

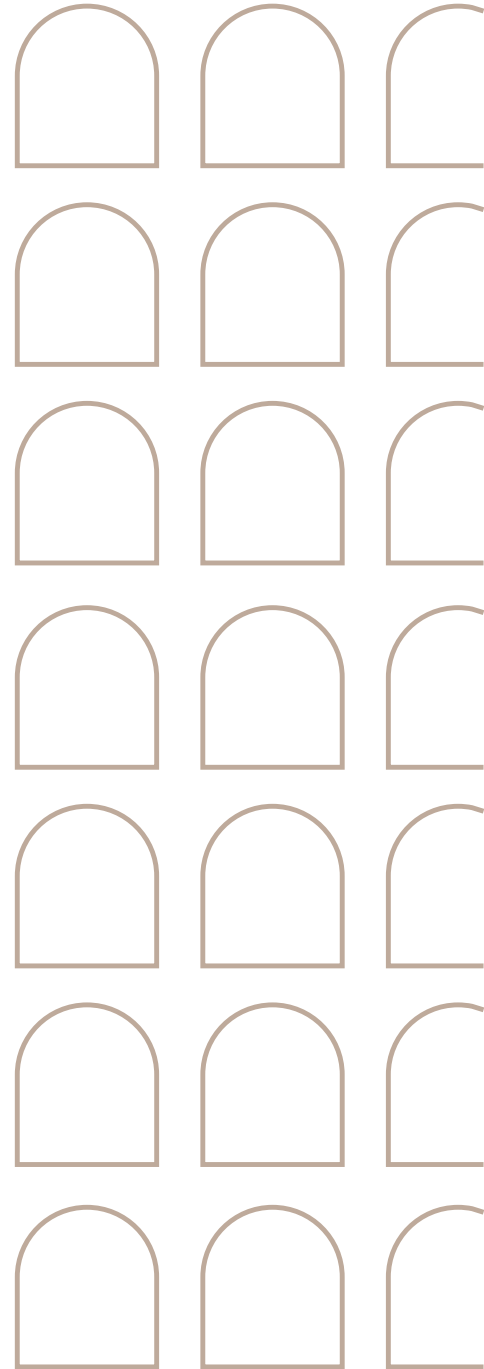
STG Policy Papers

POLICY BRIEF

**FROM CENTRE OF ATTENTION
TO CENTRE OF GRAVITY:
IMPLICATIONS OF THE POLISH
PARLIAMENTARY ELECTIONS
FOR ITS DEMOCRACY AND
SECURITY POLICY**

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EXECUTIVE SUMMARY

The parliamentary election held in Poland on 15 October 2023 ended the eight-year-long rule of the Law and Justice Party. This policy brief discusses the results of the election indicating key factors that contributed to the seizure of power by the democratic opposition and summarises the impact that the Law and Justice-led governments had on the quality of democracy in Poland, particularly on rule of law and media freedom. The analysis then outlines the challenges and necessary steps the new Polish government, led by Donald Tusk, should take to restore democratic principles and strengthen the country's security position.

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Views expressed in this publication reflect the opinion of individual authors and not those of the European University Institute

1. INTRODUCTION

“Historic and most important since the collapse of communism”, “defining for the future of the democracy in Poland”, and “could reshape Europe” – these were some of the media headlines attributed to the general election that was held in Poland on 15 October 2023 and ended the eight-year-long rule of the right-wing populist Law and Justice Party (PiS). The winning coalition of democratic and pro-European parties, known as ‘the democratic opposition’, that entered the government mid-December 2023, faces a colossal task of reversing the previous government’s anti-European policies, rebuilding democratic institutions, and navigating the country’s security policy in the face of the ongoing Russian war in Ukraine.

Throughout eight years of the Law and Justice Party rule, Poland has remained marginalised on the European scene and conflicted with almost all its neighbours. The paradox of Poland gaining attention after the outbreak of the war in Ukraine yet failing to gain political importance on the European level was best reflected in the words of [German Foreign State Secretary Thomas Bagger](#) who made the following remark during the 2023 Warsaw Security Forum: “I have witnessed Poland becoming a centre of attention (...). Centre of gravity is something different (...). Being a centre of gravity means that you can pull others in your direction.”

This policy brief explores the implications of the political change in Poland. We first discuss the outcomes of the elections and then move on to discussing the democracy and security policies’ landscape that PiS government left. Further, we outline policy directions towards which the new government should move to restore the democratic principles and strengthen the

security posture of the country. The recommendations we offer shall facilitate Poland becoming the new centre of gravity in Europe, following the [shift of powers](#) that the Russian aggression against Ukraine has brought about on the continent.

2. PARLIAMENTARY ELECTION OUTCOME AND THE HISTORICALLY HIGHEST TURN-OUT

While five major political parties stood in the electoral contest on 15 October, the election was shaped by the polarised confrontation between the incumbent Law and Justice Party (Prawo i Sprawiedliwość, PiS) and so-called democratic opposition, composed of the Civic Coalition (Koalicja Obywatelska, KO), the Third Way (Trzecia Droga, 3D) and the New Left (Nowa Lewica, NL). The remaining fifth contender was Confederation (Konfederacja), a coalition of radically right, anti-EU and libertarian parties.

While the election of 25 October 2023 brought about a third consecutive win for PiS, it turned out to be a bitter one. The party gained the support of 35.38% (-8.21% compared to 2019) and 194 out of 460 seats in the Sejm, the upper House of the Parliament, thus losing its majority. While three opposition parties arrived behind PiS (KO 30.70%, 3D 14.40%, NL 8.61%), their combined result translated into 248 seats in the Sejm providing the democratic opposition with a majority.

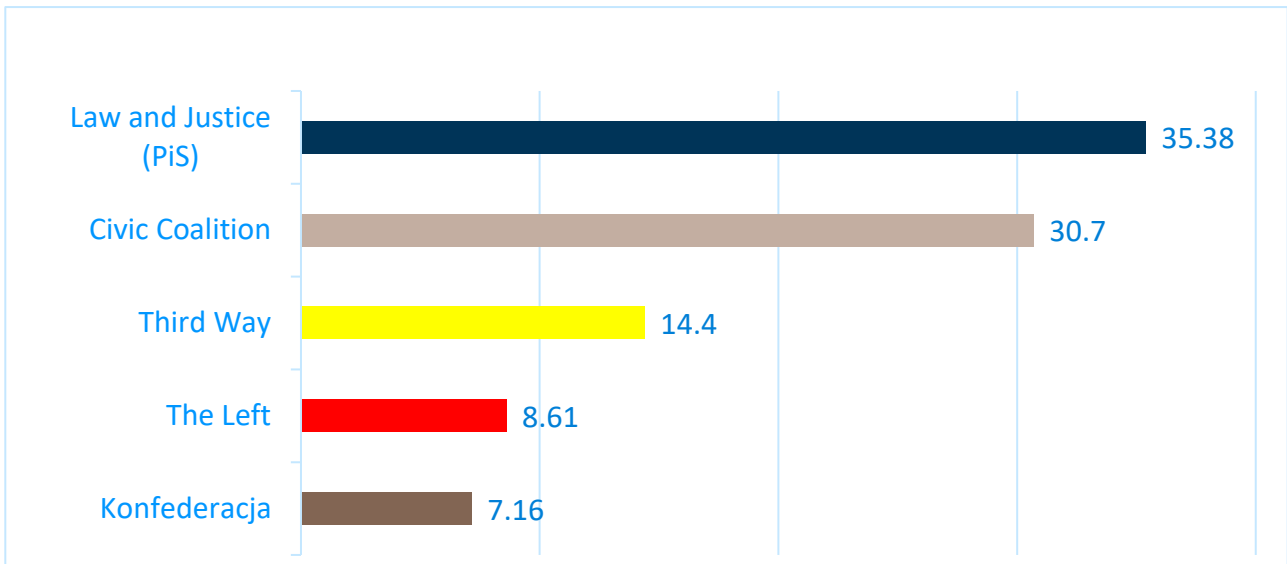


Fig. 1. 25 October election results

This decisive win of the opposition was in major part related to the high turn-out of a record 74.38%, higher than in the 1989 election (62%), which led to the Communist Party losing power. The higher rise in participation in Western and [Northern regions compared to that of those in the East](#), as well as in the [big cities compared to rural areas](#), helped the opposition secure the win. In several urban areas, including Warsaw and Gdańsk, the support for three democratic opposition parties reached 70%. In many areas of Eastern Poland, the support for Law and Justice Party exceeded 50%. The election brought out an extraordinary number of young voters: the turn-out in 18-29 age category reached 69.9%, for the first time exceeding the 65.5% rate of older (60+) voters.

The combined result of the opposition was 11.6 million votes (53.71%) compared to 7.6 million gained by PiS.¹ The win, therefore, provides the democratic opposition a

strong legitimacy not only to govern but to reverse the anti-democratic and anti-European direction that the Law and Justice Party embarked on.

The election was held in conditions severely undermining its fairness. According to the [preliminary report of OSCE ODIHR Election Observation Mission](#), “the ruling party enjoyed clear advantage through its undue influence over the use of state resources and the public media with the public broadcaster openly favoured the ruling party.” Based on the 2022 Hungarian election model, the ruling majority scheduled the referendum on the election day. It contained four questions formulated in a biased way and focused, among other things, on accepting “illegal migrants from Africa and the Middle East” as “imposed by EU bureaucracy.” As the OSCE report concluded, “the referendum served to amplify the ruling party’s campaign messages, including through the support of state-controlled companies, thereby (...) enabled some circumvention of campaign finance regulations.” In the end, the

¹ Calculation based on the official election results’ statement of the National Electoral Committee, 18 Oct. 2023

referendum turned out to be invalid due to low participation.

3. TOWARDS THE EUROPEAN CENTRE OF GRAVITY: RESTORING POLAND'S DEMOCRACY AND RELIABILITY AS A SECURITY PROVIDER

In the following paragraphs, we examine the most profound changes that the new Polish government has to bring about in order to regain its position in the EU and become a political centre of gravity. To do so, we focus on two areas where changes are most needed: democracy and security.

Restoring the democratic principles in Poland

Damages to democratic life in Poland inflicted by the eight-year-long rule of Law and Justice Party cover a broad range of issues covering the rule of law, electoral law, and fundamental rights, including women's and minority rights. The PiS majority targeted the very values underpinning the European integration as included in EU treaties.

The landscape of damaged democracy and undermined fundamental rights remains an infamous legacy of Law and Justice Party. Placing Poland among countries that experienced the sharpest democratic fall, in 2020, the Freedom House [downgraded Poland to the category of semi-consolidated democracy pointing out](#) "weaknesses in defence of political rights and civil liberties". Accordingly, the V-Dem Institute's Liberal Democracy Index illustrates the sharp decline of Poland following the elevation to power of PiS in 2015.

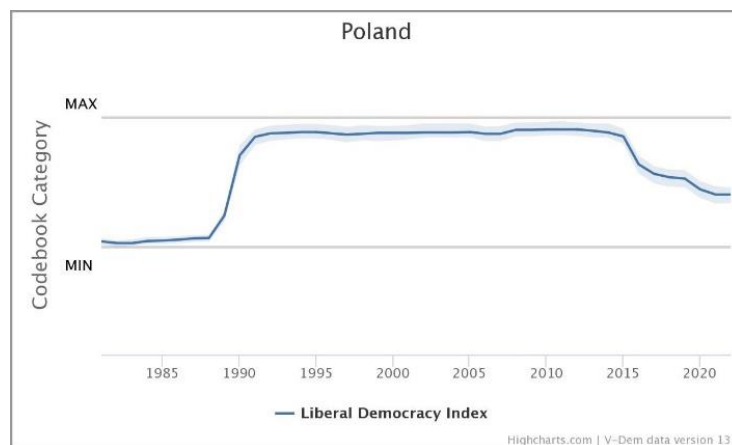


Fig 2. Poland Liberal Democracy Index 1980-2022. Source: V-Dem Institute

[V-Dem's Democracy Report 2023](#) flagged the state capture practices employed by the Polish ruling party as well as government censorship of the media. It also flagged disinformation used by PiS to stir up polarisation and quickly declining academic freedom. The report identified similar trends in such countries as Belarus, Hungary, Russia, Serbia, Brazil, and Turkey.

PiS made its utmost to remove democratic checks and balances. Violating the constitution of Poland, PiS filled the Constitutional Tribunal and the Supreme Court with its political followers and harassed judges and prosecutors who refused to follow political instructions. The unlawful decisions of the PiS majority were questioned by several rulings of the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECHR), which PiS openly disregarded. Poland remains covered by the procedure of Article 7 and its Recovery and Resilience Plan remains subject to the EU conditionality mechanism following the disciplinary regime imposed on judges by the PiS majority.

The Law and Justice not only turned the public media into a ruthless propaganda tool but also targeted private broadcasters and publishers. The state-owned oil

company Orlen purchased twenty local newspapers making its leadership and key reporters redundant. The independent media were cut off from advertising coming from public institutions and state-owned entities, and those reporting on the ruling party's corrupt affairs were flooded by lawsuits filed by PiS officials and institutions as well as state-owned companies. For example, as remarked by its deputy editor-in-chief Jarosław Kurski, liberal *Gazeta Wyborcza* daily alone was facing over 200 such lawsuits in 2022.²

It is confirmed that the secret services controlled by [the Law and Justice party spied on 12 individuals](#), including top opposition and judiciary leaders, with the use of anti-terrorist Pegasus spyware. With its intention to replace elites, including those in politics, media, and the judiciary, PiS embarked on creating its own oligarchy fuelling like-minded business entities with public subsidies and grants. The Transparency International's Corruption Perceptions Index exposed this trend: in 2022, Poland was ranked 45 among 180 countries worldwide with its overall score at 55/100, down from 63/100 in 2015.

Faced with these realities, the new government led by Donald Tusk should focus on two priorities to restore Polish democracy: first, remove unlawful changes within the rule of law made by PiS in the Constitutional Tribunal, the Supreme Court and in the organisation of the judiciary by directly referring to the rulings of the Supreme Court, the Supreme Administrative Court, CJEU and ECHR provided between 2015-2023. Second, restore the independent judiciary control of the State Electoral Commission and substantially increase the budget of the central electoral administration to improve

its staffing and digitisation of its operations and reporting.

The reconstruction of the rule of law damaged by unconstitutional laws passed by the PiS majority and approved by President Duda will be a complex endeavour. This difficulty is best reflected in the fact that the validity of the 15 October elections has been examined, and eventually confirmed, by the Supreme Court's Chamber of Extraordinary Control and Public Affairs, a body created by PiS which was later [established not to be a proper court by the ECHR and suspended, in part, by the CJEU in July 2021](#). The new majority needs to avoid reversing PiS's unconstitutional legacy by implementing its own lawfully dubious legal acts. President Andrzej Duda, who has already proclaimed himself as protector of the PiS government's legacy, will, according to his own words, oppose efforts of the new majority. Duda can veto upcoming legislation and given the new government does not have a 3/5 majority in the Sejm needed to abolish presidential vetoes, the task of the new majority will be uneasy.

The new government can make the most of the work of civic organisations gathering lawyers and activists (such as *Iustitia* and *Lex Super Omnia* among others) that have drafted policy proposals on how to restore the rule of law. Already in 2021, these were included, among others, in the Alliance for the Rule of Law declaration signed by all democratic opposition parties and several civic organisations.

The changes could begin with the new Parliament voting to remove several members of the Constitutional Tribunal unconstitutionally elected by PiS, in line with the rulings of the CJEU and ECHR. The next

² Remarks during Jerzy Pilch Festival, 3 June 2023

task for the new majority would be to abolish the infamous Supreme Court's disciplinary chamber installed by PiS to oppress judges who refused to follow political instructions, a body found to violate the EU legal order by CJEU and ECHR, as well. Tackling this problem and reinstating judicial independence should pave the way to removing the conditionality mechanism on EU funds for Poland.

Further, profound changes need to be implemented in the National Council of the Judiciary, a body in charge of nominating judges, which has become filled with PiS followers implementing political directives. Earlier rulings of the Supreme Court and the Supreme Administrative Court confirmed the politicised character of the Council.

Another critical area for regaining the quality of democracy would be the depoliticisation and modernisation of the electoral administration. Following the 2018 amendment to the Electoral Code, political nominees have gained majority in the State Electoral Commission (SEC). Out of its nine members, six became elected by the Parliament, and three appointed by the courts. The pre-2018 leading role of judges in the SEC should be restored and involvement of political nominees should be limited to minimum. The funding of the SEC should be substantially increased to improve staffing and digitise its operations. This would increase a capacity of the SEC to secure transparency in electoral processes and an accountability of political parties' reporting. Accordingly, there should be an abolition of the rules for financing political campaigns introduced by PiS in the 2018 amendment, as they paved the way for untransparent practices used in the 15 October referendum.

Advancing Poland's role as a security provider

The approach of the PiS-led governments in the field of foreign policy was to instrumentalize it for internal political purposes and to focus almost entirely on upholding strong bilateral relations with the US, thus marginalising Poland's contribution to EU security and defence initiatives. While close relations with Washington remain a priority for the new Polish government, it has already started to work towards improving relations with the EU and major EU countries. Overall, we can expect the Tusk government to bring about changes in foreign policy priorities. However, shaping this policy domain will not be easy, as President Andrzej Duda can still intervene in this policy area (as in many others) due to his veto power. For example, based on [a law](#) passed in the Polish Parliament in July 2023, the President has prerogatives within EU policymaking according to which any Polish government is obliged to gain acceptance from the President for candidates for EU commissioners, and judges on the Union's Court of Justice, among others. The bill also imposes the obligation for the government to agree with the President on the priorities of the EU Council Presidency (starting in January 2025).

Notwithstanding the constrained room for manoeuvre concerning foreign and security policy, the new Polish government should focus on two key priorities;

The first is to strengthen the cooperation between the EU and NATO. Both organisations support Kyiv, by training Ukrainian soldiers, among others. At the same time, interestingly, there has been some role reversal. While NATO has focused on providing humanitarian aid and auxiliary military equipment (bulletproof vests, fuel, transport vehicles, etc.), the EU has made use of its off-budget financial

instrument – the European Peace Facility – to reimburse EU member states for the cost of the lethal weapons they send to Ukraine. It is in Poland's interest to propose a vision of EU-NATO cooperation that is in line with the country's interests. Taking advantage of [France's increased support for NATO](#) including the support for Ukraine's membership in the Alliance, as well as [Germany's growing involvement](#) in the defence of its Eastern flank, the new Polish government should work towards setting up an effective division of roles between the EU and NATO. The war has shown that the Union has had an advantage over the Alliance in terms of financial instruments (such as the European Peace Facility) and legislative mechanisms supporting the integrated development of the European defence industry. These very elements could form the core of EU defence policy, strengthening the military capabilities of EU countries while leaving the responsibility for territorial defence within the remit of NATO. The duplication of military structures is not in the interest of either Poland or the Alliance. The Alliance offers a better framework for military action than the Union, through the presence of the United Kingdom, Turkey, and Norway, among others. Even in the scenario of Donald Trump winning the presidential race in October 2024 and fulfilling his announcements to reduce US participation in NATO, the Alliance is still a better structure for military cooperation than the EU. Therefore, it is in Poland's interest to shape the cooperation mechanisms between these organisations. In 2016, Donald Tusk, as President of the European Council, signed the first comprehensive declaration on cooperation between the EU and NATO. The next two, in 2019 and 2023, admittedly expanded cooperation into further areas, but their significance remained largely symbolic. Cooperation is still based on informal and *ad hoc* formats, which, despite their merits, fail to provide a

sustainable foundation for a more intensive political relationship between the two organizations. Taking advantage of the 2025 Council Presidency, Poland could propose strengthening EU-NATO relations through more formalised cooperation mechanisms.

The second priority is to advance European defence industrial cooperation. The invasion of Ukraine created an unprecedented situation in the EU, leading to a convergence of positions between member states on the perception of Russia as a threat. As a result, the security momentum manifesting itself in deepening the integration of security and defence policies, which had been underway since 2016, accelerated. It has become possible, for example, to transform the European Peace Facility from a technical instrument funding operational activities with defensive implications into the most powerful tool currently at the disposal of EU security policy. Progress is also being made on instruments to support the development of the EU defence industry through joint procurement, as reflected in the forthcoming European Commission's European Industrial Strategy produced by the European Commission. Despite the indisputable fact that a stronger Europe is in Poland's interest, the outgoing government has remained cautious about projects that strengthen defence industry cooperation between EU countries. As a result, the Polish involvement in projects funded under the European Defence Fund between 2020 and 2022 was [lower](#) than that of incomparably smaller countries such as the Netherlands, Greece or Belgium. Polish participation in the construction of the European Defence Technological and Industrial Base was equally limited. Poland's cautiousness towards these projects was primarily attributed to the mistrust of European allies and the importance of cooperation with the U.S. Nevertheless, the Russian invasion has

shown that Europe's inefficient arms industry poses a huge constraint on Europe's support of Ukraine, and as such it also undermines Poland's security posture. An illustrative example is provided by ASAP (Act in Support of Ammunition Production) aimed at joint purchases of ammunition by member states to support Ukraine. The European Union will not deliver on its promise to supply Ukraine with one million munitions by March 2024. [So far only 300,000](#) have been delivered due to the low production capacity of European companies.

Therefore, Poland must change its approach to projects aimed at strengthening its defence industry in European countries. Indeed, Poland will certainly continue to buy much of its military equipment from the U.S., due to its availability and the importance of bilateral relations with Washington. However, this does not exclude an increased Polish commitment to building stronger industrial links with EU partners, arising from the cooperation from which the Polish defence industry may benefit. In light of announcements [regarding the increase](#) in the Polish defence budget to more than 3% of GDP in 2024 (and with the new government likely to [maintain that spending](#)), it is crucial to use these funds strategically and to take into account the long-term perspective. Accordingly, the strengthening of the European defence industry means equals the strengthening of Poland's security.

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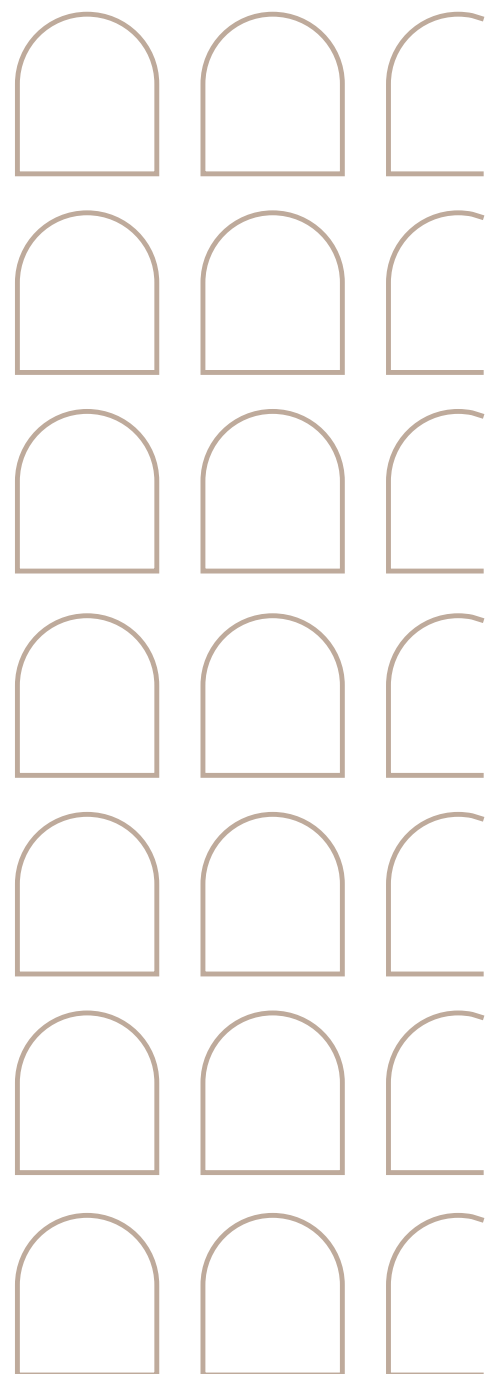
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