Manners rule of law, human rights, sustainable peace, democracy, freedom, sustainable development, equality, social solidarity and good governance (Manners 2008, p. 46), and are spread out by the Union through its relations with the other countries.

The EU has based their case against Poland on the argument that the EU is protecting the rule of law, democracy and human rights of the Polish people and that way using its normative power to influence Polish decision making. The EU normative principle of democracy is according to Manners promoted in different ways, starting internally where the democratic principles are defined in Article 8 in the Reform Treaty. This includes the role of national parliaments, democratic equality, representation and participation, which means that there has to be a balance of power in parliament and in a democracy and it is therefore not acceptable for the Polish government to have control over the Polish judges. The second way is through an enlargement and accession process (Manners 2008, p. 50), such as the 2004 enlargement. A fundamental principle of democracy is the separation of power, which prevents one branch of parliament to take control over another but the new supreme court law in Poland broke this principle when the judicial branch no longer was independent. The EU normative principle of human rights includes both individual and collective human rights and *"these are associated because they emphasize the interdependence between individual rights, such as freedom of expression, and group rights, such as religion or belief"* (Manners 2008, p. 51). These rights are also promoted multiple ways through the EU, and first of all as a general principle of EU law. Second, human rights are reflected and promoted through the Charter, and third, *"the extent to which human rights provisions are promoted through the interdependent external actions of trade and aid, humanitarian and migration issues"* (Manners 2008, p. 51). The protection of human rights is a serious objective of the EU and is a fundamental principle that influences both the actions and decisions made by the EU, which is also why it is so important that Poland as a member state respects and help protect this principle in order to be a well-functioning member of the EU.

The EU normative principle of rule of law is in three aspects supranational. First in communitarian law, where the EU promotes pooling of sovereignty, second in international law, where participation in supranational law above and beyond the EU is encouraged, and third in cosmopolitan law that *“advances the development and participation of the EU and its member states in humanitarian law and rights applicable to individuals”* (Manners 2002, p 241). Many of these principles are interconnected and comes as a package deal, an Poland can therefore not simply chose what principles to protect and what principles to ignore.

The strongest way the EU to promote its values is through persuasion, dialogue and argument and *“we rely on moral persuasion, the power of argument, and the power of shaming”* (Foot 2000, p. 9). Furthermore, *“norms are expressed through language and process of argumentation and debate can shape what is said subsequently in both domestic and international venues”* (Foot 2000, p. 9), and that is exactly how the EU has tried to handle the crisis in Poland. The EU has argued that the steps taken by the Commission and the final decision to activate Article 7 were both well debated and well-reasoned, and necessary to protect the Union. The EU has argued that the protection of rule of law is vital for a member state and that way tried to persuade Poland to recommit to the principle. Through an open debate the EU can also try to influence the Polish people and public debate in Poland, and that way put extra pressure on the Polish government, which might have worked already. In a year from now, Poland is going to have a parliament election and on that occasion, the ruling PiS party is trying to reach voter the party not normally gets their support from. There has been a decline in support of the ruling party, and the conflict with the EU has strengthen the opposition, and even tough PiS remains ahead of both the main centrist and leftist rivals, the fact that the forced retired judges now are allowed back at work could be a result of pressure from pro-EU voters (Reuters.com).

Manners also supports the argument that *“we are one of the most important, if not the most important, normative powers in the world”* (Peterson & Barroso 2007, p. 4-5), and one of the reasons for this claim is that *“yes, it gets the media’s attention when we are divided. But most member states of the EU votes the same way in the United Nations. The pattern is impressive. There is not any group of countries in the world that has the same degree of homogeneity ... Why is that? It is because we have been successful in establishing norms, and applying them to different realities ... It is in fact the EU that sets the standards for others much of the time”* (Peterson & Barroso 2007,

p. 4-5). Manners further agrees that it is the EU's power to apply its normative principles to different realities that makes it so powerful. The normative principles is a central role in the EU no matter if the Union acts alone, is in a partnership, is facing climate change or global terrorism, the normative principles apply (Manners 2008, p. 60).

Critique of the EU and the concept of normative power

The European Union has long been known as a force for good, a normative power and known for its ability to peacefully integrate new member states through policies, rules and regulations. The normative power of the EU and the unions ability to spread democratic norms and values through cooperation and trade both internally and externally has long been considered the strength of the union but lately, as seen in Poland, the rise of nationalism has caused much concern across Europe. The notion of the EU as a normative power has long both been praised and criticized especially from a neo-realist point of view that argues that *"the EU's ability to fulfil the role of a normative actor depends on the decision and the willingness of the Member States, and it possible only because it is being secured by traditional attributes of power"* (Skolimowska 2015, p. 121). Supporters of this argument often point out that in many cases normative power is not sufficient enough to solve international issues and *"often claim that European Union in not capable of convincing third states to adopt the European normative model unless it supports its offer by additional economic or military arguments"* (Skolimowska 2015, p. 121). Additionally, neo-realists sees the EU as a means for the most powerful states to push their own agent and national interests forward in international politics (Manners & Whitman 2003). Other scholars critical of the normative power concept argue that the focus on a single aspect of EU power seems incomplete and difficult to prove, and especially the progressive militarization of the EU through the Common Security and Defence Policy confirms the insufficiency of a normative power approach (Skolimowska 2015).

For more than fifty years, the EU has been viewed as a leading example of modern regional integration but in the last few years the EU has faced many great challenges proving the union is flawed and far from a united front when trying to handle different crisis. The financial crisis especially also showed that the EU was vulnerable and *"in the wake of the crisis, nationalist tendency gripped and swept through the region"* (Najimdeen 2014, p. 71). Furthermore, *"the traumatic*

situation surrounding the Eurozone crisis, the rise of right-wing politics/nationalism, the discourse over erosion of state sovereignty for institutional sovereignty and the debate on the extent to which the EU is democratic was further exacerbated by the level of distrust among the EU citizens” (Najimdeen 2014, p. 71).

The awakening of nationalism caused many critics to question if the EU project had failed or was coming to an end since it seem the EU was unable to push back. The fundamental purpose of the EU was to make sure that war never again was use to gain power but to prove that issues could be resolved among leaders in a peaceful and diplomatic way. Unfortunately, the crisis in the eurozone caused a snowballing effect starting with ideological and political differences and moved on to EU scepticism and nationalism, and the failed attempt to solve the refugee crisis and the big bailouts to Greece only further fuelled the anger towards the EU. For many critics and *“in the opinion-making corridors, street level discussions and outside Europe, the debate was more or less of a failing institution that lacks the prowess to right itself at the most crucial time, though that does not exempt the most cynical position of EU disintegration”* (Najimdeen 2014, p. 72). From this it is clear that EU critics have lost faint in the EU’s ability to form a united front and come up with sustainable solutions to the crisis they are currently facing, and that fear and scepticism is what the right wing has taped into. The nationalist parties have benefited and capitalised on the anti-Europe campaign and *“the truth is that rightist mantra won’t have gotten any audience if there was no forerunning anti-EU sentiment or suspicion about the whole project of the EU”* (Najimdeen 2014, p. 73). Right-wing politicians saw the rise of EU scepticism as an opportunity to gain support for their own personal views and that way gained publicity.

In 2007 all EU member states signed The Lisbon Treaty, which signalled that the EU was moving into a new phase where a greater level of cooperation and integration was the essential aim, along with a common and unified voice but the Eu has since struggled with achieving that goal (Najimdeen 2014, p. 74). The treaty brought a significant change in the structural arrangement of the EU and empowered both the European Parliament and Council whilst taking power away from the Commission and the Council of Ministers (Horspool & Humphreys 2018). The changes in power among EU institutions have been criticized and *“reasonably enough, the eurozone financial trauma did not simply “exposed the deep disconnect between voters and the institutions trying to resolve the continent’s problems,” (Baker 2014) but also gave the muscular support to the glamour of the*

nationalist cum rightist parties, whose purpose to gaining significant position in the EU parliament is geared at jeopardizing if not freezing of the process of European integration” (Stratfor 2014).

The new wave of nationalism and right-wing politics was one of the things the foundation of the EU should help prevent, and the idea was to transform state nationalism and sovereignty into institutional sovereignty (Nejimdeen 2014), but the current situation has proved that the EU still needs to find common ground when the union tries to manage a large scale crisis.

The integration process and the Europeanization of the Polish democracy are also important factors to look at when analysing the relationship between Poland and the EU. Politically Poland experienced big changes after the fall of communism and the pro-western reorientation, and it changed both Poland’s international relations and institutions (Jasiecki 2008). New political and institutional frameworks were necessary for democracy to develop in Poland, and they were based on the experience with countries such as Greece, Spain and Portugal who’s history also includes authoritarian rulers. The new framework’s main assumption was that EU and NATO integration, along with market reform and democratization, would help safeguard the region against dictatorships developing (Jasiecki 2008). There were many concerns regarding Poland and the former communist countries, and *“Central-eastern Europe was often compared to the fragile South-America democracies. Attention was drawn to its poor institutional foundations, lack of social roots and economic hardship, none of which were conducive to neoliberal reform. The risk of political chaos, economic breakdown and ethnic conflict was greatly feared as was the revival of authoritarianism and nationalism, both of which had been endemic in this region before”* (Jasiecki 2008, p. 365). On the other hand, there were also some concern that the EU would dump its deficient democracy and stagnant institutions in Eastern Europe and cause economic growth to slow down so the accession was not without its problems (Jasiecki 2008).

Luckily for Poland, joining the EU and the single market proved to benefit the Polish economy but the integration process was met with some scepticism. The term Europeanization is understood as describing how EU influences main political actors, the management and patterns of behaviour (Jasiecki 2008), and the term became an important factor of political change in Poland. The EU integration process was based on the fulfilment and acceptance of a number of conditions and requirements, and a candidate country *“also had to be more observant of EU law than the “old”*

EU countries” (Jasiecki 2008, p. 366). A number of factors also made the accession process difficult for Poland in the beginning *“due to asymmetry of potential, the EU structural and ideological advantage and institutional weakness of the core- of post-communist countries, the political process favoured the interests of the “old” Union”* (Jasiecki 2008, p. 366). This became a problem for Poland as the country failed to remove barriers on Polish export to the EU market, and struggled to remove import quotas for agricultural produce from the EU, which would be a disadvantage for Poland. Furthermore, the Polish refusal to liberalize the free flow of workers and services across the EU did not help Poland’s position in the accession process.

Generally the whole integration process was through trade negotiations, adjustment, and the pre-accession negotiations marked by inequality. The Polish accession process lasted more than ten years and through the process Poland, and the other Eastern countries, were largely policy-takers and not policy-makers (Jasiecki 2008). This shown how the relationship between Poland and the EU started not as a partnership on equal terms but with the EU being the dominant decision-maker. For the EU-sceptic PiS party the treatment of Poland and the other candidate countries as “outsiders” with a lower status (Goetz 2005, p. 255) is a strong sentiment not to blindly commit to the EU and the unions laws. The were no political discussion on matters that concerned Poland and as observed by the Polish Minister of Foreign Affairs *“we were a suppliant, a candidate country to various structures, and hence – we had to meet the conditions which others imposed un us and comply with rules which we were perhaps unwilling to accept”* (Warzecha 2007, p. 265). The lacking feeling of partnership and coming together on equal terms may also be a reason for the Polish nationalists to gain support.

The “EU effect” in Poland is found in many aspects of Polish society and politics, including the 1997 constitution which presented the formation of new institutions not built on Polish traditions, and the “EU effect” can also be found in the mechanisms that redistributes political and legal resources. Political change also came in form of free media and human rights and in the establishment of new institutions in local communities (Jasiecki 2008). Additionally, pro-European politicians received external support, which especially benefitted the liberal-democratic parties, and both new think tanks and expert groups were founded and work hard to make western politics and economic standards more popular. They promoted globalization and worked in a network of external experts, politicians and scientists also in support of the IMF and the World bank (Brzezinski

2007). The work of NGO's in Poland became the first sector to receive continual EU support and NGO's became involved with western equivalents, and largely worked with the ones involved with human and women's rights, social issues and ecology (Jasiecki 2008).

Despite the positive aspects the "EU effect" in the area of socialization mechanisms has been relatively weak, and *"the process of adopting and internalization of new norms and standards of behaviour developed in response to Poland's integration with Europe is selective and socially limited"* (Jasiecki 2008, p. 369). Social groups with professional and social contact with their EU partners are the ones who are most open to the European values as they are more exposed to them through educational and travel contacts.

The issue in Poland is that this type of socialization is mostly limited to the elite, selected political, administrative and economic communities (Goetz 2005, p. 262; Perez-Solorzano Borraran 2006, p. 144). This means that participation in the EU integration process particularly was influenced by a limited group of people who used it and is still using it to their own advantage (Jasiecki 2008). In the beginning of the integration process *"the demands of EU membership in Poland legitimized the neoliberal economic reforms which a considerable portion of Polish society did not accept, critique of the post-1989 political transformation spread to a certain extent to the question of European integrations itself"* (Jasiecki 2008, p. 370). The Euro-sceptic and anti-European supporters have rejected the notion of a common set of values and political ideas and emphasized that the difference between Poland values and the European do not match. Furthermore, the leaders of the governing coalition back in 2005 – 2007 had a very aggressive rhetoric that spread from a national level to the EU. The message from the political leaders were far from in line with EU norms and values and emphasized the importance of the traditional interpretation of Christian and Catholic values, the condemnation of sexual minorities, a critique of foreign investors, the wish to reinstate the death penalty and the a rejection of the plan to accept the euro as the new currency (Jasiecki 2008).

The Polish transition to democracy has been difficult an *"in 2006 the Gallup Institute reported that, compared with all other parts of the world, Central Europeans, despite their EU membership, are most sceptical of democracy as the best form of governance. Also, in its ranking of the quality of democracy, the Economist Intelligence Unit put only two Central-European countries in the "full democracies" group, Czechia and Slovenia. In this ranking Poland was categorized as a*

“flawed democracy” (Kekic 2007). From this it is clear that the principles of EU normative power have failed to spread through the whole society, and it is clear that political dialogue between the EU and Polish nationalists far from enough to reach consensus. Euro-sceptics and anti-Europeans feel like decisions have been forced down on them and they are trying to protect the national interests. Critics of the accession process have also questioned the EU’s paternalistic treatment of Poland during the process and this was also observed by other participants who noted that *“the EU did not trust the candidates during the pre-accession negotiations and tried to delay expansion. The Polish side felt as if the EU was “withdrawing the reward for making the effort to change”* (Mayhew 2002, p. 22-23).

The pre-accession and accession process was difficult in many ways for Poland and the strict rule the country had to follow made it easier for the nationalists to gain popularity but the relationship did improve between the EU and Poland after the country fully became a member in 2004. The relationship became more interactive and multidimensional, and both the Polish state and Polish society now has greater freedom to influence the EU and cooperate with the other member states. Since becoming a member Poland has actively participated in work on the Lisbon Treaty, supported Ukraine and the Orange revolution, and vetoed EU trade negotiations with Russia (Jasiecki 2008). The motivation behind these activities came from wanting to gain access and influence in EU institutions and among the member states, and this proved to be a positive aspect of the *“EU effect”*. The EU encourages participation among the member states and now Poland can actually see and help make changes unlike in the accession process. Additionally, there have been a number of other positive outcomes of joining the EU such as *“cooperation with EU projects, Polish firms’ increased export to EU markets, opening the EU labour market, travel on a mass scale (to tour and to work), decisions to study and settle in EU countries are all examples of mechanisms which are helping to stop the perception of EU integration as an elitist project benefitting only the chosen few”* (Jasiecki 2008, p. 376).

This has been an important step forward in changing some of the sceptical views on the EU and the accession has also meant a change in Poland’s national interests. The benefits of an EU membership became much more visible after Poland fully integrated with the EU and experienced economic growth as a result of joining the single market. Time has also shown the *“integration of the majority of Central-Eastern European countries had a considerable stabilizing*

effect in the pre-accession stage of development. Comparison of the “new EU countries” with other countries in the region with analogous political history demonstrates beyond doubt that rejection of “adaptive Europeanization” did not foster the development of democracies” (Jasiecki 2008, p. 377). Evidence of this claim comes from examine the political systems in other countries in the region such as Russia, the Western Balkans, Belarus and Ukraine and further supports the claim that EU membership is a strong factor in the fight against authoritarian rule (Jasiecki 2008).

One of the issues regarding joining the EU was the sense of division between the “old” countries and the “new” and what national sovereignty meant for both groups. Many “old” European countries have become more and more integrated with Europe over a long period of time but Poland is just now starting to find its identity after being under Soviet dominance for decades, and it will likely take some time for Poland to find its right place in international affairs.

The recent financial crisis has led many to fear that the EU is on the verge of collapsing and many doomsday portraits have been painted and commentators have written alarming headlines like *“if Italy blows apart, the Eurozone blows apart”* (Faiola 2011: A8), *“Europe is facing its most severe challenge since 1945”* (Zakaria 2011: A21), and someone even wrote *“the EU is dying”* (Kupchan 2010: B3), but these claims are far from original. Looking back in history professors, pundits and policy-makers *“is always proclaiming the EU to be “in crisis” or even on the brink of collapse”* (Thies 2012, p. 225), and there are multiple examples of this as well. The constitution was rejected by voters in the Netherland and France causing a former French foreign minister to declare that the EU was dealing with *“its worse internal crisis in years”* (Francois- Poncet 2006, p.3) where to Jean-Claude Juncker responded *“Europe is not in crisis, it is in deep crisis”* (Pearlstein 2005: D1). Further back in 1992, an American journalist noted the French reluctance to endorse the Maastricht treaty and wrote *“The centralized European union of 12 nations that was to have been built around German economic discipline and French bureaucratic skill has been so badly wounded in a week of economic and political turmoil that its survival now seem in doubt”* (Hoagland 1992: A1). Many predictions of the future have been equally negative and the Economist featured in 2010 a multi-page article with the lead sentence, *“Will the EU make it?”*, and even the biggest supporters of the EU started talking about the EU facing a *“Bermuda Triangle”* consisting of debt, economic and demographic decline (Thies 2012, p. 226).

There are many more examples of the repeated claim that the EU is falling apart, yet so far it has not happened. The EU has always managed to pull through any crisis for decades now *“and if the damages from these so-called crisis does indeed cumulate over time, leaving the EU weaker and worse off, why have so many Central and East European states tried so hard to join in recent years?”* Thies 2012, p. 233). The same question applies to Poland as the country worked hard to build new political institutions and establish democracy, and there are many factors that indicates how the Union continue to stay in power and resist collapsing. First, in a democracy, the government is punished by its voters if it fails to fulfil its promises or does not live up to its expectations, and a change in government often comes with new ideas and solutions to issues the previous government failed to solve. The loss of power can also have a positive effect as it encourages a new government to work harder in order to avoid losing its voters as well (Thies 2012, p. 233). Second, a strong path to a higher office in democracies, either through elections or by appointment, is the ability to identify problems and solutions as a situation arises, and *“democracies are filled with would-be office holders on the lookout for issues that fit with whatever ideas they have to offer”* (Thies 2012, p. 233). This mechanism often leads problems being solved in their early stages *“as ambitious problem-solvers take their claims to issues for which they believe they have a solution”* (Thies 2012, p. 233). Third, policymaking is very much focused on the future and does often not include the past, which means that there is a constant drive forward in a democracy. There is always a new election politicians have to prepare for and that leaves little time for wallowing in previous policy-decisions. This also helps to explain why many of the EU crisis are short-lived because it is not in the nature of a democracy to stand still. There are mechanisms present that keeps pushing them forward, *“and if incumbents do lose sight of their mandate to solve problems as they arise, there are always a new cohorts of would-be office-holders eager to challenges them on this point”*. (Miller 2004, p. 144). This indicates that the EU, in large parts, has managed to stay resilient and powerful in times of crisis due to its democratic structure and nature, and this further indicates that the EU does possess the necessary strength to handle the crisis between Brussels and Poland. Fourth, compared with other types of government, democracies are often better at coping with a crisis or unexpected events, and common for the democracies in the EU are electorates who actually want governments to work (Thies 2012, p. 233).

Fifth, the strength of an institution is not that it never experience stress, it is how stress is dealt with and responded to that will result in either failure or success because neither politics nor democracy are stress free. Generally a democracy is strong when it comes to containing and managing stressful situations because they provide a rational framework that helps solve the problems (Thies 2012, p. 234).

Sixth, liberal democracies working and supporting other liberal democracies also have a positive effect. Working together strengthens the legitimacy of common policies and cooperation between liberal states creates momentum that will help future agreements (Thies 2012, p. 234). These six factors *“suggest that an organization like the EU will be both conflict-prone but also in possession of strong self-healing tendencies that make compromise possible, and not just once but again and again”* (Thies 2012, p. 234). Furthermore, the problem with much of the “EU is in crisis” literature is the lack of a clear definition of when the EU actually is experiencing a crisis. The EU members are often having a dispute, engaged in heated arguments or criticizing each other, and if that is enough to call the situation a crisis then the EU is trap in a almost constant state of crisis, but, even though the EU seems capable to overcome most challenges the stability of the Union should never be taken for granted. The fear of a collapsing EU could have an enhancing effect and result in politicians and electorates to question whether the money sent to the EU should be spend elsewhere (Thies 2012, p. 235).

Still there is a strong argument in favour of the EU and its ability to survive, and critics often fail to mention that the EU is the longest lasting case of political and economic integration, and by far the most successful, except for the United States (Thies 2012, p. 235). *“put differently, despite decades of claims that the EU is on the brink of collapse, we know little about what this brink looks like, and what it means for political behaviour and political outcomes, than we did when warning that the EU’s predecessors were about to collapse first circulated during the 1960s”* (Thies 2012, p. 237).

This is an important factor to take into consideration when debating the fall or success of the union. The case of Poland is crucial because it is the first time Article 7 has been evoked and the handling of Poland will set precedent for how cases like this one will be handled in the future.

Limits of normative power

European regional integration and normative power are two terms that go together in the sense that the EU, as a global actor, actively and systematically promotes and practice its normative principles through the integration process with potential new member states. The integration process is where EU normative power has the biggest influence on international politics and has the most widespread impact (Lenz 2013). The claim that normative power has the ability to define what normal is, is a central aspect in Manners theory and the concept of normal can be defined as *“the intersubjective recognitions of certain norms and ideas as unquestioned, taken-for-granted ‘facts’”* (Lenz 2013, p 216). The EU normative principles are recognised by the member states and accepted as the norms that defines the EU. However, in some regions it is difficult to find comparable institutions where EU norms and practices easily can be transferred and *“various authors have argued that EU-type economic integration schemes, especially in the developing world, have been less successful than the EU owing to lesser economic complementarities and less favourable institutional arrangements to overcome collective action problems”* (Lenz 2013, p. 218).

In Poland, the former Soviet dominated institutions were not initially comparable with the EU institutions which made the diffusion of norms more difficult.

Another factor that can limit EU norm diffusion in other regions is the attitude toward sovereignty and the lack of a shared history, which is kind of unique in Europe. The Second World War was so damaging that the European countries freely gave up parts of their sovereignty in an effort to prevent the countries from going into war with each other again. However, this is not the case in all regions and that is way regional integration can be a difficult process. In Europe sharing sovereignty is considered a fundamental principle of the EU and the member states accepts this principle as the countries mostly benefit from cooperation and sharing. Still, governments in other regions may find it hard to give up sovereignty and it is in these cases diffusion through integration often ends in a clash with the norms of the region (Lenz 2013).

Furthermore, *“there is little indication that these EU-type institutions or rules will lead to EU-type practices”* (Lenz 2013) which is what is happening in Poland under the current PiS government.

Democratic backslide

Democratic backsliding happens on a number of ways and for a number of different reasons, and the term refer to actions taken to eliminate or destabilise political institutions establish to sustain democracy (Bermeo 2016). The reasons for democratic backslides have varied over time, and *“we now face forms of democratic backsliding that are legitimated through the very institutions that democracy promoters have prioritized”* (Bermeo 2016, p. 6). This is supported by the Polish election in 2015, where the PiS party gained power through a democratic institution which the party then after tried to dismantle. Backsliding also often leads to different endpoints and often happens at different speed depending on the type of backsliding. If it happens quickly and involves radical change in many institutions democracy will breakdown and transform into an authoritarian regime, but if it happens gradually, and changes affect a smaller number of institutions, a complete change in regime is unlikely and will often end with a an ambiguous or hybrid form of democracy. This means that democratic backsliding can either cause complete democratic breakdown or result in serious weakening of democratic institutions (Bermeo 2016).

Since the Cold War, there has been a decline among the most radical and far-reaching types of backsliding such as coups d'état, executive coups by elected leaders, and election-day vote fraud (Bermeo 2016).

Yet, despite the positive trends, other types of democratic backsliding have either remained unchanged or been on the rise and one example is promissory coups, where the actions of the elected government is justified as a defence of democracy with *“most coupmakers today emphasize the temporary nature of their intervention and frame it as a necessary step towards a new and improved democratic order”* (Bermeo 2016, p 9). The PiS government has used some of the same rhetoric when justifying its actions against the supreme court but there has been no indication that the changes of the new supreme court law were meant to be temporary. Another type of backsliding still in effect is executive aggrandizement, and *“this more common form of backsliding occurs when elected executives weaken checks on executive power one by one, undertaking a series of institutional changes that hamper the power of opposition forces to challenges executive preferences”* (Bermeo 2016, p 10). Here it is also possible to identify similarities as the new supreme court law weakened the checks on the PiS government although the new law was passed through legal channels. Third, is manipulating elections strategically which often happens together with

executive aggrandizement. Here strategic manipulation is used to influence the outcome of an election and includes *“hampering media access, using government funds for incumbent campaigns, keeping opposition candidates off the ballot, hampering voter registration, packing electoral commissions, changing electoral rule to favour incumbents, and harassing opponents”* (Bermeo 2016, p. 13). This type, together with executive aggrandizement, in many ways describe how the PiS government during the campaign manipulated the voters with corruption allegations and personal attacks on their opponents, and after gaining power, secured more power to the government.

The new types of backsliding means that de-democratization often happens at a slower pace and today it is more likely that democracies will erode instead of shattering, and that is in some ways “better” as slowly erosion is much less violent. In addition, *“at a more general level, slow slides towards authoritarianism often lack both the bright spark that ignites an effective call to action and the opposition and movement leaders who can voice that clarion call”* (Bermeo 2016, p. 14). However, democratic backsliding still possess a serious threat and challenge to democracy, and politicians and voters against the backslide are most likely to succeed if they form a rational response. The response must acknowledge that the present situation is not based on a series of random events but has happened because *“the state actors who choose to restructure their institutional environment are often acting defensively to prevent reenactments of past assaults”* (Bermeo 2016, p 15). Again, this claim is very much in line with current events in Poland as the PiS government has argued that the new supreme court law was implemented to get rid of old communist judges and hence protecting Polish democracy (reuters.com B).

The success of these modern forms of backslide is greatest when they have broad support at home but the deep divide in Polish society, and the oppositions, and the EU’s efforts to firmly re-establish rule of law will make it more difficult for the PiS government to succeed.

The reason why modern democratic backslide has happened in many countries such as Poland is that *“there is an absence of genuinely liberal political platforms – by which we mean a range of mainstream ideologies of both the left and the right based on shared commitments to the norms of political equality, individual liberty, civic tolerance, and the rule of law”* (Dawson & Hanley 2016, p. 21). Because of this, the citizens are not exposed to the philosophy of democratic norms and values or liberal democracy, and that makes it hard to foster deep rooted support for democracy throughout society.

Backsliding was already a concern in the beginning of the accession process, and *“backsliding was a widely forecasted side-effect of the elite-focused, incentive-driven reform processes in East-Central Europe overseen by the EU”* (Dawson & Hanley 2016, p. 22). The concerns were based on the fear that, after accession, the elite of the East-Central European countries would fail to internalise liberal democratic values and possibly violate and stretch the norms of the constitution in their respected countries (Dawson & Hanley 2016). Poland, in many ways seemed to be the exception in terms of backslide, as positive economic growth continued through the recession and the establishment of the strong liberal party, Civic Platform (PO). Yet with the recent shift in power Poland no longer seems like the champion of liberalism in the region (Dawson & Hanley 2016).

Conclusion

The EU is struggling to persuade the Polish anti-European PiS government to commit to the norms and values of the EU but the limits of normative power is not the only reason for this. There are several other aspects, one of them being the strong sense of nationalism that the EU integration process failed to handle. Another is the new forms of democratic backslides which have also further complicated the crisis between the EU and Poland, and it seems like the EU is still searching for the right way to fight the current situation. The EU normative principles are easiest to transfer onto other countries when they from the beginning share many of the same political institutions but since Poland had been under Soviet influence for decades that was not the case here. Additionally, Poland and Polish democracy is relatively young and the country still need time to settle into its role in international affairs. Yet, despite the conflict the EU has proven from early on that the Union is capable of surviving any crisis. There are mechanisms in place to make sure democracy keeps moving forward and along the way finds solutions to most situations and problems.

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