

The European Commission's rule of law review in Poland risks fuelling Euroscepticism

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The European Commission has announced an inquiry into whether recent Polish reforms affecting the country's constitutional tribunal and media are consistent with the rule of law. [Krzysztof Śliwiński](#) argues that the review risks fuelling Euroscepticism in the country and feeds into wider debates on the resentment felt by some sections of European societies toward Brussels.



On Friday 13 January, the European Commission launched a probe into Polish judicial reforms. As EurActiv [reported](#), the move came 'amid growing concern over changes to Poland's constitutional court and increased control over state media introduced by the conservative, Eurosceptic [Law and Justice](#) party (PiS), which swept to power in October'.

There is an ongoing concern in Brussels that the latest political and legal developments in Poland may not be compatible with the rule of law principle or the EU's *Acquis Communautaire*. To add to the confusion, the big loser in the parliamentary election – [Civic Platform](#) (PO) together with the Polish left – has been openly challenging the new Government led by [Beata Szydło](#) from Law and Justice. This has fuelled the very same concerns that are being expressed by policymakers and diplomats in Brussels. In particular, political establishments around the EU, as well as mainstream media, have specifically pointed to two types of perceived threats in Poland: threats against democracy ([media laws](#)) and threats against the rule of law ([constitutional court crisis](#)).

Democracy in peril?

The latest developments in Poland have been anything but straightforward. The newly elected conservative government, backed by both houses of parliament and the [President](#), has been extremely busy and effective in introducing sweeping changes to the country's political and legal framework. The mainstream narrative is, however, highly emotional, and has had little if anything to do with the real nature of these reforms. Indeed, this is a prevailing feature of today's European politics in general: hysteria, rather than level-headed discourse, is on the rise.

As for democracy in Poland, one has to remember that Law and Justice's sweeping victory was achieved via a perfectly democratic process. There are many reasons why the party won. Economically, Civic Platform underachieved in government. Contrary to the party's 'propaganda of success' and some macro-level indicators, life is still very tough in Poland for all age groups and most echelons of society. This is evident in the fact that, especially among the young and well educated, the emigration rate is [high as ever](#).

Politically speaking, we are only now beginning to learn about serious cases of power abuse during the Civic Platform government, which should have probably drawn the attention of Brussels a long time ago. These include the so called '[Tape Affair](#)' and the subsequent [spying](#) on journalists involved in researching and reporting on the case. Ultimately, Polish voters proved unwilling to accept any further examples of economic and political incompetence from the ruling party. Crucially, and unlike in 2005 when Law and Justice last won parliamentary elections, this time the party received substantial support from [young](#), well-educated city-dwellers. Interestingly enough, according to [some polls](#) if the parliamentary elections were held again today, Law and Justice would be supported by an even greater number of respondents: 48 per cent.

As for the Constitutional Tribunal, the new law, which has recently been passed, does not change the fundamental principle that judges are to be [independent](#) of political influence in their proceedings. New laws concerning public media had already stirred a lot of concern, mainly due to the new procedures regarding the nomination of

executives. Hopefully, the recently initiated procedure by the European Commission will clarify any doubts. One should however acknowledge the argument put forward by the government, which is that public media – that is media financed by the public – should first and foremost serve the citizens who finance it.

A clash of visions

Emotions aside, it seems that after Austria, the Czech Republic and Hungary, Poland under its new government is the latest country to raise concerns about ‘Brusselisation’. At stake is the delicate balance between the Polish (national) narrative and the EU’s (post-national) vision. This begs the question of why it is that year after year, country after country, European integration processes and EU governing practices produce so much resentment on the part of some sections of European societies.

Are these actors merely still ‘stuck in history’ and simply unwilling to accept post-national, modern narratives? Perhaps instead it is the case that elite decision-makers in Brussels have underestimated national sentiments. The EU is still, after all, a sophisticated form of cooperation between 28 nations. Strong rhetoric from Brussels may only worsen the situation by fuelling concerns among those who are still attached to national values and identities. It is counterproductive to frame these concerns as anti-European, anti-democratic, or anti-liberal.



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It is also apparent that those who are the most enthusiastic about the European project often show unwillingness to openly address the serious problems the EU as an organisation now faces, such as those demonstrated by the Eurozone crisis. Their detachment from large parts of their own societies and an uncritical devotion to the ‘European dream’ has blinded them from addressing urgent problems being confronted by EU citizens, such as unemployment, ageing populations, and the impact of immigration.

Politicians that pursue this approach risk being voted out in future, but they are also risking the entire European project, as an increasing number of Eurosceptic governments may come into power. Worse still, if they continue to turn a blind eye to obvious threats and challenges (such as the case of [Cologne](#)) they risk the worst threat of all – the ultimate disappointment of their own societies and potentially even citizens taking matters into their own hands (as has been [reported](#) in the Cologne case). Such developments would be tantamount to the end of the modern European state and its fundamental principle of maintaining the rule of law – and it is this situation, accompanied by the existing democratic deficit, that poses the greatest threat to the EU.

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