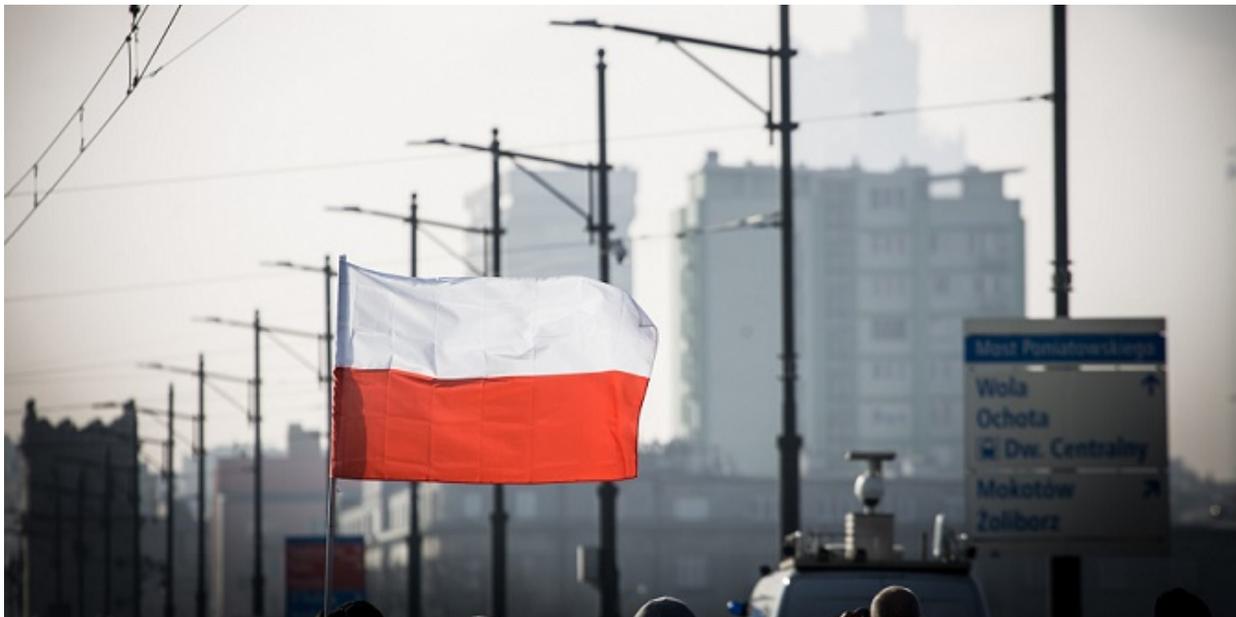


Is Poland's Law and Justice government losing momentum?

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*Although plunged immediately into a constitutional crisis that brought it into conflict with the European Commission, one year after its decisive parliamentary election victory Poland's right-wing ruling party retains widespread support, in spite of coming again under fire over appointments to state-run companies and the abortion issue. **Aleks Szczerbiak** argues that the government's fate will ultimately depend upon its ability to deliver on the socio-economic policy promises that were the key to its electoral success.*



No post-election honeymoon

Last October's parliamentary election saw a [stunning victory](#) for the right-wing Law and Justice (PiS) party, the first political grouping in post-1989 Poland to secure an outright parliamentary majority, and its deputy leader Beata Szydło became the country's prime minister. This followed the party's earlier success in the May 2015 presidential poll when its candidate Andrzej Duda defeated incumbent and odds-one favourite Bronisław Komorowski. However, the new government enjoyed [no post-election honeymoon](#) and was plunged immediately into a bitter conflict over the membership and functioning of the constitutional tribunal, a powerful body that determines the constitutionality of Polish laws. The opposition and legal establishment argued that the government's actions represented a violation of judicial independence and bundled the issue up with a number of other measures to accuse Law and Justice of undermining democracy and the rule of law. As a consequence, thousands of Poles took part in demonstrations organised by the Committee for the Defence of Democracy (KOD), an anti-Law and Justice civic movement.

The opposition's narrative was picked up by the EU political establishment and Western opinion-forming media, with whom the government's opponents enjoy strong links and many of who share their dislike of Law and Justice. In January, [the European Commission initiated an unprecedented investigation](#) under an EU monitoring mechanism to establish whether the rule of law in Poland was under 'systemic threat'. Then, in July it moved to the next stage of the procedure, giving the government three months to comply with its 'rule of law recommendation' or risk a Commission proposal that the European Council impose sanctions on Poland; in the worst-case scenario suspending the country's voting rights. The government's constitutional tribunal reforms were also criticised by the

Venice Commission, an advisory body on constitutional matters to the Council of Europe human rights watchdog, and the European Parliament.

Retaining widespread support

However, while Law and Justice did not secure the post-election 'bounce' that newly elected governing parties often enjoy, it retained widespread support among a large segment of the electorate. As the 'Pooling the Poles' micro-blog that aggregates voting intention surveys shows, the party has a clear lead in the polls averaging around 37% support compared with 19% for the liberal 'Modern' (Nowoczesna) party and 18% for the centrist Civic Platform (PO), the ruling party between 2007 and 2015 when it was defeated in the parliamentary election, and currently the main parliamentary opposition grouping. Why is this the case?

Firstly, the government's supporters have robustly denied allegations that it is undermining democracy and defended its actions as necessary to restore pluralism and balance to state institutions that they say had been colonised by supporters of the previous governing party. More broadly, they argue that many Polish institutions have been expropriated by an extremely well-entrenched, and often deeply corrupt, post-communist elite. Many Poles, therefore, agree with Law and Justice on the constitutional tribunal issue: a March-April survey for the CBOS polling agency, for example, found that although most respondents (45%) supported the tribunal a substantial minority (29%) backed the government (26% did not know).

Secondly, even among those who have misgivings about the government's approach to the constitutional crisis, these kind of issues are often too abstract compared with more pressing social and economic concerns where Law and Justice is in tune with public opinion. For example, in April the government introduced its extremely popular '500 plus' child subsidy for the first children of poorer households and every second and subsequent child in all families. This flagship programme has provided a significant and clearly identifiable financial boost to many low income households who felt frustrated that they had not shared sufficiently in the country's recent economic growth.

Thirdly, although Poles support their country's EU membership overwhelmingly they are more divided over whether the Union's institutions should become involved in the country's internal affairs. For example, a June CBOS poll found that only a small majority (41% to 39%) felt that the Commission's criticisms of Poland were an acceptable form of pressure, but also (by 41% to 38%) that its actions were motivated by a dislike of Law and Justice rather than concerns about the rule of law.

Fourthly, with no single, popular leader and lacking an alternative programme on the socio-economic issues that are most important to ordinary Poles, the divided liberal and centrist opposition has struggled to mount an effective challenge. Law and Justice's victory last year reflected a strong prevailing mood that it was time for change, so most Poles do not simply want a return to the pre-election status quo.

Allegations of cronyism

However, given the level of social transfers involved in the '500 plus' programme arguably Law and Justice should be performing even better in the polls. Moreover, during the last couple of months a number of issues have put the party on the defensive. In September, the government faced one of its most serious public relations crises over the question of appointments to state-owned companies. The original focus of this was controversy surrounding 26-year-old Bartłomiej Misiewicz, a close advisor of defence minister Antoni Macierewicz, following his appointment to the supervisory boards of two state-owned companies in spite of his lack of relevant qualifications. The opposition parties tried to make Mr Misiewicz a symbol of alleged Law and Justice cronyism publishing lists of apparently unqualified party nominees to state-owned company boards. Eventually Mr Misiewicz asked to be suspended following further allegations (which he denied vigorously) that he had offered a paid position in a state-owned company to an opposition councillor in exchange for them joining a local coalition with Law and Justice.

Then, treasury minister Dawid Jackiewicz lost his position, officially on the grounds that he had fulfilled his role of

winding down a ministry that is due to be closed later this year. However, according to some commentators, the real reasons for his dismissal were: suspicions surrounding nominations to state-owned companies, and the awarding of lucrative marketing and consultancy services contracts to firms linked to Mr Jackiewicz's one-time political allies.

Using state-owned companies and agencies as a source of patronage is a problem that all governing parties in post-communist Poland have encountered. However, the allegation that Law and Justice tolerated cronyism is particularly damaging, in many ways more so than the constitutional tribunal row, because it undermines the party's claim to stand for the moral renewal of the Polish state. An important element of Law and Justice's appeal in last year's elections was the fact that many voters saw the previous Civic Platform administration as representing an out-of-touch and complacent elite tainted by scandals. Fortunately for Law and Justice, opinion survey evidence suggests that most Poles still feel that its predecessor undertook a more through-going purge of state-owned companies.

Retreating on abortion

The most embarrassing setback, however, came in October when Law and Justice was forced to [back down on the issue of abortion](#). Poland already has a very restrictive abortion law with the procedure only permitted if: the pregnancy is the result of incest or rape, puts the health of the mother at risk, or if the foetus is severely damaged. However, in September a draft law sponsored by a civic initiative was introduced in parliament to make abortion illegal in all cases except when the mother's life is at risk. Although it was not government legislation and Law and Justice allowed its deputies a free vote, virtually all of them supported progressing the draft law to a parliamentary committee. However, as most Poles oppose both a liberalisation of the existing law and an outright ban on abortion, the party leadership was hoping that the draft bill would stall at this stage of the legislative process.

In fact, Law and Justice was taken aback by the scale of street protests in Polish cities against the anti-abortion bill. These were often organised by left-wing anti-Law and Justice activists who supported abortion on demand. However, by framing their opposition to the draft law in terms of 'defending women's rights' and focusing on the fact that the draft law proposed prison sentences for pregnant women who 'caused the death of a conceived child', they attracted the support of a much broader group of young women who had not previously taken part in anti-government protests.

Sensing the groundswell of opposition, the vast majority of Law and Justice deputies then proceeded to vote down the civic anti-abortion initiative. However, although the abortion vote was Law and Justice's biggest climb-down in the face of mass protests since taking office, and disappointed many of the party's core supporters on the 'religious right', this tactical retreat has, for the moment at least, defused an emotive and potentially combustible issue.

Delivering on its promises

Ultimately, however, the government's fate will depend upon its ability to implement the high-profile socio-economic policy pledges which were the key to Law and Justice's electoral success. In fact, an August 2016 CBOS survey found that (by 53% to 37%) most Poles still felt that it was delivering on these promises. As well as introducing its flagship '500 plus' programme, the government has promised to progress legislation reversing the previous administration's deeply unpopular pension reforms, which increased the retirement age to 67 (from 60 for women and 65 for men), by the end of the year. However, Law and Justice's pledge to increase income tax allowances appears to have been subsumed within a broader, more opaque tax reform package which some commentators argue will hit middle-income earners and small businesses.

The government's ambitious social spending programmes are also very costly. Law and Justice is pinning its hopes on a wide-ranging economic growth plan aimed at boosting innovation and investment developed by deputy prime minister and development minister Mateusz Morawiecki to ensure that the government has the funds to enact and sustain these programmes in the longer-term. At the end of September, Mr Morawiecki was given control of all the economy-related government departments, including the finance ministry, and will head up a new cabinet economic

committee which, it is hoped, will give him the instruments to overcome departmental inertia and finally start to implement his ambitious plan.

Will Mrs Szydło survive?

However, by creating a strong alternative centre of power over economic policy Mr Morawiecki's promotion also means that he has emerged as a serious rival to Mrs Szydło within the government. At the same time, although he does not hold any formal state positions, Law and Justice leader Jarosław Kaczyński clearly exercises a powerful behind-the-scenes influence in determining the government's programmatic and strategic priorities, and is constantly being called upon to resolve personnel and policy disputes. Some commentators argue that the best way to resolve this lack of transparency in decision-making would be for Mr Kaczyński to take over the running of the government himself.

However, although he has an extremely dedicated following among the party's core supporters, the Law and Justice leader is a polarising figure and one of the least trusted politicians among more moderate voters. Moreover, not only has the more emollient Mrs Szydło made no attempt to challenge Mr Kaczyński's authority, as Poland's second most popular politician (after Mr Duda) she remains an asset for the party and has, on more than one occasion during the last year, used her formidable communication skills to rescue the government's reputation and image. So Mrs Szydło appears secure for the moment at least, although whether she can survive the full parliamentary term, or even long enough to celebrate the government's second anniversary, remains an open question.

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Note: A version of this article appears at Aleks Szczerbiak's [personal blog](#). The article gives the views of the author, and not the position of EUROPP – European Politics and Policy, nor of the London School of Economics. Featured image: An anti-government protest in Poland, February 2016. Credits: [Jaap Arlens](#) (CC BY 2.0)

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