

# CHAPTER I

## INTRODUCTION

### 1.1 Background

The European Union (EU) is a political and economic union of 27 member states formed as a product of World War II. The institution reigns as the most institutionalized model of intergovernmental organization in world politics. Fundamentally, it aims to promote free trade and a single currency has also made the EU the most extensive trade block globally. From the beginning, the institution proposes to value three prominent aspects of equality, freedom, and democracy. These principles are portrayed in the decision-making process, which becomes integral to the EU way of life.<sup>1</sup> In general, the socialization among member states of an international governmental organization to promote its unitary environment and values is an ongoing phenomenon. While others might use standard tools such as media campaigns and discussions by stakeholders, the EU uses its legislation to accelerate the diffusion of beliefs and norms among member states.

In 2004, the EU experienced its first Eastern enlargement involving post-communist states or A10 countries; Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia. These countries had to meet the EU's standards that generally cover free markets, human rights, and the rule of law, recognized as a core principle and tenet of constitutional democracies.<sup>2</sup>

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<sup>1</sup> Leonardo Morlino, *Equality, Freedom, and Democracy: Europe After the Great Recession*. (Great Britain: Oxford, 2020), 7-21.

<sup>2</sup> Joelle Grogan and Laurent Pech. "Meaning and Scope of the EU Rule of Law," Reconnect. June 2020. <https://reconnect-europe.eu/blog/meaning-and-scope-of-the-eu-rule-of-law/> (accessed December 12, 2021).

Coming from a close linkage to authoritarian values, the A10 countries went to an accession period intended for policymakers to adjust their regulations and standards to align with the EU's objective. Reliable incentives that the membership guarantees support the rationalist approach to converge national governments' levels in almost all policy fields.<sup>3</sup> For Poland, the accession was an excellent chance to boost its economic aspects and improve the lives of its citizens. On top of that, tightening relations with other European countries under a political blanket could soothe Russia and Poland's antagonistic relationship. Among these reasons, national sustenance for the EU was recognized as a universally nationwide success.

Diplomatic rendezvous between Poland and the EU can be traced back long before its accession in 2004. The main factor that pushed the possibility of diplomatic talks was the changes in Polish politics towards a more democratic system after the fall of Communism which the Soviet Union depicted in 1989. That year, a comprehensive transformation was performed towards the Polish economy and political system from a government-based command distribution to a market system and democracy. The effort has proven to be helpful alongside the eradication of corruption that might hinder vast economic tenacity.<sup>4</sup> After fifteen years of membership, the economic benefits that Poland received from the EU have accommodated dramatically to the immense average annual growth. With a robust macroeconomics approach and a relatively low reliance on the euro, Poland

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<sup>3</sup> Brian Greenhill, "The company you keep: International socialization and the diffusion of human rights norms". *International Studies Quarterly* 54, no.1 (2010): 127–145.

<sup>4</sup> Stanistawa Golinowska, "Our Europe: 15 years of Poland in the European Union," *Main conclusions and supplementation to the CASE Report* (2019): 2.

succeeded in dodging the economic crisis that happened in 2008 whilst becoming the fastest-growing economy in Central Europe.<sup>5</sup>

Despite the EU's role in partaking a great deal of development to Poland's economy, Eurosceptic views in Polish politics that right-wing nationalist parties portray have received an expansion in recent years. Eurosceptic views or often titled Euroscepticism refers to the scepticism or disbelief towards European integration in general. The word is used to convey a range of critical positions to the institution's policies, institutions, or principles.<sup>6</sup> Over the years of how it may vary depending on the actors and contexts; Eurosceptic views are tied to macroeconomic factors of inflation, employment, and overall growth. However, these associations began to wane on both party and public levels. Politicians start to emphasize more on national identity and sovereignty, demanding more control over its border, the use of national currency, and freedom of movement.<sup>7</sup>

For the Polish government, a sceptical attitude towards the EU emanates from three significant reasons. First is that the EU has become more fragmented in the last few years and has experienced a considerable setback caused by the stagnation of Europe's biggest economy. Germany's economic hindrance has threatened Poland since the two are intimately linked.<sup>8</sup> Second is the sceptical views on the euro that the former president Lech Kaczynski persistently pushes for the

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<sup>5</sup> The World Bank Group. "Overview: The World Bank in Poland" (2020). <https://www.worldbank.org/en/country/poland/overview> (accessed February 24, 2021).

<sup>6</sup> Ebru Oğurlu, "Mainstreaming Euroscepticism in European Politics," *Eastern Journal of European Studies* 10, no. 2 (2019): 21.

<sup>7</sup> *Ibid.*, 26.

<sup>8</sup> "2019 in review: Europe's fragmentation and fightback," *The Economist: Europe*. December 2019. <https://www.economist.com/europe/2019/12/19/2019-in-review-europes-fragmentation-and-fightback> (accessed February 25, 2021).

objection on the Charter of Fundamental Rights of the European Union.<sup>9</sup> Lastly, Poland's disagreement on the EU's common foreign and security policy focused more on building favourable relations with Russia. Since Poland and Russia share a bitter past, this arouses a hostile view towards the possibility of a greater EU's influence over Poland's national interests and sovereignty.<sup>10</sup>

In this context, the initial four main parties that manifested pessimistic opinions even before Poland's accession; the *Liga Polskich Rodzin* (LPR) or League of Polish Families, the *Polskie Stronnictwo Ludowe* (PSL) or Polish People's Party, the *Samoobrona Rzeczypospolitej Polskiej* (SRP) or Self-Defence of the Republic of Poland, and the *Prawo i Sprawiedliwość* (PiS) or the Law and Justice, had utmost victories after 2001 and onwards. Among them, PiS became the most prominent representation of Eurosceptic views in Poland that dictate most of the critical insolence towards the EU. In May 2015, these parties got their political momentum to influence other domestic policy and its position on the European level. President Andrzej Duda's victory is perceived as a strong indication that Polish voters were unsatisfied with the countries' route despite immense economic development and unprecedented national stability. Despite being too young to contribute to the struggle between the communist and Solidarity movement in the 1980s, President Duda won 52% of the predominantly shared vote among young voters. As a right-wing European Parliament and a PiS member, his victory is the beginning of a

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<sup>9</sup> Hilary White, "Poland Ratifies Lisbon Treaty with Opt-Out from EU Human Rights Charter," Catholic Exchange. April 2008. <https://catholicexchange.com/poland-ratifies-lisbon-treaty-with-opt-out-from-eu-human-rights-charter> (accessed February 25, 2021).

<sup>10</sup> Jamie Smith, "Poland holds firm on veto of Russia-EU talks," The Irish Times. November 14, 2006. <https://www.irishtimes.com/news/poland-holds-firm-on-veto-of-russia-eu-talks-1.1028681> (accessed February 25, 2021).

political mood change that will affect Poland's policy and its relations with other member countries.<sup>11</sup>

In October 2015, the nationalist PiS won most Polish Parliament seats that could govern without opposition after 1989. Since the democratic transition occurred not long ago, the dramatic change was vividly felt as the government deteriorated the dogmas of liberal democratic values. After the party came into power, Poland witnessed a fundamental shift regarding constitutionalism and the rule of law. Poland's Constitutional Tribunal experienced a controversial reform when its constitutional court, with the consent of President Duda, selected three new judges, including two former lawmakers from the governing PiS party. The move is perceived as "illegal" by the opposition. Responding to that, PiS claimed that this drastic move was "necessary" to eradicate the ineffective and corrupted system.<sup>12</sup>

In that regard, the aim to put pressure on the Polish judicial systems' reform has gradually affected most of the legal system, which begins with the failure to recognize appropriately appointed judges elected by the previous governing party.<sup>13</sup> Subsequently, President Duda passed the media law reform that allows the

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<sup>11</sup> Associated Press in Warsaw, "Andrzej Duda victory in Polish presidential election signals shift to right," *The Guardian*. May 25, 2015. <https://www.theguardian.com/world/2015/may/25/andrzej-duda-victory-polish-presidential-election> (accessed February 28, 2021).

<sup>12</sup> Claudia Ciobanu, "Polish Constitutional Tribunal Ruling Challenges EU Law's Primacy," *Reporting Democracy*. July 2021. <https://balkaninsight.com/2021/07/15/polish-constitutional-tribunal-ruling-challenges-eu-laws-primacy/> (accessed September 27, 2021).

<sup>13</sup> Wojciech Sadurski, "How Democracy Dies (in Poland): A Case Study of Anti-Constitutional Populist Backsliding," *Legal Studies Research Paper* no.18/01 (2018): 19.

government to control public broadcasters and news organizations.<sup>14</sup> Despite the rigorous responses from domestic and European levels, the government opted to advance the law to continuously favour its political agenda. These reforms create tremendous apprehension among other EU members that Poland became the first country to be examined upon its rule of law.<sup>15</sup>

Strong right-wing nationalist parties' appearance in Poland has contributed significantly to the decision-making process on both domestic and European levels. Since preserving democratic values is the primary obligation to access the EU, the return of authoritarian ideals in the rule of law is evidently against the most fundamental values of the EU. It has made Polish judicial reform on the constitutional court of law pivotal to Poland and the EU's dynamics as a member state and an institutionalized intergovernmental organization.

## **1.2 Research Question**

From the background mentioned above, this thesis pursues to emphasize how such domestic arrangements could impact Poland and the EU's relations in Polish judicial reforms on constitutional law. While data might show reciprocal links between both, the growing tensions have become palpable and vocal on the European stage. Therefore, this thesis will operate around the following questions:

1. What are the push factors of the Polish Constitutional Tribunal reform?

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<sup>14</sup> Agence France-Presse, "Poland signs controversial media law despite EU concerns," *Made for minds*. January 2016. <https://www.dw.com/en/poland-signs-controversial-media-law-despite-eu-concerns/a-18965669> (accessed February 26, 2021).

<sup>15</sup> Jennifer Rankin, "Brussels launches unprecedented EU inquiry into rule of law in Poland," *The Guardian*. January 2016. <https://www.theguardian.com/world/2016/jan/13/ec-to-investigate-polish-governments-controversial-new-laws> (accessed February 26, 2021).

2. How has the Polish Constitutional Tribunal reform affected Poland and the EU relations?

### **1.3 Research Objective**

With the proposed research questions in the structure of this thesis, the research objectives are:

1. To analyse and elaborate further on Poland's domestic politics as the cause of dispute between Poland and the EU.
2. To explain the consequences of the tenuous ties between Poland and the EU on the European level decision-making process and dispute settlement.

Through the outcome, this thesis intends to give a thorough examination of the variables stated. It will also provide perspectives from both actors regarding the issue.

### **1.4 Research Significance**

This thesis aims to analyse and explain to the people of interest how the domestic preference of a member state could significantly affect its relations with other member countries and to the organization itself. By examining the case of Polish judicial reform on the constitutional tribunal, I hope to highlight the importance of understanding the cause and consequences that national arrangements could bring. Additionally, this thesis could also benefit broad audiences, particularly scholars who demand further European politics analysis. The case of Polish judicial reform could aid further research that dwells into the

relations between member states within or with the EU. It could also potentially forecast the strategic movements of countries with similar values as Poland.

## **1.5 Structure of Writing**

The first chapter of this thesis will be the basis that composes the topic's background, research questions, research objectives, and the significance of this thesis to the correlated field.

The second chapter of this thesis is divided into two parts of literature review and theory with concepts. The literature review will assist the analysis process of the research questions, which are the domestic push factors of the Polish Constitutional Tribunal reform and its effect on Poland's relations with the EU. This chapter also aims to explain the theory and concepts as an outline to examine and explain the findings of this thesis.

The third chapter is the methodology which refers to the method in which this thesis will be explained. This section will include the research approach, research method, data collection technique and data analysis technique to gather data systematically for this thesis.

The fourth chapter compose the highlights of this thesis that will present all the data collected in an organised manner under the mentioned theory and concepts on the second chapter, intended to address the research questions of this thesis.

The fifth chapter is the conclusion and recommendation that will summarise the research and recommendation for future research. This chapter will present the main points of the dynamics between Poland and the EU on the Polish Constitutional Tribunal reform.