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Same-sex partnerships policy in Poland: the EU impact

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PLVS RATIO QVAM VIS

Contents

Abbreviations

CBOS - Centre for Public Opinion Research (Centrum Badania Opinii Społecznej);

CEAPP - Center for Evaluation and Analysis of Public Policies *(Centrum Ewaluacji i Analiz Polityk Publicznych);*

CEE - Central and Eastern Europe;

CoE – Council of Europe;

ECHR - European Convention on Human Rights;

ECtHR - European Court of Human Rights;

EP – European Parliament;

EU – European Union;

KPH - Campaign Against Homophobia (*Kampania Przeciw Homofobii*);

LGBT - Lesbian, gay, bisexual, and transgender;

LGBTI - Lesbian, gay, bisexual, transgender and intersex;

HIV/AIDS - Human immunodeficiency virus infection and acquired immune;

deficiency syndrome;

ILGA Europe - International Lesbian, Gay, Bisexual, Trans and Intersex Association in the European region;

MP – Member of the Parliament;

NGO - Non-governmental organization;

OMC - Open Method of Coordination;

PACE - Parliamentary Assembly of the Council of Europe;

PACS - Civil Solidarity Pact *(Pacte Civil de Solidarité) ;*

PO – Civic Platform (*Platforma Obywatelska*);

PiS – Law and Justice (Prawo i Sprawiedliwość);

SOGI - Council of Europe Sexual Orientation and Gender Identity Unit;

SLD - Alliance of Democratic Left (Sojusz Lewicy Demokratycznej);

TEU - Treaty on European Union;

TFEU - Treaty on the Functioning of the European Union;

US – United States [of America];

Chapter 1. Introduction

This research explores the level of influence that the European Union has on policy development in its member states. This is quite a young area of research. The earliest attempts to theorize this process occurred only in the middle of the 1990s. I examine the issue from the perspective developed by a group of authors whose theoretical approaches can be united under the label of the 'Europeanisation school'[1]. The scholars belonging to this school focus on how EU level policies as well as new opportunities and restraints coming from the European Union affect national political systems. Today the theoretical framework explaining the influence of the EU on member states is still developing. In many aspects, it remains controversial or incomplete. One of the existing gaps is the impact of the EU on member states' policy areas where it has limited competences. In this thesis, I explore one such area at the junction of family law and LGBT rights. Whereas the EU holds itself up as a regional promoter of human rights and values such as equality, non-discrimination and protection of minorities, LGBT people in many EU member states are still deprived of basic human rights related to family and marriage.

In my research, I look at the case study of Poland, where in the last 10 years numerous attempts by the LGBT community to introduce a reform, which would recognize same-sex couples, were blocked by domestic decision-makers. The situation is similar in Italy, Greece, Romania, Bulgaria, Latvia and Lithuania, where any form of same-sex unions and ensuing rights are legally unrecognized or banned by the state. This phenomenon creates a certain challenge for research into the impact of the EU on member states' policies. On one hand the EU stands for the rights related to the policy and according to scholars of the 'Europeanisation school' most political phenomena in the EU member states today seems to show at least a minimum degree of Europeanisation (Radaelli 2003: 30). On the other hand, family

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[1] Some of the authors associated with the 'Europeanisation School' are: Bache I., Börzel T., Buller J., Chiva C., Dunia F., Dyson K., Gamble A., George S., Goetz K., Gordon C., Grabbe H., Gross E., Hang N., Héritier A., Hix S., Howell K., Hughes J., Kuhar M., Ladrech R., Lenschow A., Marshall A., Mole R., O'Dwyer C., Pilinkaite-Sotirovic V., Radaelli C., Risse T., Sasse G., Schimmelfennig F., Sedelmeier U., Wong R., Zatezalo M.

law in the European Union is an exclusive competence of member states[2] and the European Union does not have a consolidated stand on the issue.

Therefore, the main goal of this research is to investigate whether in these circumstances of limited legal powers the EU still has an impact on domestic policy aimed to legalize the rights of same-sex couples. In this research, I take Poland as a case study to explore the issue. Among other member states, Poland was chosen for the unique combination of features, which makes its relations with the EU multilayered and sometimes contradictory. It is the biggest country in the region with serious regional leadership ambitions, where high levels of Euroenthusiasm sit alongside strong national and religious sentiment and resistance towards EU equality and non-discrimination principles. Thus, my main objective can be translated into the main question of the research:

How important is the role of the EU in the development of same-sex partnerships policy in Poland?

By answering this question, I critically assess if contemporary theoretical approaches of the 'Europeanisation school' have the capacity to explain the mechanisms of the EU's influence on domestic policy in the area of same-sex partnerships in Poland. This will highlight gaps in the theory that require further exploration. I will provide the ideas on how these gaps can be bridged in a single theoretical framework.

In this research, I link the theoretical domain with the practicalities of policy development. This is facilitated by the empirical data, which I gathered through elite interviews with experts on the issue of same-sex partnerships' policy development in Poland and the role of the EU in this process. By testing the theory with the empirical data, I will complement the knowledge base in the field as well as elaborate the exiting theoretical framework.

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[2] According to the European Commission official website, in the European Union, substantive family law is kept '…under the sole competence of EU countries'. The only situation when the EU is empowered to take any actions concerning family law, is when the issue has with cross-border implications. In this case, a special legislative procedure must be applied in which '…all EU countries should agree (unanimity) and the European Parliament must be consulted' (Civil Justice 2015).

By exploring the case of same-sex partnerships' policy in Poland, I highlight the challenges LGBT rights advocates experience and the solutions they work out to achieve their goals. Additionally, I will provide successful and unsuccessful examples of policy development in the region. This knowledge will be beneficial for local policy-makers to better understand the perspective of policy advocates, as well as for the EU level actors to reflect on the Unions' approach to the issue. Contrariwise, policy advocates from Poland will be able to reflect on their strategy, relations with EU institutions, local politicians and the Polish public. Finally, the research will provide insights for advocates from other EU states on the work of their colleagues in Poland. Hence, the research attempts to contribute to an understanding of the EU's powers to influence policy formation in member states as well as the development of LGBT rights agenda in Europe.

In order to introduce in this thesis the issue of same-sex partnerships policy in Poland I will put it in the context of general development of LGBT rights in the country through past decades. In the next section through a short historical overview, I present the main dynamics and reflect the multi-layered nature of the issue.

1.1 Historical overview of LGBT rights development in Poland

In 20th century, Poland was one of very few states that abolished penalization for homosexuality before the Second World War, yet homosexual prostitution was not de-criminalized until 1969. Despite this, homosexuals were still repressed by the state through police control and record keeping, which established an atmosphere of fear and paranoia (Tremblay, Paternotte, Johnson 2011: 122). During the Soviet period sexual minorities remained suppressed in Poland for many decades and homosexuality was widely regarded as an attribute related to prostitution, sexual deviation or criminal offence (Brzezinska 2011: 113). Homosexuality was considered to be a symptom of 'Western depravity', which did not fit socialist morality (Kliszynski 2001: 161). Today the heritage of this thinking echoes in a perception of LGBT people as something alien, which exists outside society. According Father

Jacek Prusak[3], LGBT people 'stay in the consciousness of many Poles as mythical, foreign characters, awakening disgust' (Prusak 2003: 11)

After the collapse of Communism and general liberalisation, the regime of silence was broken in Poland and people of homosexual orientation started to organize informally into groups. The framework of homosexuality in the late 1980s and almost until the end of the 1990s lacked political salience and was set mainly in the discourse of the HIV/AIDS epidemic and drug addiction (O'Dwyer 2012: 340). The main actor behind this discourse in relation to the LGBT community was the Catholic Church, which traditionally followed a duty to care for the sick, had a wide network of medical facilities (Owczarzak 2009: 433) and a strong 'moral authority' in Polish society to decide what is right or wrong. The National-Catholic model of citizenship and HIV/AIDS discourse made any concept of LGBT as people with similar rights impossible in Poland. During this period, the idea of winning legal recognition for same-sex partnerships would have seemed to be highly unrealistic. The nascent LGBT network was mainly focused on bringing support to its members.

The first signs of change came along with the process of Poland's integration with the EU. The first strong push that the EU made was in 1998, when the European Parliament (EP) issued a warning that it would block the accession of any country that 'through its legislation or policies violates the human rights of lesbians and gay men' (Bell 2001: 88). Two years later, the EP again called Poland to remove anti-gay provisions from the penal code (Bell 2001: 88). EU membership was announced as a goal by the democratic Polish political elite as early as 1989 and only nine years later with the start of the accession negotiations, the policy process became more concrete 'with specifically articulated rules, monitoring of progress, and admonitions about failures to reform, including failures regarding the LGBT minority'. (O'Dwyer 2010: 342).

Following the European Commission's Strategy and Progress Reports, which monitored the situation before accession, Poland had to transpose the EU's anti-discrimination directives in its legal system. It also had to establish a body for

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[3] Father Jacek Prusak is a Polish columnist and theologist known for his liberal views on gay rights and opposition to Polish Roman Catholic Church's official stand on the issue.

combating discrimination headed by the Plenipotentiary for the Equal Status of Women and Men (Regular Report 2002: 28, 87). These directives were an important development that offered legal instruments for the protection of sexual minorities' rights. However, they were limited only to employment and occupation (Directive 2000/78/EC and Directive 2006/54/EC) and goods and services (Directive 2004/113/EC) (Brzezinska 2011: 126). The last report of the European Commission in 2003 concluded that Poland had the required minimum standards to join the Union (Comprehensive monitoring report 2003: 39, 40). Many Polish LGBT NGOs' leaders underlined that the EU shifted the *status quo* in the area of LGBT rights in Poland and became the main driving force behind the development of the movement in the early 2000s (Czajkowska 2011, O'Dwyer 2010). The presence of the EU as an authority above domestic government supported the mobilisation of the LGBT movement (Brzezinska 2011: 116).

The agenda of the gay-rights movement in Poland started to become more politicized and visible in the early 2000s with public campaigns aimed to give LGBT people and same-sex couples more visibility and provoke public debate (Brzezinska 2011: 116). These campaigns raised questions about the appropriateness of public expression by sexual minorities, which many in Poland found offensive (Haynes 2009: 210). During this period, the issue of same-sex partnerships' legislation first entered the political agenda. By 2003 the LGBT movement was consolidated enough to push for the first draft law on civil unions, introduced to the Senate[4]. Following months of debates, the discussion on the bill was put on hold after a new anti-liberal coalition leaded by Law and Justice (PiS), which made homosexuals one of their main targets, came to power in 2005 (Haynes 2009: 211).

Hostility from the new government was mostly visible through the continuous bans and right-wing activists attacks on Pride parades in 2004 and 2005 in Warsaw and Kraków (Brzezinska 2011: 119, 120) as well as arrests of people involved in an LGBT demonstration in Poznań (Gruszczynska 2009, p. 42). It was accompanied by governmental attempts to reshape school education to protect children from 'homosexual propaganda' (Connolly 2007) or ideas such as establishing the European

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[4] Upper house of the Polish Parliament

'Charter of the Rights of Nations' banning 'homosexual propaganda' (Pankowski 2010: 182). In such a hostile environment LGBT organizations were focused mainly on the fight against discrimination by public authorities and direct attacks against the LGBT community. New strong NGOs appeared because of this struggle. However, any work on legal drafts on civil partnerships was postponed due to the hostile political climate. The EP addressed Poland with two resolutions against homophobia in 2006, which caused strong opposition and rejection by conservative politicians (O'Dwyer 2010: 345).

In 2007 the Jarosław Kaczyński's (PiS) right-wing government collapsed because of a corruption scandal. A new central-right pro-EU coalition led by Civic Platform (PO) came to power, ending the era of open hostility towards the LGBT community. During this period the LGBT movement expanded its political presence and lobbying efforts. In 2010 Krystian Legierski became the first openly gay official elected in Poland (Gray 2011), followed by Robert Biedroń, who in 2014 became the first openly gay mayor (Gera 2014). After 2009 same-sex partnerships became one of the most important points on the LGBT NGOs agenda and major efforts were applied to draft and introduce two policy drafts to the Polish Parliament in 2012. Two small left-wing parties in the Parliament supported these bills (Bodnar, Sledzinska-Simon 2014: 235). In reaction, PO introduced a third bill, which contained more limited rights, but was supported by the Prime Minister Donald Tusk. However, all three bills were voted down from the agenda in 2013, since pro-reform actors were not able to secure enough votes in the Parliament, including PO, whose 46 members including Justice Minister Jaroslaw Gowin voted against the bills (Borowski 2013). After this PO dropped any attempts to revive the work on registered partnerships bill due to internal divisions and the political failure connected with the bill. For the LGBT movement this was a major setback. However, it also pushed activists to analyse their mistakes and search for new solutions and ways to introduce the policy.

1.2 Conclusion

In Chapter One, I presented the main aims and the central question[5] of this research as well as provided the historical overview of LGBT rights development in Poland, which set the context for the same-sex partnerships policy today. The LGBT rights agenda is dynamically evolving in Poland, especially after the country became a part of the EU. However, the issue of same-sex partnerships policy remains controversial and strongly opposed by local actors. At the same time, it is difficult to asses the role of the EU and the level of policy's Europeanisation. Therefore, to answer the central question and achieve the main objective of this research I go through the following steps. In Chapter Two, I review the existing theoretical approaches in the literature on the issue of the EU's influence on member states and analyses how these approaches are utilized to explore LGBT rights policies in the region. Through this, I identify gaps and challenges that the case study poses to the theoretical approach. In Chapter Three, I explore the methodological designs for the analysis of the empirical data and justify the method of data collection in this research. In Chapter Four, I address these gaps and challenges in Euroepanisation theoretical approaches related to the case study and propose solutions to solve them. These solutions will be accommodated into a single theoretical framework tailored to analyse the case study as well as potentially other similar policy cases. In Chapter Five, I apply the developed theoretical framework to analyse the empirical data. Through this, I will determine how the EU manifests itself in same-sex partnerships policy development in Poland and most importantly, what are the mechanisms of this process. Lastly, in the Chapter Six I evaluate the EU's impact on the case study and assess the potential of applying the developed theoretical framework to analyse the influence of the EU on similar policy cases.

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[5] The central research question is: *How important is the role of the EU in the development of same-sex partnerships policy in Poland?*

Chapter 2. Analysis of academic literature: combining Europeanisation theoretical approaches to Europeanisation with LGBT rights' research in the Polish context

The main aim of this research is to investigate in which way the European Union influenced the development of same-sex partnerships policy in Poland. In the Introduction, I discussed the historical development of LGBT rights in Poland. In this chapter, I address the existing theoretical approaches to the topic of the EU's influence on policy-making in the area of LGBT rights[6] as well as looking at how this issue is tackled in the academic literature. Since the literature on LGBT rights in Poland is scarce, I will also analyse research on some similar cases in Central and Eastern Europe (CEE). I will limit my examples to the EU member states with a shared legacy of socialism / communism as well as with similar religious and cultural profile that acceded to the European Union in the 2004 and 2007 enlargements[7].The theoretical framework describing the influence of the EU on local policy is developed by the scholars, who are focusing in their works on the concept of Europeanisation. Their findings and theories can be united under the label of the 'Europeanisation School', to which I will refer in the future.

The chapter begins with a discussion about the concept of Europeanisation, the challenges and issues related to it as well as the ways it could be accommodated to the case study of same-sex partnerships in Poland. It will be followed by the section *1.3* in which I will briefly introduce the main lines of Europeanisation research and will refer to the theoretical models of the different authors I will make use of in this thesis. Together with this, I will discuss how different researchers of LGBT rights address the issue of same-sex partnerships and how their approach is seen from the perspective of the Europeanisation school. Finally, I will conclude with describing which ideas and approaches I will use to analyse the case study in question.

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[6] In particular same-sex partnerships.
[7] In 2004, eight Central and Eastern European countries (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia) and two Mediterranean countries (Malta and Cyprus) joined the EU, followed by Bulgaria and Romanian in 2007. I omit Malta and Cyprus from my list, since geographically they belong to another region.

2.1 What is Europeanisation? Adjusting the concept.

Europeanisation is a broad term that can be applied to the adoption of European features by non-European subjects, growth of the European continental identity over national identities, or the 'incremental process re-orienting the direction and shape of politics to the degree that EC [EU] political and economic dynamics become part of the organizational logic of national politics and policy-making' (Ladrech, 1994: 69). In this thesis, I operate with the latter term, which some researchers refer to as 'EU-nization' (Flokhart 2010: 790). However, even this, more narrow understanding of Europeanisation presents a difficult case for conceptualization. The main issue is that most political phenomena in the EU today seem to show at least a minimum degree of Europeanisation (Radaelli 2003: 30). Therefore, different authors use the term Europeanisation in a number of different ways, depending on which aspect they are focusing. According to Dyson and Goetz (2002: 2) Europeanisation can be referred at least to the following list of issues:

- implementation of EU legislation,
- policy transfer and learning within the EU,
- shift of national policy paradigms and instruments to the EU level,
- effects of the EU's policies on the domestic level or their effects on local discourse, identities and structures.

In these circumstances, each scholar adopts or refers to the concept that best suits his or her research objectives. The danger of such an approach is so-called 'conceptual stretching', which means that the concept becomes too broad to be operational (Radaelli 2003: 32). How can we measure the degree of Europeanisation if everything is Europeanized? Radaelli (2003: 34) provides the solution by 'unpacking' the concept and distinguishing what is Europeanisation and what is not, thus creating the boundaries for the concept. He comes up with the conceptualization, which is currently one of the best developed and frequently referenced in the Europeanisation literature. According to Radaelli (2003: 31), Europeanisation is:

Processes of (a) construction, (b) diffusion, and (c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things', and shared beliefs and norms which are first defined and consolidated in the making of EU public policy and politics and then incorporated in the logic of domestic discourse, identities, political structures, and public policies.

Radaelli (2003: 32) mentions that Europeanisation can take broader meanings and that his concept in order to stay systemized and operational has to be restrictive, and ignores processes that go beyond the EU dimension, such as identity, culture, and the transfer of policies between one Member state to another without EU's involvement. However, in my research, which analyses the case, where influences of identity, culture and examples of other EU states are crucial components that affect Europeanisation, it would be a mistake to ignore them. At the same time, there is no defined EU policy on same-sex partnerships and the process of policy transformation in this field in Poland has so far been unsuccessful. This makes Radaelli's narrow conceptualization problematic to apply. Therefore, I follow the 'beaten path' and accommodate Radaelli's concept to my case study in the following way:

*Processes of (a) construction, (b) diffusion, and (c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things', and shared beliefs and norms, **which succeed or fail to be incorporated** in the logic of domestic discourse, identities, political structures, and public policies **through the EU institutions, other EU Member states or local actors as their proxies.***

Although this definition is now more vulnerable to 'conceptual stretching' it has the potential to capture the Europeanisation dynamics in the specific area of marriage equality and other similar policy areas. Constructing the concept on the basis of a specific case study proved to be not the most sustainable method, yet it is sufficient for the scope of this research and can be tested later on other cases. Having a workable concept, I will now move to my overview of existing lines of Europeanisation research.

2.2 Theoretical approaches towards Europeanisation. In search of a single theory.

The 'Europeanisation School' is a very young one and is still developing. This is why the concepts, models and mechanisms developed by scholars in its framework are still controversial in some aspects and incomplete in others. In other words, there is no solid and comprehensive theory, rather scattered theoretical approaches[8] that describe a specific aspect of the Europeanisation process. The search for a single theory and attempts to synthesize the existing theoretical approaches is still ongoing.

The early Europeanisation research (Ladrech 1994) focused mainly on the processes of policy transfer from the EU to the Member states as well as on reshaping the dynamics of local decision-making process by the EU. This top-down approach also referred as 'downloading' was further developed in the beginning of the 2000s by authors such as Börzel and Risse (2000), Goetz and Hix (2000), George (2001), Buller and Gamble (2002) and Radaelli (2003). The top-down line of theoretical approaches can be considered as the most operationally developed nowadays in the Europeanisation School. Scholars elaborated this approach by focusing on specific issues within the top-down framework, such as relations between Europeanisation and European Integration (Goetz and Hix 2000), 'fitting' of the local context to the EU policy (Börzel 1999, Dunia 1999, and Héritier 1996), role of domestic actors (Radaelli 2003) and specific case studies (George 2001, Dyson and Goetz 2002, Bulmer and Burch 2001, Burch and Gomez 2003).

In relation to the policies connected to LGBT rights, the top-down logic was applied mainly to reflect the role of local actors in the process. Most of the scholars researching the phenomena in the region looked at the issue from the perspective of relations between political elite groups and the EU. Another popular angle is the focus on the local LGBT movement as the main agent of change. Particularly, Brzezinska (2011) develops her investigation of LGBT rights in Poland around Women and LGBT NGOs and their influence on the policy landscape. O'Dwyer (2010) also puts the LGBT movement at the centre of his research, yet he is more critical regarding the

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[8] Often built upon theories from other fields, such as International Relations.

capacities of the LGBT movement to bring about change. However, both papers seem to overemphasize the importance of the LGBT movement as an actor, as examples from the region demonstrate that the strength of LGBT movement can be irrelevant to the success or failure of same-sex partnership policy. The best example is Poland, which, according to O'Dwyer (2012), has the most developed and strongest LGBT movement in the whole post-communistic region. Pilinkaite-Sotirovic's (2009) paper on Europeanisation and family policies in Lithuania goes deeper into exploring the role of another important actor – the Roman Catholic Church. According to Pilinkaite-Sotirovic, political parties in Lithuania shape their policies in order to show their solidarity with the Catholic Church and consequently win the support of the population that sees the Church as an honest and trustworthy institution. Thus, the Church makes a crucial impact in obstructing the Europeanisation of certain policies, especially in the area of LGBT rights. Mole (2011) develops this idea further drawing the link between a high level of Church attendance in the community and negative attitudes towards homosexuality. It is supported by Fúsková and Kočnerová (2011) who argue that the non-involvement of the Catholic Church was one of the most important factors that consolidated the success of same-sex partnerships policy in the Czech Republic. These findings bring additional value to the investigation of the Polish case, since the role of Catholic Church in politics as well as Church attendance is also quite high in this country[9], which together with the strong opposition towards LGBT rights policies creates a serious obstacle for the Europeanisation process.

The EU enlargements of 2004 and 2007 brought a new impetus to the development of the top-down approach, which focused on the specific conditions of Europeanisation in the New Member states. Scholars focused on the conditions to reform different policy areas that the EU imposes on the candidate states for accession. These policy reform conditions were embodied in EU binding acts and were intended to equate domestic policy in the accessions states with the EU's *acquis communautaire*. 'EU conditionality' is referred by scholars as a main tool of Europeanisation in the New Member states (Schimmelfennig and Sedelmeier 2005, Grabbe 2006, Hughes, Sasse and Gordon 2004). However, the EU's accession conditionality was related to LGBT rights policies to a quite small extent. For example, there are only three binding EU

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[9] According to CBOS survey 50% of Poles attend Church on the regular basis (once per week or more). This number fell down from 58% in 1997 (CBOS 2015: 4)

laws tackling LGBT rights in Poland are directives on non-discrimination in employment, goods and services (Brzezinska 2011: 126). While these directives were not related to family law[10], Brzezinska (2011) particularly emphasizes the importance of the pressure the Commission put on Poland to implement these directives and the empowering role of these actions for the LGBT community and future LGBT rights policies. However, none of the research on LGBT rights in Poland puts EU directives or 'conditionality' at the centre of analysis. This reflects their limiting influence on the LGBT policies development in the country.

Nowadays, the conditionality-related branch of Europeanisation research has evolved to a new level, analysing Europeanisation processes in the 2004 and 2007 enlargement member states in the post-accession environment, when conditionality is no longer a Europeanisation leverage. This challenge made researchers pay more attention to alternative approaches to the top-down policy transfer (Pilinkaite 2009, Chiva 2009, Mole 2011, and O'Dwyer 2010 / 2012). O'Dwyer (2010) emphasizes specifically this point in the case of LGBT rights in Poland. He perceives the role of the EU in the area as fading way with time. One of the main reasons is the lack of efficient non-binding policy tools to persuade Polish politicians. Pelz (2014) comes to the same conclusions in the case of LGBT rights policies in Latvia. O'Dwyer (2012) criticizes the Europeanisation approach for not predicting correctly the development of the LGBT movement in Poland, which became stronger and was able to start the same-sex partnerships debate during the post-accession period. To explain this phenomenon O'Dwyer applies the Political Opportunity Theory developed by Dough, McAdam and McCarthy (1996) as an alternative to the Europeanisation approach. Chiva (2009) in her research on the Europeanisation of gender equality policies in Romania and Bulgaria highlights the limit of the top-down Europeanisation approach to distinguish between domestic and European determinants of change. She calls for a move beyond the narrow focus on conditionality towards a more comprehensive understanding of gender equality. She applies a feminist theoretical framework as an alternative to Europeanisation, to better understand the change happening in the area. Gender equality and LGBT rights policies in New Member states are similar in many aspects: they are both not prioritized by the EU and its Member states, receive

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[10] As family law is in the exclusive competences of member states and the EU has limited legal powers to influence it,

opposition from the local clergy and right wing politicians and are promoted mostly by NGO activists. Analysing these similarities can help to better understand the case study in question.

The more the top-down approach was developing, the more criticism it received for being too limiting, simplifying and ignoring the sophisticated nature of Europeanisation. Scholars[11] attempted to expand the understanding of Europeanisation dynamics. The main idea elaborated further was that Europeanisation is a two (or even three) way process, and Member states not only 'download' policies, ideas and decision-making logic from the EU, but also 'upload' their preferences, ideas and policy solutions to the EU level (Börzel 2002 / 2005, Zatezalo 2007, Bache 2008, and Gross 2009). The uploading mechanism used by Poland in relation to same-sex partnerships policy is described by Bodnar and Sledzinska-Simon (2014). They explain that the Polish strategy was to block discussions regarding any sort of recognition or even any mention of same-sex couples in EU law[12]. Polish concerns expressed were that such amendments[13] would indirectly introduce the institution of same-sex partnerships into the Polish legal system. So far, Poland has managed to successfully upload its preferences regarding same-sex partnerships to the EU level. Many works on Europeanisation are dedicated to this process, however, almost none of them explore same-sex partnerships policy in Poland[14]. This particular challenge will be addressed in the next chapter of this thesis.

The 'multidimensional' logic of Europeanisation was pushed further by a group of authors, who argued that in additional to the two vertical processes[15] there is a third horizontal dimension, referred to as 'cross-loading' (Howell 2003 / 2004, Radelli 2004, Lenschow 2006, Wong 2011, and Hang 2011). Horizontal Europeanisation usually describes processes in which Member states exchange ideas, policy styles and practices between themselves, without firstly defining and consolidating them on the EU level. However, an important component is that the EU is still somehow present in

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[11] Many of them who previously developed the top-down approach.

[12] For more details see *5.2.1 Vertical mechanisms - Bottom-up approach*

[13] Discussed, for example, during the work on the European Private International Law in 2011.

[14] The main existing works in English exploring same-sex partnerships policy in Poland (not specifically in the Europeanisation framework) are discussed in this chapter (see Bodnar and Sledzinska-Simon 2014, Brzezinska 2011, Kuhar 2012, O'Dwyer 2010 / 2012)

[15] Downloading and uploading.

this exchange. It either facilitates the process, establishing formal policies[16] or more broadly 'sets the scene' enabling this type of transfer to happen (Major and Pomorska 2005: 1). Kuhar (2012: 183 - 185) highlights in his paper that in public debates more progressive EU states are frequently referred by same-sex partnerships policy supporters as an example of good practice, a point of comparison or competition. Yet, this only indirectly proves that the experience of other EU states is taken into account in domestic policy development. One of a few examples from the region is the case of same-sex partnerships policy in the Czech Republic described by Fúsková and Kočnerová (2011). According to them, one of the Czech draft bills of 1999 was modelled after a Danish precedent. However, although this exchange resembles an unregulated cross-loading, it happened outside the EU framework, since the country was not yet an EU member. Therefore, it is not practically useful for my research. I will try to fill this gap by exploring the policy-making process in Poland and taking data from people personally involved in the process of same-sex partnerships policy development. Additionally, some scholars attempted to synthesize the three mentioned approaches[17] into one model (Howell 2004 and Hang 2011) in order to explain complex cases, where a single approach failed to do so. However, no attempts were made so far to describe the development of LGBT rights policies using this 'multidimensional' perspective. I am aiming to bridge this gap and synthesize these three approaches in order to analyze the case study in question.

Another way of looking at Europeanisation is so-called bottom-up design (Radaelli 2003, McCauley 2011, and O'Dwyer 2012), which should not be confused with the bottom-up theoretical approach. As formulated by Radaelli (2003), unlike in conventional Europeanisation research design, where focus is kept on the EU institutions and policies, this design looks firstly on the dynamics of policy change on the domestic level and only then links them to the policy on the EU level. Bottom-up design aims to improve a limiting 'positivist' approach to Europeanisation, which states that if there is an EU policy, the Europeanisation on the domestic level most certainly takes place, and if there is no EU policy, then there is no Europeanisation (Radaelli 2003: 50 - 52). Bottom-up design enables to detect better if Europeanisation

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[16] Such as the Open Method of Coordination, which is a device for transferring best practice models between Member states.

[17] Down-, up- and cross-loading.

really plays a role in domestic reform and influences the logic of local policy-makers. In other words, the local context of political developments comes first and serves as the base to build-up the research further[18]. The bottom-up design is useful to understand cases where the influence of the EU is hard to track. Merin (2002) applies this approach to the case of recognition of same-sex partnerships in Hungary. It was the first country in the region, which extended marriage rights to same-sex couples as early as 1996. It was known that the country is planning to join the EU, but the accession negotiations had not started at this point. Taking a bottom-up perspective, Merin analyzed the domestic reasons for policy development. His analysis revealed that the process started from a decision of the Hungarian Constitutional Court, which ordered the Parliament to amend the law on marriage. Merin concluded that the main reason for such an exceptional Court decision was the wish of the judges to make Hungary a part of the 'New Europe' and the belief that it would be politically and economically advantageous to appear socially tolerant. The most important factor, which influenced the Court's decision, was the European Parliament's report on the endorsement of gay and lesbian civil equality. Therefore, the influence of the European Union, which connected membership perspectives with compliance to the ideology of supporting human rights, was a decisive factor for granting marriage rights to same-sex couples in Hungary before the accession negotiations even began. So far, the bottom-up design has been rarely used by the researchers of the Europeanisation school. I am aiming to fill this gap and use the bottom-up design[19] to investigate the development of same-sex partnership policy in Poland.

Finally, a large group of scholars attempted to develop an alternative theoretical approach of Europeanisation through evoking social constructivism theories and introducing such categories as socialization, discourse, values and identities (Schimmelfennig 2005 and Nicholas Ross Smith 2011). For example, Schimmelfennig (2005: 9) argues[20] that socialization, acceptance and appropriateness of the EU's rules in terms of collective identities, values and norms for the Member

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[18] The scholars leaning to this approach often build-up their research on social sciences theories, for example, Social Movement Theory (McCauley 2011, O'Dwyer 2012).

[19] The design, which firstly considers policy changes on the domestic level and only then links them to the EU policy. Many works on Europeanisation look firstly on the EU policies and then try to link them with local ones.

[20] By evoking the debate between rationalism and constructivism in IR Theory and rational choice institutionalism and sociological institutionalism in Comparative Politics.

states is equally important as the EU's binding legal acts or 'conditionality' pressures. This approach, which he calls Social Learning, focuses on the persuasive power of the European Union to convince decision-makers and the general public that policy reform is necessary and beneficial for the Member states (i. e. 'appropriate'). The EU can project this persuasion on micro and macro levels, directly on governments or on societal groups and organizations, empowering them through external legitimacy and authority so they could later lobby their governments. Schimmelfennig describes the effects of Social Learning as involving a deep, fundamental paradigmatic change in the minds of decision-makers or public opinion and as the opposite to superficial compliance to the EU's rules (Schimmelfennig 2005: 10). The focus on identities, discourses and values becomes more and more important in the investigation of EU influence on LGBT policies in the region. This approach has a potential to provide a better explanation of Europeanisation in the circumstances where direct EU pressure on Member Sates is lacking. Brzezinska (2011) dedicates an important place in her paper to the issue of contesting identities and values of the EU and Poland. She argues that the clash of antipodal identities[21] and policy discourses is the main reason LGBT related policies are failing not only to be adopted, but even discussed Poland. Kuhar (2012) develops this idea further. He mentions the importance of the 'EU argument' in the debates on same-sex partnerships, supporting the vision that the EU is a gravitational core of the debates on LGBT relates issues in Poland. According to Kuhar, the EU is perceived in the country as a promoter of progressive policies. However, references to the European Union also create a rejection effect from the conservative local elites that perceive the EU's approach to marriage equality as '…negative, and a threat for national values, Christianity and morality' (Dabrowska 2009: 2). Mole (2011) goes further and explores the possible reasons for the rejection of EU values in Latvia. His analysis reveals that EU norms on non-discrimination and equality of LGBT are perceived there as an external threat to national identity. He takes a historico-constuctivist perspective and sees the main pillars for homophobia in Latvia in the religious tradition and influence of Lutheran, Catholic and Orthodox Church in Latvia, experience of communist regime[22], and post-communist drive back to nationalism with traditional values at its core. Mole argues that the main reason for the failure of Europeanisation in the area of LGBT rights in Latvia is the clash of

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[21] National-exclusive and EU-inclusive.
[22] That suppressed homosexuality.

discourses, where national and religious identity have a greater resonance for Latvians than European values and identity. The case of Latvia resembles in many ways the context in Poland and can serve as an important point of reference for the investigation of the same-sex partnerships policy development. O'Dwyer (2012) has a different opinion on the importance and influence of the EU discourse than Mole or Kuhar. He criticizes the Social Learning approach for not predicting correctly the developments in Poland. He argues that it was not EU persuasion or lack of it, but the struggle with governmental oppression in 2005 – 2007 which made the Polish LGBT movement stronger, more active and assertive. Although this is an important point, I believe that the Social Learning approach can be applied to the case of same-sex partnerships in Poland. However, it needs to be adjusted in order to explain not only successful, but also unsuccessful cases of policy Europanisation. I will develop this idea further in the next chapter.

2.3 Conclusion

In this chapter, I analyzed the definition of the concept of Europeanisation and framed the concept, which fits the best to my case study of EU influence on same-sex partnerships policy in Poland[23]. I presented the main theoretical lines of research in the Europeanisation school. I illustrated how each of the approaches are used in the academic literature looking into the development of LGBT rights policies in 2004 Enlargement Member states. This review demonstrated that some of the Europeanisation approaches are used sufficiently[24] in the area of LGBT rights, while others are under used[25]. In my research, I cover this deficiency by applying both frequently and rarely used approaches. In the next chapter, I will analyse which gaps and challenges each of the Europeanisation approaches pose to the case study and address them with a fitting solution. Particularly, I will examine the top-down approach (Radaelli 2003, Börzel 2002, and Schimmelfennig 2005), the bottom-up approach (Börzel 2002), the horizontal approach (Radaelli 2003, and Howell 2004) as

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[23] The processes of (a) construction, (b) diffusion, and (c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things', and shared beliefs and norms, which succeed or fail to be incorporated in the logic of domestic discourse, identities, political structures, and public policies through the EU institutions, other EU Member states or local actors as their proxies.

[24] For example, top-down approach or social learning approach.

[25] For example, cross-loading approach or bottom-up approach.

well as the Social Learning perspective (Schimmelfennig 2005). After analysing the potential of each approach, I will combine them in order to create a new theoretical model that would have the potential to explain the influence of the EU on the same-sex partnerships policy in Poland. I will deconstruct, cases, omit irrelevant and combine relevant features of different Europeanisation theoretical approaches in order to explain the case in question.

Chapter 3. Methodological design: approaches for collecting and analysing empirical data

In the previous chapter, I explained what the concept of Europeanisation means and how I understand it in this research. I also gave an overview of the existing theoretical approaches towards the issue of the EU influence on public policy in the framework of the 'Europeanisation school', which was followed by a discussion of how these approaches are applied in the literature dedicated to the issue of LGBT rights and particularly same-sex partnerships. In this chapter, I will introduce and justify the methodological approach I used to collect my empirical data[26] and provide the rationale for discarding other popular methods of data collection. Additionally I will explain the methodological design I will use for preliminary analysis of the empirical data.

3.1 Justification of empirical data collection method

Out of various methods used by researchers to gather empirical data using the case study approach, in-depth open-ended elite interviews were chosen as the most efficient one. Scholars describe elite interviews as the key qualitative research method in political science. It allows the researcher to trace the decision-making and policy impact based on the perspectives of those who are at the centre of policy-making (Boucher, Mahboob and Dutcher 2013: 1). They often reveal insightful and potentially sensitive information, which otherwise might not be available. The special position of elites is benefitting the quantity and quality of data collected. It has been suggested that elite interviewees often are good communicators, knowledgeable and appreciate research better than non-elites (Darbi and Hall 2014: 834). When dealing with the interviews gathered from one specific group of experts[27], the issue of bias and one-sided information is always a challenge. However, it is important to mention, that the data gathered through the in-depth interviews was not aimed to represent the opinion of any societal group or project any views on the population in general. It was fact-oriented[28] and aimed to fill the gaps that exist in the literature in order to

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[26] Which is in-depth elite interviews with open-ended questions.
[27] Who in my case are also stakeholders.
[28] The questionnaire was composed to mainly get factual insights.

consolidate the theoretical understanding of the Europeanisation process, which is based on other secondary sources such as policy documents, academic literature, statistical data, etc.

There are of course other methods of gathering empirical data. However, after analysing them I concluded that they all pose serious disadvantages. Firstly, the use of observation is practically challenging for the case study, since it involves the direct observation of the phenomena in their natural settings. In the case of policy research that would mean being present in the working groups drawing the policy or in the Polish Parliament during voting or in the EU institutions during the discussion of the subject. However, the dynamics of same-sex partnerships policy is very slow and fragmentary. Therefore, in terms of time limits as well as access limits this method is hardly applicable for the scope of this research. Secondly, it is problematic to track the case study through documentation. As a consequence, the use of content analysis as a tool is limited. There are few official documents to analyze, since as mentioned above, the dynamics of the policy are very slow. It is not considered important by Polish politicians, yet it is constantly blocked in the Polish Parliament. Since the EU does not have a stand on the issue, the documents from its side are also limited. Additionally, due to the slow dynamics some of the documents today are out-of-date or only partially related to the issue[29]. Other official documents never gained legal power, thus assessing their influence on the process of Europeanisation is also troublesome[30].

Lastly, for me as a researcher there was a language barrier, as my Polish is not fluent enough to make a content analysis of official documents (as well as other written sources such as NGOs' project documentation, newspapers and other mass media materials) or hold interviews in Polish language. However, few Polish language sources like CBOS opinion polls or newspaper articles were used during my research in cases when specific information was not available in English. The language barrier issue partially influenced my choice of LGBT NGOs leaders as an elite group with the highest proficiency in English.

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[29] For example, EU directives on anti-discrimination of 2000 or 2004.
[30] For example, three last drafts on same-sex partnerships of 2013, which failed to get support in the Sejm (lower house of the Polish Parliament).

3.2. Empirical data collection criteria

Out of all elite groups related to the case study of EU influence on same-sex partnerships policy in Poland several factors spoke in favour of choosing LGBT NGOs' leaders for interviewing. Firstly, unlike political elites who demonstrated apathy and resistance towards policy-making (through vetoing from discussion in the Parliament all the same-sex partnerships draft proposals, blocking attempts to recognize same-sex couples rights on the EU level, and ignoring all the EP's and other international institutions recommendations on the issue (Bodnar and Sledzinska-Simon 2014: 242; Borowski 2013; and O'Dwyer 2010: 344), in the area of marriage equality, LGBT NGOs were at the grassroots level of this process. In particular, the LGBT NGOs' activists did the main share of work in drafting major bills on same-sex partnerships in Poland (Bodnar and Sledzinska-Simon 2014: 235). They were engaged in lobbying and liaison with politicians on both EU and Polish levels, public campaigns in Poland as well as accumulated policy expertise from other EU states (KPH 2009; and KPH 2010). Few Polish politicians have the same level of awareness regarding details and dynamics of the same-sex partnerships agenda. As for the EU decision-makers, the main issue is that they are hard to reach from the point of view of geographical location and availability. Additionally, we can suggest that due to their distance, their level of awareness on the issue is lower and secondary to the local grass root level organizations expertise. The last elite group, which is very active on the issue, is the clergy of the Polish Catholic Church. However, its expertise seems dubious due to its radical stance on all LGBT rights. Additionally, although the Church plays an important role in Polish politics, this role is informal and compared with the mentioned above groups its involvement in the policy-making process is the lowest. Therefore, its expertise can not be considered as valuable for the purpose of this research. Overall, from the point of view of their high level of expertise and engagement in the policy process, LGBT NGOs' leaders were chosen as most suitable elite groups with which to conduct in-depth interviews.

Ten respondents were chosen in accordance with the size (largest membership) and activeness (biggest number of projects and activities) and profile (involvement with the issue of same-sex partnerships) of the NGO that they represented. Another

criterion was the position of interviewees in the NGO. Leaders were preferred to rank and file activists since it was expected that they would have more expertise as well as personal involvement in the process of same-sex partnership policy-making. Mostly they were NGO leaders. Another criterion was how active interviewees were in the process of drafting same-sex partnerships bills or in other activities related to the policy. One of the interviewees was academic researcher specializing in same-sex unions. The geographical and gender balance was also taken into account while choosing the interviewees. As majority of LGBT NGOs are located in Warsaw, I tried to get the opinion of activists from other regions of the country, since it might differ from the perspective from the capital. I interviewed NGO leaders and activists from three other cities: Torun, Lublin and Gdansk. Additionally, four out of ten respondents identified themselves as female[31].

3.3 Methodological design of preliminary data analysis

Scholars have identified three main strategies to employ while working with interviews as a source of empirical data: induction, deduction and abduction (Brinkman 2013: 54). Inductive design can be described as a bottom-up approach, where the researcher moves from specific observations to broader generalizations and theories. It is opposite to deduction, which works top-down from general to specifics. Abductive design is usually used in the situation of uncertainty and does not attempt to formulate theories, but rather to register the evolving reality of people in conversation (Brinkman 2013: 56). Specifically for my case study the induction design fits the best. It is the most commonly used design in qualitative research and well suited to study 'new and emergent phenomena, where it is premature to formulate specific hypotheses' as in case of the Europeanisation of same-sex partnerships' policy in Poland (Brinkman 2013: 55). Induction is also practical to use when the empirical data guides the researcher in a specific area and questions, which is also applicable to the case study (Brinkman 2013: 54).

One specific approach that optimizes the inductive process is so-called Grounded Theory developed by Glaser and Straus (2009). It is particularly useful for my case

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[31] The information about all the interviewees and the details of interviewing technique can be found in *Appendix 1*. The questionnaire used during interviews can be found in the *Appendix 2*.

study since it is designed to investigate the processes and make theoretical sense of social phenomena (Charmaz 1983: 111). Grounded Theory has a well developed set of analytical tools that help to structure the qualitative data. It uses a rigorous process of coding, or in other words, categorizing and sorting data in order to label, separate, compile and organize it in a way that it can be used in a theoretical framework (Charmaz 1983: 111). The coding is based on the word-by-word analysis, or microanalysis, a technique that helps to raise new questions and ideas that can be explored further. It aims to stimulate abstract thinking through focusing intensely on specific words and phrases in the data set (Oktay 2012: 74). The codes can be collected and developed not only from the interviews. Field notes (or memos), documents, journals and newspapers, other academic research or even statistical data can be used as a source of codes. The codes can range from a very concrete ones on the initial stage of the analysis to a more general and abstract ones on the later stage, when the theory emerges (Charmaz 1983: 111). The codes are interconnected together in more general clusters called 'categories' and mapped in a coherent order. This way they acquire analytical power to explain the case in question (Charmaz 2002: 361).

In this research, Grounded Theory is applied mostly as an analytical tool for preliminary analysis and structuring of empirical data to test and develop the theoretical model. This also makes the coding process easier, since many categories and codes are already present in the theoretical literature on Europeanisation. However, firstly, some new categories and links that can change the picture might appear as a result of the empirical analysis. Secondly, already existing categories should not be taken for granted, as they might take different meanings and consequently create different effects. This is why it is important to reconstruct these concepts using empirical data and fill them with the contextual meaning relevant to the case study in order to have a coherent theoretical model.

3.4 Conclusion

In this chapter, I presented and justified the empirical data collection method, which is interviewing of elites using in-depth open-ended questions on the issue of same-sex partnerships in Poland. I explained why elite interviews were chosen as the most efficient method to collect data on the case study as well as the reasons behind

focusing on the specific target group such as leaders of LGBT NGOs. Additionally, I described the preferred design for preliminary data analysis, which is based on the Grounded Theory approach that focuses on labelling, coding and aggregating important phenomena in the data set. The main reasons to choose this design were its well-developed procedures, capacities to analyse social phenomena and focus on the inductive procedures, which are crucial for understanding new unexplored processes, such as the development of same-sex partnerships policy in Poland. In Chapter 5, which focuses on the analysis of the empirical data, I will put this design into action.

Chapter 4. Towards a tailored theoretical model: fitting Europeanisation theoretical approaches to the case of same-sex partnerships policy in Poland.

In the previous chapters, I introduced the methodology I will use to analyse the empirical data from my elite interviews to understand the process of same-sex partnerships policy development in Poland and the extent to which is is being Europeanized. I also discussed the main theoretical approaches, which explain the Europeanisation process in the literature dedicated to LGBT rights.

In this chapter, I will develop the discussion on the main challenges different Europeanisation approaches pose to the case study in question. I deconstruct and analyse each major approach[32] to see how it can fit the case study. In conclusion, I intend to combine them into one 'multidimensional model' (Howell's (2004)), which I will use to analyse the EU's influence on same-sex partnerships policy in Poland. This model will accommodate approaches and selected mechanisms of theoretical models from each line of the theoretical approaches of 'Europeanisation school'. Every mechanism and model will be analysed in detail in order to assess if it is relevant to the case study. I will finish the chapter with the graphical presentation of the final model, which I refer to as the Hybrid Theoretical Model, since it will accommodate mechanisms from different lines of Europeanisation research.

4.1 Gaps and challenges: how to apply different theoretical approaches to the case study?

4.1.1 Top-down approach

In case of same-sex partnerships policy in Poland the top-down approach of the Europeanisation school[33] seems to be the most difficult to apply. There are three major points that are crucial for the top-down approach to be operational[34]:
a) There is a EU policy model, which is transferred to the Member state;
b) The EU institutions make some kind of action to transfer this model;

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[32] Top-down, bottom-up, horizontal, and social learning.
[33] Which is, as mentioned in the section *2.2*, one of the most operationally developed.
[34] Based on the evidence from the section *2.2*

c) There is an impact and change on the domestic level.

To successfully apply the top-down approach all three categories should be present and the researcher should be able to measure their development. For example, the ideal case is when there is an EU policy document that is imposed on the Member state through a binding act, which triggers the policy reform in the country. Otherwise, analytical tools of the top-down approach fail to detect any change.

In the case of the Europeanisation of same-sex partnerships in Poland, all three categories are lacking measurable content. Firstly, there is no EU policy, which regulates same-sex partnerships. Therefore, there is nothing concrete to transfer to Member states. Moreover, family law is still solely a competence of Member states. Secondly, the EU institutions do not take any direct (or binding) actions to support, impose or develop same-sex partnerships policy in Poland. Additionally, Poland is nowadays in the post-accession period. Thus, accession conditionality, as the main Europeanisation tool in CEE is not applicable any more. Thirdly, any LGBT rights policies in Poland are very unpopular. Therefore, so far, despite numerous attempts to recognize civil unions for same-sex couples, the policy has failed to be adopted in Poland.

Despite all these factors, I believe there is an ongoing process of Europeanisation of same-sex partnerships policy in Poland. However, it is problematic to track it using the top-down approach. Below I present my arguments in reference to the each point.

With regard to the lack of EU policy in the area of same-sex partnerships, I am assuming that it is not the crucial factor, which makes it Europeanised or European. I believe it exist in a boarder understanding of the Europeanisation process, as a shared policy idea supported by the majority of member states. This idea is based on the most important EU values such as equality, non-discrimination, tolerance, solidarity, human dignity and human rights, rule of law and defence of minority rights. The lack of political will, the intergovernmental nature of decision-making in the EU and the conflict of values and interests are the reasons this concept is not manifested through a policy at the EU level. Therefore, following the conceptualization of Europeanization in this research, there is a process of construction and diffusion of shared beliefs and

norms regarding the ideas behind same-sex partnerships policy through EU member states and domestic actors as EU proxies. However, the institutionalization of formal rules related to the policy is still missing.

Many EU countries have already incorporated the logic, which stems from EU's values, into the domestic marriage equality policies. Their example is one of the main sources for the Europeanisation of the idea of same-sex partnerships policy. In fact, 19 out of 28 Member states already recognize different forms of same-sex unions, including eleven that recognized same-sex marriages. The countries that have recognized different types of same-sex unions represent the largest EU states by population and if the voting on the issue of recognizing same-sex couples would take place in the Council today, the qualified majority could be established[35] (Lipka 2015; Eurostat 2015, Craig and De Burca 2015: 136). The growth of acceptance and institutionalization of marriage equality in the EU Member states is the best evidence of a 'natural' Europeanisation process, which exists even without any pressure from the EU institutions. Therefore, we can assume that, although in different forms, same-sex partnerships policy is:

1) stemming from otherwise shared EU values and is Europeanized from its core;
2) shared by majority of Member states;
3) becomes more acceptable and institutionalized through time;
4) is still largely contested in the EU and, thus, lacks an EU 'legal backbone'.

In terms of the claim that EU institutions do not take direct actions to promote same-sex partnerships policy in Poland it should be pointed out that there are many indirect or nonbinding actions, such as EU Parliament resolutions[36] (O'Dwyer 2010: 344, EP Resolution 2015); EU directives[37] tackling LGBT rights, mainly aimed at equality and non-discrimination on the labour market, in goods and services (Brzezinska 2011:

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[35] 55% of members states with 65% of population (Craig and De Burca 2015: 136)

[36] Resolutions of the European Parliament are non-binding acts, which signal the political desire in a specific area. This tool is designed for the Parliament to suggest guidelines for coordination or transformation of national laws or administrative practices without any legal obligations for member states (Moussis 2011).

[37] The directive is one of the binding legal instruments of the EU institutions. It is aimed on a certain country and used mainly to harmonise national legislations with the EU law. The directive is firstly adopted on the EU level and then transposed by member state into the domestic law. It leaves member state to decide itself how to achieve certain objectives identified in the directive (Directive 2010).

126); and a road-map in the framework of the Open Method of Coordination[38], etc. (EP Resolution 2014, EP 2014). Moreover, same-sex partnerships policy is a logical development and a part of the larger process of the fight for LGBT rights in Poland. As mentioned by many authors (O'Dwyer 2010, 2012, Brzezinska 2011, and Kuhar 2012; etc.) this process is mostly EU-induced. It started, developed and exists today only because the EU provided the models and ideas, changed the discourse and empowered the LGBT community in Poland. Therefore, any LGBT policy in Poland is associated and in fact indissolubly connected with the EU, bearing the European design and, thus, Europeanized.

I agree with Radaelli (2003: 52) that Europeanisation is important not as an end-state, but as an ongoing and ever-changing process. At this stage of writing (September 2015), a same-sex partnerships policy has yet to be adopted in Poland. However, it does not mean that the policy has not been subjected to Europeanisation and does not have the prospect to be adopted in future.

To conclude, the Europeanisation of same-sex partnerships policy in Poland does takes place, yet this process is unpronounced and hard to detect using the top-down approach of the Europeanisation School. Therefore, it seems that the tools of this approach would not be applicable to the case in question. In the following section, I will assess their potential and relevancy for the Hybrid Theoretical Model. Next, I will address the challenges of the bottom-up approach of the Europeanisation School.

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[38] The Open Method of Coordination (OMC) is a new form of governance based on voluntary cooperation between EU member states and the use of soft law instruments, such as benchmarking, peer evaluation and exchange of best practices. It helps to direct national policies towards common objectives without the use of binding EU tools. The OMC is based on unanimous agreement of member states on broad policy goals set up in the Council of Ministers, and followed by voluntarily transposition of the policy guidelines on domestic level. The role of European Commission in this process is limited to surveillance, whereas European Parliament and EU Court of Justice do not play almost any role in the process (EASPD 2015).

4.1.2 Bottom-up approach

According to Börzel, Europeanisation is a two-way process in which Member states are downloading policies from the EU level, but also uploading their national policy arrangements to the European level, which is an effective strategy to maximize the benefits and minimize the costs of Europeanisation (Börzel 2002: 196). Based on secondary sources, we can assume that this process is ongoing in Poland in relation to same-sex partnerships and marriage equality in general. The most prominent example is the Polish opt-out from the EU Charter of Fundamental Rights that was triggered by the fear that the EU might potentially impose marriage equality policies on Poland (Statewatch 2008). We can assume that all uploading actions of the Polish government have the same nature of preserving the status quo and the exclusive Member states' competence over family law. However, this assumption needs more evidence, which I will present in the next chapter.

The bottom-up approach is a development of similar logic that stands behind the top-down approach and thus the challenges it pose to the case study in question are similar and were already tackled. However, the bottom-up approach according to Börzel's view seems less limiting and more open to interpretation and adjustment. There is no specific EU policy regarding same-sex partnerships, but Polish government can include marriage equality agenda in subjunctive policies, that might potentially influence the existing status quo. There is no pressure from the EU institutions, but the Polish government can work preventively to make sure that the uploading of their policy preferences will hinder any prospects for future change. Therefore, unlike the downloading perspective, the bottom-up approach potentially can operate in the environment, where no specific EU policy is transferred. This makes it applicable to this case study. I will analyse the specific bottom-up approach tools in the next section and now move to the challenges of the horizontal approach.

4.1.3 Horizontal approach

Howell (2004: 7) makes a synthesis of top-down (downloading) and bottom-up (uploading) approaches adding an extra dimension of horizontal transfer (cross-loading). This new element poses a challenge in relation to this case study. According to Howell (2003) as well as Burch and Gomez (2003) cross-loading represents policy transfer between Member states that is not dependent on EU institutions. The fundamental problem of cross-loading is related to the 'conceptual stretching' issue, or in other words the question whether this type of policy transfer can be considered Europeanisation at all, if it exists outside EU institutions' mediation.

Howell (2004: 5, 6) argues that horizontal policy transfer might not involve Europeanisation at all. Howell focuses on the Europeanisation policies, so for him the most important feature that makes horizontal transfer Europeanized is that the policy 'content' has to be firstly 'consolidated on the EU level'. This makes Howell's approach limiting for my research due to the lack of consolidated EU policy on marriage equality in the EU.

For this reason, I am leaning towards a more flexible definition of cross-loading made by Major and Pomorska (2005: 1). They define cross-loading as not only exchange of policies but also of ideas, norms and 'ways of doing' things between member states for which the EU 'sets the scene', or in other words serves as a frame for exchange, not necessarily as its originator or facilitator. Taking into account the evidence found in existing literature of the EU influence on the development of LGBT movement and policies in Poland, we can assume that the EU has already 'set the scene' that enables the exchange of ideas related to same-sex partnerships policies to take place between Poland and other Member states (O'Dwyer 2010, 2012, and Brzezinska 2011, etc.) This assumption will be tested further in the next chapter.

Lastly, the only embodiment of horizontal Europeanisation as seen by Howell (2004), where the EU is a 'facilitator' of exchange between member states, that can be related to same-sex partnerships policy in the EU is the Open Method of Coordination. This tool will be assed in the following section. I will conclude this section with an overview of challenges of social learning approach.

4.1.4 Social Learning approach

Basing on the evidence from the previous chapter, we can assume that identities, discourses, values and norms play a crucial role in the process of Europeanisation of same-sex partnerships in Poland. Therefore, the Social Learning approach looks like a promising perspective to explain the developments in the country. It focuses on the persuasive power of the EU to convince Member states governments and the public that the policy reform is necessary and beneficial, or in other words appropriate. Yet, what happens if the EU fails to convince the Member state? Does it mean that the processes of social learning do not take place?

Mainstream politicians and majority of population in Poland find same-sex partnerships policy inappropriate, as not reflecting Polish values, identities and not bringing direct benefits. According to Schimmelfennig's logic social learning in this case should not take place. However, the questions of identities, legitimacy and existing norms[39] are permanently present in the public debate on same-sex partnerships in Poland. Therefore, I assume that the criteria used to measure change in social learning approach should be adopted in order to take account the failing policies and explain the reasons for this failure. So far, the criteria used by Schimmelfennig reflect only the 'positive' dimension of the Europeanization process, or in other words the conditions for Europeaniation to succeed. Schimmelfennig argues (2005: 18 - 20) that the efficiency and persuasive power of social learning can be assessed against three factors. First factor is related to the Legitimacy of rules and processes. In other words, it is the clarity of the rules, credibility of the process or the ways they were established and transferred, existence of international consensus on the issue and whether the policy is applicable in all member states, and to what extent the policy is connected to the constitutive values and norms of the community. The second factor is Identity, as the identification of the target government and society with the community that has established these rules. Finally, it is the factor of Resonance as the potential of the rule to fill the existing gap in domestic policy, in the area that was delegitimized by previous domestic decision-makers. It also takes into account if the new rule is seen as a 'good policy' in domestic culture and tied with already existing rules.

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[39] Which are the indicators of social learning for Schimmelfennig.

All these criteria are reflecting the 'positive' development of the policy. I extend the Schimmelfennig classification to the 'negative' dimension to explain the failure of the Europeanised policy. This will help to measure and explain the developments of the case study. The 'negative dimension' takes account of factors related to Illegitimacy of rules and processes, as the lack of clarity, credibility and connection with local norms. It also looks at the Aliennes of the rules for the domestic identity and Disharmony with existing rules.

Having addressed the main gaps and challenges that the major lines of theoretical approaches on Europeanisation pose to the case study in question I will move forward to a deconstruction and accommodation of the models, which reflect the approaches of each research line. Through this process, I will compose a Hybrid Theoretical Model, which I will use as a framework to analyse the development same-sex partnerships policy in Poland in the next chapter.

4.2 The Hybrid Theoretical Model: multidimensional synthesis of Europeanisation theoretical approaches

In this section, I will look into different operational mechanisms for measuring and analysing the Europeanisation process proposed by Radaelli, Howell, Schimmelfennig and Börzel. I will organize the analysis of these mechanisms according to the lines of research they are coming from. After this, I will propose the general framework these mechanisms can be embedded in. The overall synthesis will form a Hybrid Theoretical Model, which I will use to analyse empirical data in the next chapter.

4.2.1 Top-down mechanisms

The top-down approach lacks capacities to track the Europeanisation of same-sex partnerships policy in Poland[40]. However, I will look in detail into the mechanisms of this approach before omitting it. In Radaelli's model (2003: 41) there are three top-down mechanisms. First, one is Coercion, and it works only with the presence a

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[40] Based on the evidence from the section *4.1.1*.

European policy model and the pressure from the EU to adapt this model, which is lacking in the case of same-sex partnerships. The second one is Mimetism. It assumes that if many member states will adopt the same EU policy, other states will feel the pressure to join in attracted by the EU 'centre of gravity'. However, this mechanism also requires an EU policy model. Additionally, I can assume that the critical mass of member states, which recognized same-sex unions is still not enough to change opinion of Polish decision-makers on such a controversial subject. The third Radaelli's top-down mechanism is Negative Integration. It works without the EU policy model, but only in case of specific policies related to removing of barriers by the EU in order to create integrated markets. This is the case of policies related to trade, investment, freedom of establishment, free circulation of people. However, it is not the case of same-sex partnerships policy. Moreover, the Polish status quo on recognition of same-sex couples obstructs the freedom of movement in the EU, thus building more barriers in the European Union, not benefiting to their removal (Bodnar, Sledzinska-Simon 2014: 240).

Börzel's top-down concept of 'goodness of fit' (Börzel, Risse 2003: 61) also lacks substance for the analysis of same-sex partnerships policy in Poland, since one of the two features, adaptational pressure from the EU on domestic policies, is not present in the case study. Adherents of a top-down approach might argue, that the 'goodness of fit' model describes the reality perfectly well, since same-sex partnerships policy was not implemented in Poland; therefore it is a case of 'misfit'. However, I believe that this displays the limits of the approach, rather than a correct prediction of Europeanisation outcome.

Finally, Schimmelfennig (2005: 10 - 16) along with his social learning model proposes the external incentives mechanism. However, it is also not applicable, since it was designed to analyse Europeanisation in CEE countries during pre-accession period. The main tool in this model, Accession Conditionality, is simply not applicable in the post-accession period. All the indicators that Schimmelfennig develops, such as determinacy of conditions, size and speed of rewards, credibility of conditionality, etc. cannot be accommodated to the case study in question. Based on the above, we can conclude that top-down mechanisms indeed do not possess

operational capacities to analyse the case of same-sex partnerships in Poland. Therefore, I will not use them in the Hybrid Theoretical Model.

4.2.2 Bottom-up mechanisms

Similar to down-loading, the up-loading mechanisms mainly tackle the macro-level of exchange between Member states' governments and the EU. Börzel (2002) proposes three strategies that the member states can apply to upload their domestic preferences, policy strategies or ideas to the EU level. The first strategy is Pace-setting, which means that the member state is '…actively pushing policies at the European level, which reflect a member state's policy preference and allows it to minimize implementation costs' (Börze 2002: 194). The second strategy is Foot-dragging or '…blocking or delaying costly policies in order to prevent them altogether or achieve at least some compensation for implementation costs' (Börze 2002: 194). Finally there is a Fence-sitting strategy, which assumes that the members state is '…neither systematically pushing policies nor trying to block them at the European level, but building tactical coalitions with both pace-setters and foot-draggers' (Börze 2002: 194).

The issue with these mechanisms is that they similarly to top-down ones presuppose the existence of an EU policy. However, Börzel does not explicitly highlight this as a crucial factor. Thus, her mechanisms can be adapted to the case of same sex-partnerships policy in Poland. The Polish government seems to employ the strategy of foot-dragging, which works preventively to block the development of any EU policy[41] regarding marriage equality or changing the status quo of the family law competences in the EU. In her paper, Börzel (2002: 203) describes foot-draggers as showing a poor compliance with EU law due to the high cost of the policy, lacking action capacities and alternative policies to upload. This description seems to fit the Polish case, where the political costs of recognizing LGBT rights are very high and alternative policies are non-existent. In the next chapter, I will analyse in detail using secondary sources and in-depth interviews with LGBT NGOs leaders if this assumption is correct.

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[41] Or attempts of other Member states to upload it

4.2.3. Horizontal mechanisms

Howell (2004: 6) distinguishes two levels of cross-loading: macro and micro. The macro mechanisms involve intergovernmental procedures and governments learning from each other, the micro mechanisms include sub-national interaction and learning through group intermediation. However, since the Polish governmental institutions follow the strategy of opposition to any reforms in the area related to same-sex couples rights and pursue the status quo in family law, only the micro mechanisms of cross-loading seem to be applicable. At the same time, we can distinguish micro – micro and micro – macro exchange, or in other words sub-national organizations[42] can transfer knowledge, experience and policies not only from other sub-national units, but also from the governmental institutions in different Member states. In the next chapter, I will analyse if this is the case in Poland and what are the roots of Polish same-sex partnerships policy documents and concepts.

Radaelli (2003: 43 – 44) also proposes three mechanisms of horizontal interaction, which he labels as Framing Mechanisms. These are: Minimalist and non-compulsory EU regulations, Open Method of Coordination, and Network mode of governance. They differ from Howell's and Pomorska's understanding of horizontal exchange. For Radealli horizontal mechanisms' main features is the lack of the EU's direct pressure on the Member states to transform policies, not interaction between Member states. Therefore, one of his horizontal mechanisms includes the EU as a facilitator of the transfer process and two others do not involve exchange between member states at all. I will start with the Radaelli's second Framing Mechanism, the Open Method of Coordination (Radaelli 2003: 43). This is a new non-binding EU tool for the diffusion of shared ideas and policy paradigms between Member states based on unanimity. More investigation is needed to detect if this mechanism was ever applied to deal with issue of marriage equality and what was the result of this interaction. I will analyse this question in the next chapter.

Next Radaelli (2003: 43) lists a minimalist and non-compulsory EU regulations mechanism taken from Knill and Lehmkuhl (2002). It refers to policy documents that

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[42] Mainly LGBT NGOs as the main activists in the area, but also pro-reform political parties

prepare the ground for major policy change by providing additional legitimacy to domestic reformers, altering perception of the problems, providing a new dimension for national policy and triggering learning dynamics or a different political logic. In order to be applicable to the case in question, it is necessary to expand the list from EU regulations to any official documents coming from the EU institutions, including resolutions of the European Parliament. This appears to be a legitimate adaptation, since in case of LGBT rights, very few regulations were issued by the EU, but at the same time the European Parliament was quite outspoken on the issue, which might have similar effect of empowerment and changing the discourse. In the next chapter, I will analyse if and how this mechanism might have made any change in Poland.

The last of Radaelli's horizontal mechanisms is the Network mode of governance (2003: 44). This mechanism assumes that the EU policy can change the understanding of member states leadership on what is the legitimate way of governance and how it should be practiced. According to Radaelli, this mechanism assumes that the most powerful effects of policy Europeanisation have long-term implications and go beyond the issue of 'power balance' and short-term consequences. However, the policies recognizing the rights of same-sex couples are quite new for the EU and even newer for Poland. Therefore, we cannot talk about their long-term implications and effects. Furthermore, at this stage, the policy debate in Poland appears to take place mainly in the framework of 'power play' between policy advocates and opponents. Therefore, I will omit this mechanism as currently non-applicable in Poland.

4.2.4 Social Learning mechanisms

In the previous section, I already described the gaps and content of Schimmelfennig's Social Learning Mechanism as well as proposed its extension to the 'negative' dimension. The expanded criteria of social learning takes into account the legitimacy or illegitimacy of new policy in terms of its clarity and credibility of the way it was established, identification of the domestic community with the EU and its rules or a feeling that they are alien as well as the resonance or disharmony of the new policy with already existing domestic rules.

The social learning mechanism stands somewhere on the intersection between up- and down- dimensions. It focuses on the motivation of local policy-makers and the

paradigmatic transformation of their thinking, or as Schimmelfennig calls it 'complex learning'. At the same time, it looks at the local context: values, norms and identities and existing policies. Lastly, it takes into account the content of a specific EU policy or in our case a policy concept (idea) and its correlation with the local context. All these features are highly relevant for the case study in question and will be further analysed in the next chapter.

An additional mechanism I will adopt from Schimmelfennig's work (2005: 21) is Lesson Drawing. It is a voluntary process of adopting EU rules, with no coercion involved. It appears as a response to domestic dissatisfaction with the status quo of the policy. In other words, it is the similar to the Social Learning mechanism only with transfer not induced by the EU. However, Polish governmental institutions are opposing reforms in family law and there is no EU model on marriage equality[43]. Thus, the lesson drawing mechanism cannot be adopted in the way Schimmelfennig understands it: voluntary downloading of best practices by Member states governments from the EU level. Yet, the logic of Lesson Drawing can be transferred into the micro level of a cross-loading dimension, where as we established before, policy practices transfer may occur. This would help to bring more operational capacities to the cross-loading mechanisms in Howell's interpretation. Schimmelfennig (2005: 21) distinguishes four strategies of new ideas or policies adoption as a part of the Lesson Drawing mechanism. The first one is Copying, which assumes direct and complete transfer. The second one is Emulation, which is an adoption with adjustments or transfer of the ideas behind the program. The third one is Combination, or in other words, mixture of policies from different places. Finally, there is Inspiration, which is described as a process of inspiring policy change with the final outcome not drawn on the original.

All four strategies seem applicable to the process of policy ideas, knowledge and experience transfer between sub-national actors and their counterparts in other member states. This mechanism will be tested in the next chapter with empirical evidence. At this point we can test transferability of this mechanism by applying four sets of factors that according to Schimmelfennig (2005: 22) enable lesson drawing.

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[43] As mentioned in the section *4.2.2*.

The first factor concerns the issue of Policy dissatisfaction. Schimmelfennig describes this feature as a factor that pushes policy-makers to make reforms under the threat of sanctions, which are the consequences of the lack or low quality of the policy. In my case study, policy dissatisfaction pushes LGBT activists to make a change under the threat of the impairment of their own rights or the rights of their beneficiaries and sanctions that might come as a result of NGOs inaction. The same can be applied to the pro-reform political parties and their electorate. The second factor is the presence of EU-centred epistemic communities. This factor refers to the technical part of the policy transfer, which, according to Schimmelfennig, strongly depends on the professional contacts of domestic policy-makers with experts promoting EU rules. This experts enable successful transfer of the new EU rules. On the level of NGOs and pro-reform parties, this factor has an even higher level of importance, since they are not that well-connected to the outside experts and have lesser capacities to establish these connections and bring expertise. The third factor is rule transferability, or in other words, whether the policy transferred from abroad can be adapted to the local context and have the same effect. This certainly applies to the case in question, considering that the same-sex couples face very similar problems in many EU states. Fourthly, Schimmelfennig mentions that new rules have to be politically acceptable, yet there will always be groups that are dissatisfied and can obstruct and even block the process: the veto players. This feature is very important in the Polish context on the macro level and will be discussed in the next section. In application to micro-level cross-loading it is also relevant, since it appears that LGBT NGOs as well as pro-reform political parties in Poland are quite diverse and dissociated. Thus, we can expect that they will have different agenda even in the framework of the same goal of recognition of same-sex couples. This is why some of them might potentially obstruct the cross-loading process.

Based on the above, I conclude that the Lesson Drawing mechanism, which assumes voluntary adoption of new rules based on dissatisfaction with existing policy, can be applied to the micro level of the cross-loading mechanism[44].Thus, it will be included

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[44] This mechanism assumes that the non-governmental actors from one member state can participate in the exchange of policy practices and knowledge with governmental or non-governmental actors from other member states.

in the Hybrid Theoretical Model. Having assessed and selected the mechanisms[45] I will move to the final section of this chapter, where I will discuss the General Framework in which these mechanisms will be integrated.

4.2.5 General framework

The described above mechanisms from four lines of theoretical approaches are the most important operational part of my Hybrid Theoretical Model. However, they need to be harmonised and arranged in an overarching framework in order to make a final conclusion and offer a general assessment of the Europeanisation of same-sex partnerships in Poland. Below I will discuss the possible domains and outcomes of Europeanisation as well as important intervening variables, which obstruct the overall process.

As mentioned at the beginning of this chapter, the main theoretical approaches as well as mechanisms of Europeanisation are focused on different domains of the process. Some of them describe the actions of domestic actors, some focus on change in ideas and beliefs, others detect the changes in public policy and some try to register structural change. Therefore, it is important to map all the possible domains of change that can be related to the case study in question. Radaelli (2003: 35 - 37) proposes a list of these domains of Europeanisation, which can be seen below in Table 1.

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[45] In the Hybrid Theoretical Model, I will use the following mechanisms:
- Vertical transfer: uploading;
- Horizontal transfer: Open Method of Coordination, non-compulsory EU regulations (expanded to any EU level documents) and micro level lesson drawing;
- Social learning (expanded in the negative dimension).

Table 1 Domains of Europeanisation

Domains of Europeanization	Extent and directions of Europeanization
Domestic Structures Domain 1. Political Structures a) Institutions (e.g. cabinet - assembly relations) b) Public Administration c) Intergovernmental Relations d) Legal Structure 2. Structures of Representation and Cleavages a) Political Parties b) Pressure Groups c) Societal-Cleavage Structures	
Public Policy Domain a) Actors b) Policy Problems c) Style d) Instruments e) Resources	
Cognitive and Normative Structures Domain a) Discourse b) Norms and Values c) Political Legitimacy d) Identities e) State Traditions - Understanding of Governance f) Policy Paradigms, Frames and Narratives	

This list is clearly superfluous for the case study in question. We can assume with a high degree of confidence, that Europeanisation of same-sex partnerships in Poland did not affect the Political Structures Domain as presented by Radaelli. However, it might have had an influence on some Structures of Representation and Cleavages, especially Pressure Groups such as LGBT NGOs and to a lesser extent on Political Parties. Therefore, they can be transferred to the Hybrid Theoretical Model. As the public debate on same-sex partnerships started after Poland joined the EU (and is a by-product of Europeanisation), we can assume that Europeanisation influenced the

crystallization of all the points in the Public Policy Domain sub-category as well as the change of Policy Paradigms, Frames and Narratives. Therefore, all these points will be transferred to the Hybrid Theoretical Model. Finally, Europeanisation might have influenced some Cognitive and Normative Structures. As mentioned above those are definitely Discourse and Policy Paradigms, Frames and Narratives. Other points should be subjected to more careful analysis, as from the first sight Norms and Values; Identities; and State Traditions - Understanding of the Governance did not change, but might have been affected on some level. As for the Political Legitimacy, here we might discover the opposite effect of Europeanisation, since the policy is strongly contested. The question I will try to answer, is if it became more or less legitimate due to Europeanisation. In the next chapter, I will test all the assumptions made above regarding the influence of Europeanisation on different domains with the empirical data.

After mapping the domains of Europeanisation and distinguishing different mechanisms that influence these domains a question of the final result appears on the horizon. What is the outcome of the Europeanisation of same-sex partnerships in Poland today and how is it to be measured. Radelli (2003: 37 - 38) suggests four possible final outcomes of Europeanisation, that can be applied to each of the domains listed above. He draws these outcomes upon research by Börzel (1999), Cowles et al. (2001), Héritier (2001), and Héritier and Knill (2001). However, they do not appear to be tailored specifically for Europeanisation research. Quite the opposite, they seem universal in their application. Therefore, I will include all of them in my Hybrid Theoretical Model. Outcomes distinguished by Radealli are presented in Table 2.

Table 2 Outcomes of Europeanisation

-	0	+	++
Retrenchment	**Inertia**	**Absorption**	**Transformation**
Strengthening of the opposition to the EU reform	Lack of change	Adaptation, non-fundamental changes	Paradigmatic change

Radaelli (2003: 39 - 40) also suggest indicators to measure the degree of change in each of the outcomes. Unfortunately, most of them describe only institutional change,

which is not applicable to the case in question. Therefore, I will not include these indicators and will try to assess the final outcome of Europeanisation based on insights gained from my analysis in the next chapter.

4.2.6 Intervening Variables

The final but a very important elements in my Hybrid Theoretical Model is the so-called Intervening Variables, proposed by Radaelli (2003: 46 - 50). They play a significant role in the case of same-sex partnerships policy in Poland, since they represent the obstruction and blocking factors, which stands in the way of Europeanisation of the policy reform. Many of them are overlapping with already mentioned concepts and mechanisms developed by other scholars, which only proves their importance and validity. Therefore, I want to reinforce them in this section and underline their importance for the outcomes of Europeanisation of the same-sex partnerships in Poland. Radealli (2003: 47) proposes the following Intervening Variables:

1) *Veto players in the political system*. This variable was already introduced on the micro level of the adapted Lesson Drawing mechanism by Schimmelfennig. In this case, we are looking at the macro level and all the possible players that obstruct the reform. Radaelli distinguish formal and informal players, their power and quantity as well as heterogeneity of their interests as the main indicators for the measurement of this variable, which is very relevant for the highly contested case of same-sex partnerships policy in Poland.

2) *Scope and type of executive leaderships in the country*. According to Radaelli, it is important if the leadership has integrated or fragmented a position towards the policy reform. If it is highly fragmented the chances of EU-induced change is less probable. In the Polish case, a large percentage of the executive leadership opposes the reform, becoming the most important Veto Players. At the same time, the last attempts to introduce same-sex partnerships policy displayed a strong division of the leadership on the issue[46] (Borowski 2013).

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[46] See section *1.1*.

3) *Timing of the policy*. According to Radaelli, it takes into account if the country is already involved in the process of reform and prepared for it. This variable is similar to a more broad Resonance criteria of Schimmelfennig's Social Learning mechanism described above. Therefore, I will not include it in the Hybrid Theoretical Model.

4) *Technocratic capture potential*. According to Radaelli it refers to the technocratic level of governing elites and their potential to implement policies on their own. This variable seems irrelevant for the case in question, since governing elites are not the main driving force of the reform, but very frequently its obstructers. Thus, their technocratic potential does not make any difference.

5) *Adaptation-implementation balance*. Radaelli suggests that the more difficult implementation of the policy appears to be, the less chances it has for adoption. Another feature that seems irrelevant because the level of the debate on the same-sex partnerships policy in Poland has not yet matured enough to discuss potential implementation. Otherwise, we can assume that implementation costs of this policy should be quite low, since it requires mainly the change in legal documents.

6) *Presence of legitimate policy discourse*. This variable overlaps with more broad Legitimacy of Rules and Processes criteria of Schimmelfennig's Social Learning mechanism, which involves the possibility of paradigmatic change and EU's powers of persuasion. Therefore, it will not be included in the Hybrid Theoretical Model.

7) *Impact of EU policy on domestic policy coalitions*. Also overlaps with Schimmelfennig's micro level of Social Learning mechanism, when the EU persuades governments not directly, but through empowering local pro-reform proxies, which in turn lobby the government. This process is explicitly evident in case of LGBT NGOs in Poland that have become much stronger after the country joined the EU. For example, scholars like O'Dwyer (2012) have built their entire research on the analysis of this single variable.

Taking into account the discussion in this chapter, the graphic presentation of Hybrid Theoretical Model can be seen in Figure 1:

Figure 1 Hybrid Theoretical Model [47].
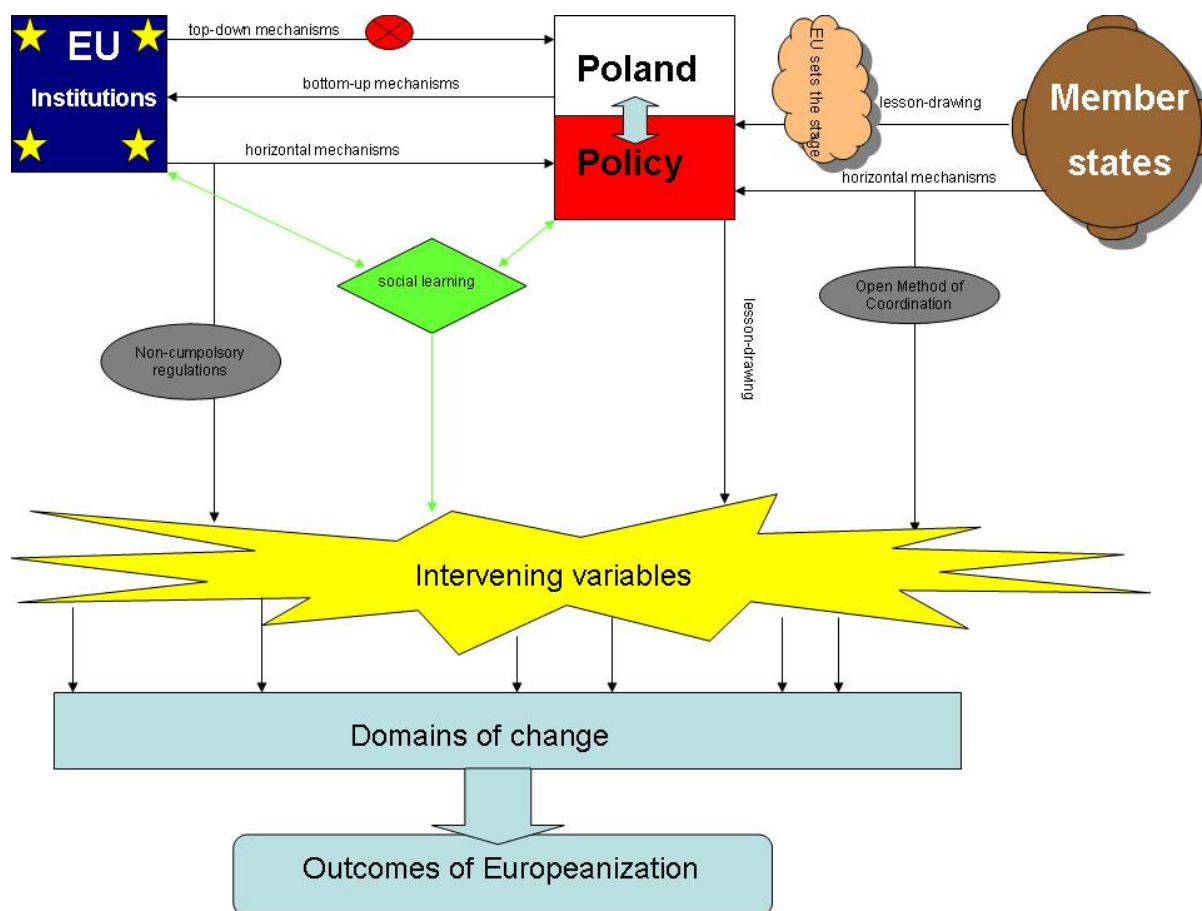
[47] The main elements of the Hybrid Theoretical Model are presented in Figure 1 are the EU institutions, EU member states, Poland as a state and the same-sex partnerships policy. There are several types of exchanges happening between these elements, which are the mechanisms of Europeanisation. They can be classified as vertical, horizontal and social learning mechanisms, which stands somewhere on the intersection of the previous two. At the same time, there is an exchange inside Poland between policy advocates and the leaderships representing Poland as a state. More specifically, these are:

- Top-down mechanisms (not applicable)
- Bottom-up mechanisms (transfer from Poland to EU institutions) ;
- Lesson-drawing (transfer from governmental and non-governmental actors in EU member states to the policy in Poland (through advocates), in circumstances when the EU only sets the stage for the transfer);
- Open Method of Coordination (transfer from member states with supervision of EU institutions to the policy in Poland);
- Non-compulsory EU regulations (transfer from EU institutions to Poland);
- Social learning (transfer on the intersection of the EU institutions, local actors and the policy, which takes into account such factors as legitimacy, identification and discourse as well as the resonance of the policy with already existing rules).

All the mechanisms are influencing the change in the domains and lead to the final outcome of Europeanisation. However, on the way there are intervening variables, which obstruct or support the success of the policy, such as veto players, homogeneity of the leadership in the country and the impact of the policy on the domestic coalition of advocates.

4.3 Conclusion

The case of the Europeanisation of same-sex partnerships policy in Poland presents a challenge to all major theoretical approaches of the 'Europeanisation School'. The main reason is the lack of an EU policy model and the pressure to reform. However, in this chapter I have established that Europeanisation can take broader meanings and can exist without an EU policy model and adaptational pressure. However, the lack of these factors obstruct analyses of Europeanisation through existing theoretical approaches. In this chapter, I tested the potential of major Europeanisation theoretical approaches to accommodate the case study of same-sex partnerships policy in Poland. Some of them turn out to be entirely inapplicable, others required some adaptation. However, none of them individually had the potential to explain the case study. This is why they had to be accommodated and synthesized in a framework that I call Hybrid Theoretical Model.

In the next chapter, I will test the Hybrid Theoretical Model by adjusting the empirical data I gained through in-depth interviews with the leaders of Polish LGBT NGOs in its framework. Through this test, I will explain and assess the influence of the EU on the development of same-sex partnerships policy in Poland. If the Hybrid Theoretical Model will pass this test, it will prove to have the potential to explain other similar cases of Europeanisation. I will also continue to use the bottom-up research design, looking firstly at the policy development in Poland and then linking it to the EU level.

Chapter 5. Analysis of empirical data: testing the tailored theoretical model on the case of Europeanisation of same-sex partnerships policy in Poland

In the previous chapter, I analysed the theoretical approaches, which will help me to analyse the influence of the European Union on the development of the same-sex partnerships policy in Poland. I combined relevant elements from 'Europeanisation school' theoretical models[48] into a single 'multidimensional' framework, which I call the Hybrid Theoretical Model. In this chapter, the model will be subjected to the test by empirical data. Using the Hybrid Theoretical Model I will explain the dynamics and mechanisms of the EU influence on the development of same-sex partnerships policy in Poland. In the previous chapters, I have built the understanding of how this process works using only secondary data[49]. In this chapter, I will confirm or disprove previously made assumptions with first-hand and up-to-date empirical data[50].

In the first part of this chapter, I will describe the specific procedures I will use to make sense of the collected empirical data. I will apply the technique for preliminary data analysis based on Grounded Theory methodological design introduced in Chapter 3. It will help me to aggregate, categorize and assess phenomena most frequently mentioned by all respondents. In the second part of this chapter I will incorporate these phenomena in the framework of the Hybrid Theoretical Model and describe each of them based on the collective assessment provided by respondents. As a result, using the Hybrid Theoretical Model I will explain the relations and dynamics between the EU and same-sex partnerships policy in Poland.

5.1 Open Coding as a tool for preliminary data analysis

The first step of the analysis in Grounded Theory is so-called Open Coding. It is a very first stage of analysis concerned with identifying, naming, categorizing and describing phenomena found in the text. Essentially, each line, sentence, paragraph etc. is read in order to identify what it stands for. The researcher identifies the meaning of the data by asking questions, making comparisons, looking for similarities

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[48] Drawn from the works of scholars such as Radaelli, Howell, Börzel, Schimmelfennig, etc.
[49] Such as insights from academic literature, official documents and statistics.
[50] Acquired from the interviews with the LGBT NGOs leaders, who are at the centre of the same-sex partnerships policy-making.

and differences between comments. Similar comments (i.e. phenomena) are labelled and later grouped together to form two basic units: Categories[51] and Concepts[52]. Once all the text has been categorized into units, they are examined to identify Properties of each Concept or Category. During this work, the researcher might use field notes as an additional tool to help label and categorize phenomena (Borgatti 2006).

The volume of data analysed using Grounded Theory usually is quite large. Therefore, I put the description of all procedures in *Appendices 3 – 6,* presenting in this chapter only the results. On the first stage of Open Coding, I categorized the main topics and phenomena from the each interview[53]. On the second stage of Open Coding, I gathered the key words and phrases, which were referring to the same ideas and concepts and were repeated from one interview to another under broader and more general labels of Concept and Categories[54]. The results of this work are presented in the Table 3 below[55].

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[51] First level, more broad units.
[52] Second level, more concrete units, which are formed from first level units.
[53] For the details of this process, see *Appendix 3 – 1ˢᵗ stage of Open Coding*.
[54] Following Grounded Theory criteria.
[55] For the details of this process, see *Appendix 4 – 2ⁿᵈ stage of Open Coding: Categories and Concepts*

Table 3 Concepts and Categories

Category	Concept
EU INSTITUTIONS INFLUENCE	Biding instruments Non-biding instruments Financial Support Change of context EU Mobility
ECtHR / CoE INFLUENCE	CoE instruments ECtHR instruments
POLISH POLICY UPLOADING	
POLISH POLICY CROSS-LOADING	Justification PACS bill German model bill Scandinavian model bill Non-EU Sources of Policy
STRATEGY OF POLICY DEVELOPMENT	Lack of unity Less for less strategy Methods of data gathering From civil unions to marriage equality
POLICY IMPORTANCE	Importance for LGBT NGOs Importance for politicians Importance for population Importance for media
VETO PLAYERS	Conservative Politicians Catholic Church Public administration
CONSTITUTIONAL DEADLOCK	
CONFLICT IN POLITICAL LEADERSHIP	
DISCOURSE	EU discourse Conservative values discourse Public opinion
POSSIBILITY OF CHANGE	Change of public perception through discourse Change of political structure

Grounded Theory is very flexible when it comes to the description and linking of the units. In my case, the coding went by such a path that made Concepts the main unit of

analysis[56]. Each Concept in turn, has its internal structure. This structure is the most important part of analysis, since through it all units of higher levels are described. In Grounded Theory, this structure is called Properties and represents the generalised common assessment the interviewees gave to each Concept[57].

To sum up, all frequently referred phenomena in all 10 interviews were labelled, merged together and generalised to create a 3-level explanatory structure. The main units are in the middle of this structure and called Concepts. Each of them is described through more detailed explanatory structure called Properties. Some of the Concepts, if they have in common the same broad feature, are united to form a more general unit called Category. In the next section, I will analyse how all these units can fit the Hybrid Theoretical Model.

5.1.1 Adjusting empirical data to hybrid theoretical model

The next step following Open Coding in Grounded Theory is Axial Coding, which implies examining how different Concepts and Categories are related to each other. Building connections and establishing relations between units is the first step in developing the theoretical model, which is the main aim of Grounded Theory. However, since in this research the theoretical model was already developed and needs to be tested the use of Axial Coding is unnecessary (Borgatti 2006).

The main aim of this chapter is to test the Hybrid Theoretical Model and through it explain how EU influences the development of same-sex partnerships in Poland. Therefore, instead of linking together the units of empirical analysis[58], I adjust them to the framework of Hybrid Theoretical Model[59]. Below Table 4 demonstrates how the Concepts created basing on the empirical data analysis are smoothly fitting the framework of the Hybrid Theoretical Model.

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[56] Except the cases, where there are none.
[57] To understand how Properties are structured inside Concepts, see *Appendix 5 - Example: Properties describing the Concept*.
[58] Categories, Concepts and Properties, which I developed in the previous section
[59] For the details of this process, see *Appendix 6 - Fitting Empirical Concepts into the Hybrid Theoretical Model*

Table 4 Fitting Empirical Concepts into the Hybrid Theoretical Model

Theory Unit	Concept	Category
Top-down Mechanisms	Biding instruments	EU INSTITUTIONS INFLUENCE
Bottom-up Mechanisms		POLISH POLICY UPLOADING
Horizontal Mechanisms: Minimalist and non-compulsory regulations	Non-biding instruments Financial Support CoE instruments ECtHR instruments	EU INSTITUTIONS INFLUENCE ECtHR / CoE INFLUENCE
Horizontal Mechanisms: Open Method of Coordination	N/A	N/A
Horizontal Mechanisms: Micro Level Lesson Drawing Strategies	Sources of Policy PACS bill German model bill Scandinavian model bill Non-EU	POLISH POLICY CROSS-LOADING
Social Learning: Legitimacy / Illegitimacy	EU discourse Conservative values discourse Change of public perception through discourse	DISCOURSE POSSIBILITY OF CHANGE
	Quality Justification Less for less strategy Methods of data gathering Lack of unity	POLISH POLICY CROSS-LOADING STRATEGY OF POLICY DEVELOPMENT
Social Learning: Identity / Otherness	EU Mobility	EU INSTITUTIONS INFLUENCE

Social Learning: Resonance / Disharmony	Importance for LGBT NGOs Importance for politicians Importance for population Importance for media	POLICY IMPORTANCE CONSTITUTIONAL DEADLOCK
Intervening Variables: Veto players in political system	Conservative Politicians Catholic Church Public administration Change of political structure	VETO PLAYERS POSSIBILITY OF CHANGE
Intervening Variables: Scope and type of executive leaderships in the country		CONFLICT IN POLITICAL LEADERSHIP
Intervening Variables: Impact of EU policy on domestic policy coalitions.	Change of context From civil unions to marriage equality	EU INSTITUTIONS INFLUENCE STRATEGY OF POLICY DEVELOPMENT
DOMAINS		
OUTCOMES		

After matching the mechanisms of the Theoretical Hybrid Model with the Concepts and Categories based on the empirical data, I will move to the next section, where by describing the Properties of each Concept[60] from the Table 4, I analyse how the EU influences same-sex partnerships policy development and how well Hybrid Theoretical Model is able to register and explain this process. This second level of my analysis is presented in the section below.

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[60] And several Categories, which do not have Concepts in their structure

5.2 Describing Hybrid Theoretical Model through Empirical Data

In the section above, I described how the empirical data was aggregated and sorted in different Concepts and Categories using Grounded Theory techniques. These units were used to structure the empirical data and align it with the main elements of my theoretical model. In this section, I will move from the discussion of the structure, to the discussion of the content. Through this, I will provide the analysis of the EU's impact on same-sex partnerships policy in Poland. The empirical data content is encased in the third-level units called Properties[61]. The structure of the argument in this section will be based on unpacking theses units and analysing them. The Hybrid Theoretical Model will be used as a framework for this process, which means that I will follow the order in Table 4[62]. Hence, in every following sub-section I will analyse how each mechanisms of the Hybrid Theoretical Model works within the case study, basing on the evidence from the empirical data,

5.2.1 Vertical mechanisms

Top-down mechanisms

In the section *4.2.1*, I excluded the top-down approach from the Hybrid Theoretical Model. The main reason for it was the impossibility to apply any of the tools[63]. The interviews confirmed that the top-down approach was rightfully excluded from the Hybrid Theoretical Model[64]. Interviewees confirmed that in relation to the same-sex partnerships policy there is no possibility for the EU to introduce any binding regulations. The reason is that the EU does not have a stand on this issue, nor the competences, and recognition of same-sex partnerships remains a controversial issue

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[61] For examples, see *Appendix 5 - Example: Properties describing the Concept.*
[62] See column 'Theory Unit' in Table 4.
[63] These tools were proposed by the scholars such as Radaelli, Schimmelfennig or Börzel on which works I based my model. The inapplicability of these tools stems from their nature as well as the conceptualization of Europeanisation, since they all presume that there is a consolidated EU policy, which is being transferred from the EU level to member states level. In case there is no such policy, the top-down approach cannot detect any change. Hence, it does not posses operational capacity for the case of same-sex partnerships policy in Poland.
[64] See *Table 4 – Concept 'Biding instruments'*.

among EU countries[65]. In such circumstances, no consolidated policy can be elaborated on the EU level, since it would be inevitably blocked. One example of a controversial policy from a similar area is the EU antidiscrimination directive, which has remained blocked in the Council since 2008 (Casinge 2014). As for competences, the family and marriage law is an exclusive competence of the Member states (Civil Justice 2015, CFR 2000), thus the EU can not enforce anything in this area[66].

Almost all of the interviewees mentioned the importance of the EU in the past enforcing non-discrimination regulations into the labour code as a part of conditions to accede to the European Union[67]. According to several interviewees, Poland has references to sexual orientation in its laws only due to EU pressure, since the only laws that have these references were enabled by EU directives. However, as these directives are of 2000, 2004 and 2006 and are not aimed directly at same-sex partnerships from the point of view of the Top-down approach they did not had any effect on this policy in Poland.

Bottom-up mechanisms

The testimonies of respondents confirmed the earlier assumption made in section *4.2.2* that the Polish government as well as governmental representatives in the Council of Ministers are actively using uploading techniques[68] to alter, block or delay the politically costly policies, which would in any way recognize the rights of the same-sex couples on the EU level[69]. This includes resisting any modifications or innovations in the EU legislation related to family law[70] that would mention same-sex couples (Tinney 2010: 2). The reason is that the Polish government is afraid that this will open a back-door in Polish law for same-sex couples to get recognition.

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[65] 19 out of 28 countries such as Spain or Germany recognized the rights of same-sex couples through marriage and partnerships. The other 9 EU states oppose the reform or block it through Constitutional bans like Latvia or Bulgaria (Lipka 2015).
[66] Additionally, Poland opted-out from the EU Charter of Fundamental Rights, eliminating any possibility of EU pressure (Statewatch 2008).
[67] Confirming the earlier findings by Brzezinska (Brzezinska 2011: 126).
[68] See *Table 4 – Category 'POLISH POLICY UPLOADING'*.
[69] This is a description of a typical Foot-dragger strategy, according to Börzel's (2002: 194) criteria.
[70] Which exclusively belongs to the competence of the Member states.

Respondents mentioned the case of the EU directive on matrimonial property regimes, which originally was designed to include same-sex couple's right to inherit property (Siedlecka 2015). It met active opposition from the Polish government, which demanded that it should refer only to opposite-sex couples. Another example to which respondents referred is the Polish opt-out from the EU Charter of Fundamental Rights due to the same fear of opening back-door opportunities for same-sex couples[71]. One of the respondents highlighted that the Polish Ministry of Justice also protested against any possibility of multilateral recognition of same-sex unions registered in different EU states during discussions on European Private International Law, which sets regulations regarding law that governs conflicts of jurisdictions and the choice of law in the EU. Bodnar and Sledzinska-Simon (2014) also refer to this case, adding that the Polish Ministry of Justice on behalf of the Government also protested against the EU Commission's proposal on the 'Council Regulation on jurisdiction, applicable law, and the recognition and enforcement of decisions regarding the property implications of registered partnerships' (EC 2011). In its statement, the Ministry of Justice rejected '…imposed necessity to pass any regulation of this kind' (Bodnar, Sledzinska-Simon 2014: 242). Lastly, the Polish government also expressed critical comments when some of the Member states wanted to pass the same Regulations through the enhanced cooperation under Art. 20 TEU and 326–334 TFEU, emphasizing that family law issues are within the exclusive competences of the Member states and any modifications would indirectly introduce same-sex unions into the Polish legal system (Bodnar, Sledzinska-Simon 2014: 241-242).

According to my interviewees, Poland in general will use the typical Foot-dragger approach[72] of implementing the minimum necessary legislation at the slowest possible pace, if there are any binding directives that Poland considers politically costly or outside EU competence. Two cases supporting this point were mentioned by respondents. First, it is the non-discrimination directives, when Poland complied after six years and only because the Commission threatened to sue the country in the Court of Justice of the EU and charge a huge fee (Brzezinska 2011: 126). Second, it is the victims rights directive, when Poland made a very vague project in order to

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[71] The opt-out was the Polish way to secure family law from any interventions from the Court of Justice of the European Union (Protocol No. 30 2007; CFR 2000; Statewatch 2008).
[72] See description by Börzel (2002: 203) in section *4.2.2*.

implement the minimum of demands framed in the directive (Directive 2012/29/EU). Therefore, I can suggest that Polish governmental representatives in the EU institutions are perfectly aware of their country's agenda on LGBT rights and use all opportunities to upload their interest and prevent the change of the status quo on same-sex unions.

5.2.2 Horizontal mechanisms

Minimalist and non-compulsory regulations

All respondents mentioned the impotence of the EU institutions to influence a change in Poland's stance on LGBT rights without using coercion, force and threats[73]. Interviewees agreed that the EU institutions make systematic pushes in the framework of non-binding instruments and their competence[74]. However, most of them highlighted that none of these non-compulsory regulations (and consequently the EU institutions in general) have any effect on the situation with same-sex partnerships and LGBT rights in general in Poland.

One of the most mentioned examples were three EP resolutions regarding LGBT rights, especially of 2006 on racism and homophobia addressed to Poland (O'Dwyer 2010: 344) and of 2015 recognising the same-sex marriage as a human and civil rights issue (EP Resolution 2015). These resolutions did not lead to any positive reaction from the Polish Government or the Parliament, and in the case of the 2006 resolution, Polish MPs passed a furious counter-resolution refuting the EP's charges[75] (O'Dwyer 2012: 345). Another example, mentioned by respondents, was the EU Agency for Fundamental Rights Report of 2013. It raised the issue of discrimination of same-sex couples and was very visible in the Polish mass-media (FRA Annual Report 2013). However, it did not lead to any reaction from Polish MPs or the government.

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[73] The reoccurring example was the mentioned above threat by the Commission to sue Poland for not implementing non-discrimination directives (Brzezinska 2011: 126).

[74] See *Table 4 – Concept 'Non-biding instruments'*.

[75] At the same time the Speaker of the Polish Parliament, Marek Jurek, declared that the resolution 'promoted an ideology of homosexual communities' (O'Dwyer 2012: 345).

Among other examples is the petition of Campaign Against Homophobia which was sent to the EP's Committee on Petitions in 2010 requesting it to investigate discriminatory practices by Polish registry offices, which refused to issue birth certificates required to establish same-sex unions abroad (KPH 2010). However, according to one of the respondents, after recommendations of the Committee to change the law allowing LGBT citizens to obtain their certificates, no actions were taken by the Polish Ministry of Internal affairs on this matter. Furthermore, interviewees highlighted that sometimes no actions were taken by the EP when activists addressed this institution on a particular matter. One example was a refusal of the EP Intergroup on LGBT rights to support the draft of the Polish Gender Accordance Act[76] (Grodzka, Śledzińska-Simon 2014). The reason given by the Intergroup was that they are 'not in position to support it'[77]. These examples contribute to the distrust of Polish LGBT activists towards EU institutions as agents of change. Additionally, the lack of or difficulty to access EU funds[78] for LGBT related issues was mentioned by most of the interviewees as another serious reason for EU institutions' impotence to influence the situation in Poland.

At the same time, several respondents mentioned the importance of the Council of Europe (CoE) and the European Court for Human Rights (ECHR) in Strasbourg as a more important international actor than the European Union. There are several reasons listed by respondents, which make the CoE a more efficient mechanism[79].

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[76] The Gender Accordance Act is the first Polish gender recognition bill, which was passed in the first reading in lower house of the Parliament (Sejm) in July 2015. The law regulates the procedure of transition (multi-step process of aligning anatomy with gender identity) for transgender citizens. Unmarried citizens would not need to undergo any more the surgery or hormone therapy in order to be eligible to apply for a new birth certificate, educational or employment documentation. Only two independent conformations from a psychologist or a doctor would be required to prove that the person's gender identity is different from the legally assigned gender (Williams 2015).

[77] As referred by one of the respondents working directly with the bill.

[78] See *Table 4 – Concept 'Financial Support'*.

[79] See *Table 4 – Concept 'CoE instruments'*.

Firstly, unlike the EU, the CoE has a stance on same-sex unions, which is embodied in the decisions of the ECtHR[80]. Secondly, the CoE's Commissioner for Human Rights that has a broader and older mandate than the EU Special Representative for Human Rights, who was appointed only in 2012 (EU Special Representatives 2015; The Mandate 2015). This allows the Commissioner to be more outspoken and specific on the issue of same-sex partnerships[81]. Thirdly, the Parliamentary Assembly of the CoE (PACE) is less dependent on politics than the EP due to its structure, political composition and the way MPs get their seats[82]. According to the majority of respondents, all these factors make the CoE as an organization as well its individual members more supportive, outspoken and have more potential to raise a common voice on LGBT issues. Some of the respondents shared their experience of when the CoE was more supportive than the EU institutions, like for example in case of the already mentioned Gender Accordance Act[83]. At the same time, one of the interviewees mentioned his disappointment due to the fact that the shadow report on LGBT discrimination in Poland for the CoE's European Commission Against Racism And Intolerance (Information Paper 2014) prepared by Polish LGBT NGOs in 2014 did not lead to any pressure on the Polish government or to any visible effect in Poland.

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[80] In this regards, the most important one is the decision on the case of *Oliari and Others v. Italy*. The ECtHR on 21 July 2015 ruled that Italy by not recognizing same-sex couples and not giving them legal protection violates their human rights. The ECtHR determined that European states that signed the European Convention on Human Rights (ECHR) have certain positive obligations to ensure respect for the human rights, including through a legal framework, which would allow same-sex couples to have their relationships recognized and protected. (Oliari v. Italy : 150). ECtHR took into account the recent decision of the US Supreme Court to recognize same-sex marriages as a constitutional right (The Economist 2014). It also highlighted that same-sex couples are just as capable as different-sex couples of entering into stable, committed relationships, and that the majority of CoE states already legislated in favour of such recognition and relevant protection (Oliari v. Italy : 1655, 178). However, previously in July 2014 the ECtHR had ruled that the ECHR does not require countries to grant access to marriage to same-sex couples (Gennarini 2014).

[81] , The Commissioner believes that same-sex partnerships should be legally recognized in Europe (CoE 2009).

[82] . In PACE MPs according to 'balanced appointment' from the member states. In EP MPs get elected directly by the EU citizens (PACE in brief 2015, EP 2015). Also PACE unlike the EP is currently dominated by the Socialist Group, which is more open to LGBT rights than centrists in the EP (Political groups 2015).

[83] According to one of the respondents, the Gender Accordance Act received support from the CoE's Sexual Orientation and Gender Identity Unit (SOGI 2015) as well as CoE's Commission for Human Rights in form of statements and letters addressed to the decision-makers in Polish administration government.

Lastly, the decisions of the ECtHR[84] regarding the violation of same-sex couples' rights are binding for Poland as a signatory of the ECHR (Signatures and ratifications 2015). Although, these case law decisions cannot change the legislation in the country and their implementation might take long time, the practice shows that they are taken into consideration by the Supreme and local Polish courts as in case of *Kozak vs Poland*[85]. Additionally, respondents believe that these decisions can serve as a backbone for the pro-reform movement to justify future same-sex partnerships policies.

Based on the examples mentioned above, we can state that the EU minimalist and non-compulsory regulations are permanently present but not efficient in influencing same-sex partnerships policy in Poland. Talking about non-compulsory regulations the interviewees did not mention any documents coming from the European Council. Only the European Parliament with its committees or EU agencies such as Fundamental Rights Agency seems to provide such regulations when it comes to LGBT rights. The reason behind it might be that the European Council does not issue any documents of that sort or that they are somehow left unnoticed by the respondents. At the same time, the European Parliament seems to be sometimes not very responsive, when LGBT activists address it directly. This leads LGBT activists to ask support in alternative international organizations such as CoE, which sometimes can give more support, yet in other cases also lack influence on Polish authorities.

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[84] See *Table 4 – Concept 'ECtHR instruments'*.

[85] The case of *Kozak vs. Poland* concerns the right to enter into a lease agreement after the death of a homosexual partner. Mr Kozak lived with his partner for nine years in the same flat. The tenancy agreement was in the partners' name. After the partner died in 1998 Mr Kozak applied to authorities to conclude the lease agreement. However, authorities rejected Kozak's application. The local court interpreted the provision of the Housing Allowance act as not applicable to homosexuals, since under Polish law marriage is only possible between a man and a woman (Bratza 2010: 34). However, the Strasbourg Court ruled otherwise, basing on previous similar cases violating Art. 8 and 14 ECHR as *Karner vs. Austria* (Rozakis 2003) and new provisions of Polish Civil Code. Most importantly, the Strasbourg court underlined that States may protect meaning of traditional marriage, but should also 'take into account developments in society and changes in the perception of social, civil-status and relational issues, including the fact that there is not just one way or one choice in the sphere of leading and living one's family or private life' (Bratza 2010: 99).

The Open Method of Coordination

The Open Method of Coordination[86] is a new non-binding EU tool for the diffusion of shared ideas and policy paradigms between Member states based on unanimity. It is part of Radaelli's (2003: 43) Horizontal Mechanisms. Despite expectations, none of respondents mentioned this mechanism as relevant to the same-sex partnerships agenda in Poland. Therefore, so far the only case when OMC was mentioned in relation to the same-sex partnerships policy is the EU Roadmap Against Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity. This document, which was pushed through the European Parliament called '…the European Commission, Member states and relevant agencies to work jointly on a comprehensive multiannual policy to protect the fundamental rights of LGBTI people, i.e. a roadmap, a strategy or an action plan featuring the themes and objectives' (EP 2014). It called the Commission to facilitate the exchange of good practice among Member States via the Open Method of Coordination as one of the actions to implement the Roadmap. However, all the provisions regarding same-sex partnerships introduced in the initial document were omitted from the adopted text after being reworked in the EP's Committee on Civil Liberties, Justice and Home Affairs (EP Resolution 2014). There is no direct evidence as to why these provisions were excluded, but based on the minutes of the debates, it seems that some of the member states were against any mention of same sex couples in the document[87]. The information available on the website does not allow any further conclusions to be drawn nor does it contain information about which MPs supported or opposed the Roadmap. Based on the above, I assume that the OMC as Horizontal Mechanism so far did not play any important role in influencing same-sex partnerships policy in Poland or in any other EU country.

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[86] See *Table 4 – Theory Unit 'Open Method of Coordination'.*
[87] For example, here is what rapporteur Ulrike Lunacek (Greens/EFA) said during the debates: 'Such resistance to a report [Roadmap] that basically talks about the right of people to love and to live their lives without fear is something I did not expect' (EP Debates 2014).

Micro Level Lesson Drawing

The acknowledgments of interviewees regarding the process of creating draft bills on same-sex partnerships clearly indicate the use of experience and practices of other EU states in the framework of the Micro Level Lesson Drawing Mechanism. As formulated in section *4.2.4,* this mechanism assumes that non-governmental actors[88] (Micro level), voluntarily adopt rules, best practices, solutions and knowledge from other governmental (Micro-Macro) and non-governmental actors (Micro-Micro) in different EU states.

Tekin and Güney (2015) provide an example of a Lesson Drawing mechanism between the governments of Turkey and EU member states or candidate states (Macro-Macro) in the process of the Europeanisation of Turkey's central executive. According to them:

> '…as EU accession provides unprecedented challenges for candidate states' central executives, they draw lessons from the experience of other candidates. For example, before such major steps as the creation of ABGS [Secretariat General for EU Affairs] or formulation of a negotiating team the government made reviews on how other candidate states organized their central executives for managing EU affairs. In case of ABGS, for example, the French model was found appropriate for Turkey's needs'. (Tekin, Güney 2015: 258).

As expected, this exchange is happening without any moderation of the EU institutions, however, it is happening in the environment, where the EU 'sets the scene' that enables it. Some of the interviewees believe that the examples of other EU states and being a part of the European Union is more important for the progress of same-sex partnerships policy in Poland than the actions of the EU institutions[89]. According to the interviewees, Polish LGBT activists used both Micro – Micro and Micro – Macro strategies of policy learning[90]. Among other activities respondents mentioned examination of strategies on successful social campaigning for marriage

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[88] In the case of Poland these are LGBT NGOs as they main promoters of the policy.
[89] According to the respondents, partially such effect is possible due to the ambition of Poland to be seen as a leader in the region and a strong progressive country (President.pl 2015 June, July). Therefore, they assume that a peer pressure of marriage equality reforms in the neighbouring EU countries and in the EU in general could change in long-term the position of the Polish government.
[90] See *Table 4 – Concept 'Sources of Policy'.*

equality in Ireland and Spain, which changed the view on the issues in these two Catholic countries as well as exploration of the framing of public discourse in Ireland and the UK (Finn 2015)[91]. Several respondents mentioned personal contacts with members of LGBT organizations in other EU states, however, these references were fragmentary and were not elaborated further. I can assume that exchange is likely to happen within the framework of international LGBT umbrella organizations such as, for example, ILGA Europe[92]. It has seven Polish members, three of them (Campaign Against Homophobia, Lambda Warsaw, Trans-Fuzja Foundation) can be considered as the most active LGBT NGOs in the country (Members 2015). Additionally, one of the interviewees referred to the translation of Slovenian and Hungarian bills on same-sex partnerships, which presumably were analysed by the group that worked on one of the Polish draft laws. These bills were translated by the office of Robert Biedron, an LGBT activist who was at that time a member of the Parliament. However, the respondent that mentioned this fact was not involved in the policy drafting directly, thus he did not posses the information how these translations were used. Yet, the fact that these translations were made signals that the Polish NGOs representatives were aiming to at least familiarize themselves with the experience of other EU states.

When it comes to the use of Lesson Drawing mechanism in the process of same-sex partnerships draft bills preparation, the interviewees mainly referred to the three projects, which most of the times were labelled as French PACS[93] (May 2012), German (February 2012) and Scandinavian (2003) models or solutions. According to several respondents, all these bills contained some kind of a reference to the European experience in their preambles.

The two Polish bills of 2012 came from the Initiative for Registered Partnerships[94] composed of representatives from the three largest Polish LGBT NGOs and the Green

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[91] The main idea behind these campaigns was talking with the public in the language they understand and this is the approach that several NGOs like Campaign Against Homophobia and Love Doe Not Exclude are aiming to try out in Poland.

[92] International Lesbian, Gay, Bisexual, Trans and Intersex Association in the European region. This organization connects 422 member organizations in 45 out of the 49 European countries.

[93] PACS stands for Pacte Civil de Solidarité, which in French means Civil Solidarity Pact. The bill was passed in France in 1999. It is a form of a civil union based on the contract, which gives some rights and responsibilities to the couple. PACS was designed to give some legal recognition to same-sex couples. However, it is also open to the opposite sex-couples.

[94] *Grupa Inicjatywna ds. Związków Partnerskich.*

Party. In 2009 this coalition conducted a nationwide consultation on the issue (Bodnar, Sledzinska-Simon 2014: 235). Two bills[95] on civil unions were drafted by the group and later submitted in the Parliament supported by two left parties – Ruch Palikota and Democratic Left Alliance. These two separate drafts were giving a different set of rights and duties for the partners in terms of joint taxation, social benefits and changing names, but they both were addressing same as well as different sex couples. However, both bills were voted down by the Parliament from its agenda in 2013[96]. Hence, they were not even discussed in the first reading (Borowski 2013).

The May 2012 bill (similar to French PACS)[97] was based on the idea of contracts, which means that the partners' obligations and benefits are decided individually by the parties establishing the contract in front of a notary. Although referred in media as 'similar to the French PACS'[98], most of the respondents mentioned that the draft of May 2012 only vaguely resembled the French PACS of 1999. The French PACS was used more as a source of the inspiration for the part of May 2012 bill that regulated the nature of the contracts between two people.

The bill of February 2012[99] was based on the model of marriage law, but with limited rights for the partners and it was close in its structure to Germany's Life Partnerships (Merin 2002: 146 - 147). This made it more specific regarding the rights, obligations and benefits of partners comparing to May 2012 bill. Most of the respondents could not confirm or disprove that it was specifically drawn on the experience of Germany. Only one respondent mentioned that the draft bill of February 2012 was similar to the 2001 version of German Act on Registered Life Partnerships, which gave fewer rights to same-sex couples than after Act's revision in 2004[100]. The similarity with the older version of the German bill, might serve as a signal that it was consulted. However, there is no firm evidence to prove this assumption.

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[95] Respondents gave contradictory reasons for drafting two bills by the same advocate group. These reasons will be discussed later in the chapter.
[96] See section *1.1*.
[97] See *Table 4 – Concept 'PACS bill'*.
[98] According to some of the interviewees.
[99] See *Table 4 – Concept 'German model bill'*.
[100] The revision allowed adoption of stepchildren, made alimony and divorce rules more simple, but excluded tax benefits available to married couples marriage (Stark 2009: 213).

Similarly, respondents could confirm that Lesson Drawing mechanisms were applied[101] during the drafting of 2003 draft bill[102]. Mostly the reason was that the bill was created by a closed circle of activists and a lot of time passed since it was introduced. It was introduced by Senator Maria Szyszkowska of the Alliance of Democratic Left (SLD) after consultations with experts from Campaign Against Homophobia (KPH). The initial project by Szyszkowska[103] was aimed to introduce civil unions only to homosexual couples. It transferred most of the rights such as economic and tax rights and succession after partner's death, yet excluded the option to marry or adopt (Haynes 2009: 211).

According to one of the respondents, generally the possible models for same sex-partnership bills are limited to these exact three solutions: French (contract), Scandinavian (partnerships with all marriage rights) and German (partnerships with limited marriage rights, e.g. join adoption). Therefore, one of the explanations could be that the reference to Germany and Scandinavian countries were used in Poland just to label the authentic bills to the closest possible model for the sake of clarity. To conclude, the evidences provided by respondents were sufficient to claim that the Lesson Drawing mechanisms were used only in the case of the May 2012 bill[104]. Regarding the two other bills more evidence from people directly engaged in drafting is needed to make similar claims, as the academic literature does not shed light on this issue.

Additionally, many respondents referred to the experience of non-EU states that was used as a source for Lesson Drawing[105]. The most prominent being the US. Leader of the organization Love does not Exclude[106] said that his NGO is researching the marriage equality strategy used by Unites States' NGOs that in 15 years changed the status quo in the country[107].

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[101] See *Table 4 – Concept 'Scandinavian model bill'*.
[102] Referred in media as the Scandinavian model.
[103] Before it was amended by the Senate.
[104] Similar to French PACS
[105] See *Table 4 – Concept 'Non-EU'*.
[106] *Miłość Nie Wyklucza*
[107] Because of American NGOs actions, the US Supreme Court on 26th of June 2015 recognized same-sex marriages as a constitutional right applicable nationwide (The Economist 2014).

Based on the above we can conclude that the Lesson Drawing Strategy is a valuable mechanism, which is used, but only to some extent, in the process of developing same-sex partnership policy in Poland. The experience of other EU states together with some progressive non-EU countries is researched and taken into account in the process of policy-making. However, Polish activists are not just copying foreign models. They are selecting and adjusting the existing solutions in order to fit them into the reality of their own country. Therefore, we can suggest that the main Lesson Drawing Strategies used by Polish lawmakers is Emulation[108], which assumes transfer of the ideas behind a specific policy or adoption with adjustments, mixed with another strategy called Inspiration[109], which refers to the policy with the final outcome different from the original.

5.2.3 Social Learning mechanisms

Legitimacy / Illegitimacy

Discourse

According to Schimmelfennig (2005: 18 - 20) the issue of legitimacy of new rules is closely connected with the constitutive values and norms of the community. Therefore, presenting a new policy within the proper discourse is crucial for its success. Currently, according to a majority of my interviewees , there are two conflicting discourses in which same-sex partnerships policy is presented in Poland.

The first can be labelled as the EU Discourse[110]. In past years, LGBT NGOs argued the need to introduce same-sex partnerships in Poland as a response to the disadvantaged status of sexual minorities and their inability to exercise the same civil rights as their heterosexual counterparts. This argument invokes such values as equality, non-discrimination, respect for human rights and dignity and protection of minorities, which are traditionally associated with the European Union (TEU 2008). However, this argument in Poland, according to a majority of my respondents,

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[108] Following Schimmelfennig's criteria of Lesson Drawing (2005: 21).
[109] Schimmelfennig (2005: 21).
[110] See *Table 4 – Concept 'EU discourse'*.

convinced only a small leftist and pro-EU part of the Polish population and politicians. It did not convince the mainstream conservative Polish politicians nor the majority of the Polish population. Most of my respondents mentioned in different ways what they believe are the main reasons for this failure. However, their opinions were often contradictory to the results of surveys or the perspective of the academic literature. Below I will provide the arguments expressed by my respondents and reflect on them with the findings from secondary sources.

Firstly, according to my respondents, the 'EU discourse' was not effective in Poland, since many Poles consider the EU mostly as an economic coalition that does not have authority over local social life. This argument finds confirmation in public surveys, which show that the biggest benefits Polish people see in EU membership are of economic nature[111]. At the same time, Polish people do not connect improvements in the social sphere or in human rights with the EU membership (Szczerbiak 2007: 18). Therefore, I suggest that they do not expect the EU to regulate this area[112].

Secondly, my respondents argued, that 'EU discourse' was not convincing, since the EU is perceived as something distant, alien and not very relevant to local life. The survey data on this issue is contradictory, as Poles declare strong attachment to the EU, but at the same time weak citizenship feeling[113]. Thus, it is difficult to say how alien the EU is for Poles. I assume that the EU does not feel very relevant or close to local life, as only 12% of Poles believe that the EU has an impact on their living conditions (Eurobarometer 77 2012: 12).

Thirdly, according to interviewees, the 'EU discourse' has failed since there is a notion created by Eurosceptic conservative Polish politicians that the EU is forcing

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[111] The biggest benefits for Poles in the EU are open borders (29%), benefits for farmers/agriculture (29%), ability to work abroad (28), investments in roads (15%), EU funds (13%) and general economic benefits (6%) (Szczerbiak 2007: 18).

[112] This argument is supported by the evidence on the tension between the Polish authorities and EU institutions on the issue of LGBT rights and family law presented in *5.2.1 Vertical mechanisms: Bottom-up mechanisms*.

[113] 59% of Poles stated that they feel attached to the EU, which is third highest number among all member states (Eurobarometer 82 2014: 10). Only 21% of Poles feel that they are definitely citizens of the EU (Eurobarometer 82 2014: 29).

Poland to comply with alien and unclear rules[114]. However, I believe this perceptions is supported only by marginal groups in Poland. Most Eurosceptic parties in Poland except PiS are not even represented in the national Parliament, which signals the lack of popularity of their ideas among Poles. As for PiS, some experts argue that it is more Eurosceptic in rhetoric than in commitment (Szczerbiak 2014).

Lastly, according to the respondents, the 'EU discourse' was not convincing, since the EU itself is a point of disappointment and distrust in Poland, mostly due to economic and decision-making reasons. However, this argument seems to be entirely invalid[115].

Based on the arguments provided by respondents and secondary sources, I conclude that in general, Poles are very supportive of the EU and Eurosceptics have a marginal influence on public opinion. However, it seems that this support stems only from economic benefit of the membership. Although Poles feel highly attached to the European Union, they do not share the EU identity, do not feel its impact on their lives and do not associate themselves with the values, which are the foundation of the EU discourse on same-sex partnerships, such as equality and tolerance, which only 23% and 17% of Poles perceive as important (Eurobarometer 82 2014: 73).

This disconnection from the EU on the values and identity level together with the perception of it as an agent not involved in social reforms and distant from the daily issues of Polish people (which include family matters) might be the reason why the 'EU discourse' on same-sex partnerships did not find a positive response among the Polish population and politicians. Together with the strong notion of traditional family structure and gender roles that contradicts ideas behind the policy all attempts by local actors to introduce the draft were met by a strong rejection from conservative Polish

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[114] This argument is used in the framework of Eurosceptic sentiment which refers to the perception of Poland being a '21st century colony of a German-led imperial bloc known as the European Union' (Petras 2015).

[115] At the time of accession, Poland was the most Euroenthusiastic country with 71% of Poles supporting EU membership (Szczerbiak 2007: 8). Today it remains the strongest supporter of the European Union with 72% of Poles favourable of the EU and 53% believing that EU integration has strengthened county's economy and (PEW 2014). This is not surprising, considering that during European economic crisis Poland became Europe's most dynamic economy (Faris 2013).

politicians, the Church and majority of the population[116] (Dyczewski 2002: 45; and Leigh 2006: 8). This reaction is typical also for the governmental actors. One of the respondents described the case of KPH lobbying the Ministry of Interior to rewrite the bill regarding the birth certificates required to establish a same-sex union abroad[117]. According to this respondent using the EU discourse arguments only made things more difficult and irritated even more liberal officials. However, the argument of the need for data protection managed to convince the ministry officials.

Of course, this effect of rejection and irritation is the opposite of what Polish LGBT NGOs are trying to achieve. Therefore, in past years some leading organizations such as KPH and Love does not Exclude, started to change the way they present policies towards something that can be framed as the conservative values discourse[118]. In other words, activists are trying to address conservative politicians and the Polish population in a familiar language, basing their arguments on values that are important for them, such as family, love, tradition, respect for parents and value of marriage as the most important state institution. Interviewees confirmed that these LGBT NGOs are building their discourse taking into account the experience of the US, where activists gained the support of conservative politicians by presenting marriage equality as an instrument to fight the instability of the institution of marriage[119]. Additionally this approach is aiming, as one of the respondents put it, to take Catholics from the Church. In other words, to remove the Polish Catholic Church's monopoly to dictate rules in the area of morality and break such constructs such as a 'Good Catholic can not be gay' by spreading the alternative view through progressive Christian media and Catholic organizations. According to my respondents, one approach to change the perception of the issue used by KPH was to make parents of LGBT people talk on their children's behalf via a visual media campaign (KPH 2013). The respect for parents and family made it harder to attack these people and their arguments were more convincing for the conservative politicians and Polish society.

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[116] This led to the voting down from the agenda of all three same-sex partnerships draft bills in 2013. Including even the one, which was supported by the ruling party (Borowski 2013). The rejection was so strong that MPs had not even wanted to discuss the issue.
[117] See Section *5.2.2 - Horizontal mechanisms*
[118] See *Table 4 – Concepts 'Conservative values discourse' and ' Change of public perception through discourse'.*
[119] Embodied in a rising numbers of divorces, open marriages, unregistered relationships, etc

We can conclude that past bills on same –sex partnerships were not supported by values and norms of the society. Quite the opposite, the EU values discourse in which they were presented created a reaction of rejection and delegitimized the issue. There is a possibility that the new discourse taken by LGBT NGOs will bring more positive results. However, this discourse is designed to fit same-sex marriages policy, rather than partnerships. The main reason is that in Polish society (and in the majority of countries in Europe) marriage is a conservative institution (even if it was expanded to include same-sex couples), and partnerships are not. Therefore, partnerships, which are made to be different and more 'modern' than marriage, cannot be addressed in the same conservative discourse[120].

Clarity and Credibility

Legitimacy according to Schimmelfennig (2005: 18 - 20) also takes into account the clarity of new rules as well as the credibility of the process of their establishment[121]. The theoretical challenge is that in his work Schimmelfennig describing this criterion, talks about the rules, which are consolidated at the EU level and transferred to the Member states. However, in the case of same-sex partnerships policy this top-down logic is not applicable[122]. I believe what is important in this case is the confidence of a country's leadership in the quality of a specific policy. The persuasive power stems not from the 'weight' of the actor proposing the policy, but from how clear the policy itself is and how transparent (i.e. credible) is the process of its establishment. This is

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[120] The fundamental difference is that marriage is considered to be a conservative value. It is a basic cell of society that makes it stable, therefore it assumes bigger responsibilities, but also bigger benefits. Due to its conservative nature it is much more difficult to expand the meaning of marriage. This brings up other sets of challenges, like Constitutional provisions on heterosexual nature of marriage in Poland or the public perception of the sanctity and permanency of the institution of marriage. In turn, partnerships in Polish society are considered as a second sort type of relationship, not that serious and not that important for consolidating the 'social fabric', designed for those who for some reason do not want to get married (or cannot as in the case of same-sex couples), but still want to benefit from registered status. They assume less responsibility, and more importantly are perceived to have more legal or economic implications (i.e. civil rights, supported by the EU), rather than such conservative values as love and fidelity.

[121] Additionally, it accounts for international consensus on the issue and whether the policy is applicable in all member states. However, as already mentioned in section *4.1.1*, same-sex partnerships policy still remains an ambiguous issue around the world and in the EU, although more than a half of EU member states have already recognized the rights of same-sex couples (Lipka 2015).

[122] Since there is no consolidated EU norm or rule, which is formalized in a form of a document that can be assessed.

why I believe the clarity and credibility criterion can be projected on the local same-sex partnerships policy drafts as it assesses the similar effect of persuasion on decision-makers through elaborated and reasoned content as any other policy, which comes from the EU level.

Despite the fact that the draft proposals of 2012 were not even discussed, hence the issue of credibility and clarity never appeared in the debate, according to some of my interviewees, if the bills did get to the first reading in the Parliament they would be 'destroyed' by MPs[123]. Interviewees were mostly critical towards the bill of May 2012[124], which according to them, was very vague. All obligations and rules were left to be decided in the contract by the parties establishing it. In other words, contracts could vary from case to case. This means that different couples under the same law can have various set of obligations and benefits, defined by a particular contract. According to respondents, it contributes to inequality among same-sex couples as well to the possibility of misbalance between obligations and benefits in the contract. Another risk was that it might be misused for fraud. This lack of clarity made it potentially dangerous for beneficiaries (due to the vagueness of financial and property issues) and hard to support for any MP. According to my interviewees, these particular issues lead to the reform of PACS in France in 2006[125], however, these developments were not taken into consideration by the Polish LGBT NGOs who prepared the bill of May 2012. Almost no comments were given regarding February 2012 draft[126], despite that it was better drafted than the May 2012 one, but still quite unclear and outdated. Respondents mentioned that the draft of 2003[127], was the best one in terms of clarity of rules. One of the reasons might be that it simply transferred most of the marriage rights to the same-sex partnerships. However, it was too progressive for Poland at that (and probably at this) time.

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[123] See *Table 4 - Concept 'Quality'*.

[124] Similar to French PACS.

[125] The original PACS bill from France described the nature of the relationship as '…the contract concluded by two major natural persons, of different sex or same sex, for organizing their common life', where 'common life' as a non-legal term could be interpreted as describing a range of relationships, for example, friendship or convenience (Reyniers 2014: 252).

[126] Similar to the German solution

[127] Similar to Scandinavian solution

According to respondents, the unclear rules of the 2012 drafts stemmed from the justification of the LGBT NGOs strategy on introducing these bills[128]. Firstly, NGOs lacked strong legal expertise. Secondly, they did not want to make a very precise and elaborate bill, since it, inevitability, would be cut down and transformed by the Parliamentary committees. Therefore, the main aim was just to have something to keep the discussion alive and then develop it later in these Parliamentary committees. Thirdly, there were some political limitations, as NGOs wanted to create the bill, which would be very different from marriage[129]. Thus, according to respondents, some of the modifications were made just for sake of highlighting how different this bill was from the legal institution of marriage[130]. Lastly, the NGOs were looking not at the most progressive, but most similar countries to Poland in terms of conservatism and religion, in order to ensure that the new law would be applicable. This led to LGBT NGO leaders proposing models, which were less than ideal, but which worked in a similar context[131].

The method of the 2012 draft bills creation[132] also does not add credibility to the process. According to several interviewees, the bill similar to the French PACS was the result of public consultations in number of big Polish cities. At these meetings, organizers asked the public which shape the bill should take. These consultations were open for everyone but often did not generate a lot of public interest, gathering from 20 to 100 people. A small group of activists organized the meetings and all other partnering NGOs were informed about their results through 'minutes'. Therefore, this method seems questionable in terms of the representativeness, expertise and transparency of decision-making. I believe that the main flaw of this methodology is the decision to create a document basing on popular opinion, whereas the issue in

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[128] See *Table 4 – Concepts 'Justification' and 'Less for less strategy'*.

[129] The logic behind this was that marriage is a serious issue in Poland, so the bill, which does not resemble it and will address to both same and different sex couples and would be easier to pass.

[130] In the case of May 2012 draft bill, this created, according to one of the respondents, a weird hybrid of marriage and a contract partnership without a clear vision.

[131] For example, like PACS in France, which had a quite conservative stance on same-sex partnerships in the past.

[132] See *Table 4 - Concept 'Methods of data gathering'*.

question is highly specific and requires professional expertise in the area of family law[133]. As the public consultations did not control for the background of the attendants and were quite small the question of representativeness of their views arise[134]. Lastly, meeting 'minutes' appear to be not the most credible source of information, as the group might easily adjust the information[135].

Another policy paper, mentioned by one of the respondents, that was not developed into a draft bill was based on the online questionnaire, which was available for everyone for two weeks on one of the popular LGBT websites and gathered around 500 answers. Although this method might seem more transparent, it also can not be considered credible, as it lacks representativeness and expertise similarly to the previous one, which does not add to the credibility of the results.[136].

Lastly, the clarity and credibility of rules were further hindered by the fact that there were two different bills submitted by different groups of NGOs, but supported by the same left political parties[137]. The confusion with two bills were explained differently by interviewees. Some said this was the manifestation of the split in the LGBT movement on the issue. Others claimed that it was left political parties that wanted a bill of their own to present in order to get more electoral support. Whatever was the reason, it was not that important, considering that both bills were not even discussed. Yet, it also did not benefit to their success either.

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[133] A pool of recognized legal experts coming from NGO backgrounds as well as academia and public service, in my opinion, would be the best solution, as this way the draft would be more reasoned and of higher quality, which would add to its credibility. This approach would also eliminate the unrealistic ideas, which might stem from the lack of expertise on the subject or rest on personal / emotional experience, as it might happen in case of public consultations

[134] Therefore, on the argument that 'the bill reflects the voice of the people' the opponents of the policy might rightfully ask who are these people and why should we trust them? The answer to this question does not add to the credibility of the policy developed through public consultations. However, with a pool of legal experts this question would be easy to answer.

[135] Additional sources of information such as signatures of attendants as well as audio and video recordings of the meetings might add to the credibility and transparency of the process.

[136] If in the case of public consultations the group was too heterogeneous, in this case, it is too homogeneous, which also might negatively influence the ideas behind the policy. It is expected that the majority of LGBT website audience is LGBT people. Therefore, their choice of policy ideas might also be influenced by personal experience, emotions or the prospective benefit they would like to gain from the future policy. In other words, beneficiaries of the policy would ask for more than is realistic. Therefore, the opponents might also question the credibility behind the method of selecting ideas for the policy. Additionally, the online method cannot control for the multiple applications from one person, not to mention that according to the standards for surveys the sample of 500 people is at least two times smaller than the standard, which can assure the minimum error if projected on the entire population.

[137] See *Table 4 - Concept 'Lack of unity'*.

Based on the above, we can conclude that the bills of 2012 can be considered illegitimate according to all the criteria proposed by Schimmelfennig, including the lack of consensus and applicability of the policy in all EU member states.

Identity / Alienness

According to Schimmelfennig, the Identity criterion assesses the success of policy depending on the identification of population and the government with the community, which established the rules. In section *4.1.1* it was already mentioned that the same-sex partnerships policy in Poland is currently associated with the EU. Together with this, earlier in this chapter[138] it was already established that the question of identification with the EU in Poland is controversial[139]. Considering this, I conclude that there are at least two levels of identification with the EU in Poland, which are relevant for this research. I identify the first level as 'physical' identification with the EU, which is quite strong in Poland[140]. The second level I will label as 'spiritual' identification. It is connected deeply with the same-sex partnerships policy, as it involves not the 'physical' domain of change but mental and ideological. Here the trend is the opposite[141]. Therefore, I conclude that identification with the EU is mixed. On the general 'physical' level, Poles identity themselves with EU reforms and support them, but when it comes to the specific same-sex partnerships policy, which tackles 'spiritual' level of Polish identity, there is a quite high level of alienness.

However, many respondents mentioned that this situation of 'spiritual' identification with the EU is gradually changing and one of the important factors in this process is

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[138] See sub-section *Discourse* in *5.2.3 - Legitimacy / Illegitimacy.*

[139] On one hand, Poles are supportive of the EU and feel attached to it more than the majority of Europeans (PEW 2014, Eurobarometer 82 2014: 10). On the other hand, Poles do not feel as EU citizens, do not share EUvalues related to the policy and do not see the Union as an agent that have competences to promote them. Additionally, they do not feel that the European Union influences their daily life (Eurobarometer 82 2014: 29, 12, 73, Szczerbiak 2007: 18).

[140] According to the evidence presented above in the sub-section *Discourse* in *5.2.3 - Legitimacy / Illegitimacy*, Poles generally support the EU, have a perception that it has a good economic impact on Poland and that the country is strongly 'physically' attached to the Union

[141] According to the evidence presented above in the sub-section *Discourse* in *5.2.3 - Legitimacy / Illegitimacy*, Poles do not feel a 'spiritual' connection to the Union as its citizens or some of the EU values, as well as its authority to influence this 'spiritual' domain, unlike physical.

the mobility within the European Union[142]. Interviewees argued that the possibility to travel, live and work abroad in the countries such as Ireland or UK where same-sex partnerships and marriages are the norm have a strong impact on Polish people and a potential to change their minds. Seeing the situation in other EU states delegitimizes the main argument of Polish conservative politicians that same-sex unions are dangerous and will destroy marriages. Additionally, the possibility of personal contact with same-sex couples abroad can lead to the developing of empathy and the breakdown of many stereotypes, which are possible to sustain in Poland, where LGBT people are mostly invisible for the public. Polish expats, students or travellers through interpersonal contacts can also influence their communities, family and friends back home. However, the secondary data on the effects of EU mobility on the building of European identity is controversial[143].

Although many respondents named mobility within EU as a key feature to influence the Polish population and consequently politicians[144] and lead to a change in the status quo on same-sex partnerships in Poland, the existing research and surveys support this argument only partially. Mobility within the EU might increase Polish identification with the EU on a 'spiritual level' in the long-term perspective, but so far, after 10 years of EU membership, it seems that the effect was not strong enough to change the perception of same-sex partnerships policy.

Resonance / Disharmony

This criterion describes how the policy is tied with already existing rules and considered as a 'good policy' by local community. According to the interviewees, one of the main issues of same-sex partnerships policy in Poland is different levels of importance for LGBT NGOs, politicians and population in general. Whereas most of the respondents named this policy as 'the most important' for them[145] and the

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[142] See *Table 4 - Concept 'EU Mobility'*.

[143] Some reports argue that there is some evidence that increased mobility is fostering socio-cultural integration in the European Union, and strengthening European identity (IZA Research Report 2008: 6). This is particularly relevant to the Erasmus program students, who claim to have higher sense of belonging to European after spending time abroad (King, Ruiz-Gelices 2003: 241). At the same time, the issue of identity is complex and multi-layered and often self-contradictory. Therefore, there are works that support the opposite point of view (Sigalas 2010: 261).

[144] Who are also exposed to a rising number of international contacts with LGBT community.

[145] See *Table 4 - Concept 'Importance for LGBT NGOs'*.

movement as a whole[146], since it has the potential to break the status quo and boost the development of all LGBT rights in Poland, for most politicians[147] this policy is not important at all[148]. This partially supports O'Dwyer's (2010: 237) findings on political elite opinion about same-sex partnerships policy in Poland[149]. As one of O'Dwyer's respondents stated: 'There are no sides on this issue. Poland is a conservative country full stop. All the parties are conservative, and they have to differ on something else' (O'Dwyer 2010: 242).

Therefore, it is not considered as a 'good' or important policy by Polish politicians and there is a lack of political will to implement it. As for the population[150] in general, the policy seems to be not very important as well, since, according to respondents, the majority of people in Poland are not aware of the issue and its content. This argument is based on the results of public opinion polls, where the majority of people do not support same-sex partnerships policy in general, but are willing to grant same sex couples separate rights, which this policy consist off[151].

In recent years, there is a growing tendency for the population to be more familiar and have more positive attitude towards same-sex partnerships and some of the rights related to them[152]. Many respondents connect this tendency to the wide media coverage[153] of the same-sex partnerships debate, especially during voting on two draft

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[146] Supporting similar findings by Brzezinska (2011: 52).

[147] See *Table 4 - Concept 'Importance for politicians'*.

[148] As mentioned by one of the respondents, same the sex-partnerships issue for politicians stands somewhere between issues of nuclear power plants and genetically modified seeds for the farming – things which are often covered in media, but have absolutely no importance in Poland.

[149] According to O'Dwyer's interviews with the political elites the majority of respondents considered LGBT policies as not very important. However, O'Dwyer mentions that the results were quite mixed and there were many opposite opinions. It is also important to take into considerations that in O'Dwyer's research the category 'political elites' was more inclusive than just Polish MPs and members of the government. It consisted of 'members of political parties and social groups, policy experts, state officials, and officials from international organizations like the European Commission and the Council of Europe' (O'Dwyer's 2010: 235). Thus, we can expect a more pro-LGBT stance in this sample than if it would include only Polish politicians.

[150] See *Table 4 - Concept 'Importance for population'*.

[151] For example, according to CEAPP poll of 2012, while only 23% of respondents support same-sex partnerships, the majority agree that same-sex couples should have a right to obtain medical information about the partner (68%), to inherit (57%), to have a common tax accounting (55%), to inherit the pension of a deceased partner (55%), etc. (CEAPP 2012: 37).

[152] The general trend can be described as ascending towards support of same sex-partnerships from 15% in 2001 to 33% in 2005, with the peak of support of 46% in 2005 (CBOS 2002, 2005, 2010, 2013; CEAPP 2012: 37).

[153] See *Table 4 - Concept 'Importance for media'*.

bills in 2013 (Borowski 2013). Most of the media coverage of LGBT issues in Poland, according to respondents, is done in a positive context and defending the rights of LGBT people as victims of the state abuse. However, frequently some media channels give a platform to homophobic politicians and clergy as 'experts' on LGBT issues. Therefore, based on the above we can state that so far the majority of the population and mainstream politicians do not consider same-sex partnerships policy as either good or important, whereas LGBT NGOs and media does.

Additionally, there is a disharmony between same-sex partnerships policy and already existing rules[154]. Most prominently, it is Article 18 of the Constitution, which puts marriage under state protection and defines it as a union between a man and a woman (Dziennik Ustaw 1997). According to respondents, conservative politicians exploit this fact to block any discussion on the issues same-sex couples (Bodnar and Sledzinska-Simon 2014: 236). However, various scholars interpret it differently. Some say that it does not exclude the creation of another institution such as partnerships made, however, only for same-sex couples, since otherwise it will lead to competition with the marriage law, as happened in Hungary (Bodnar andSledzinska-Simon 2014: 227 - 228). Others interpret it together with the equality clause of the Constitution as a Constitutional duty to provide unions similar to marriage for same-sex couples (Wyrzykowski 2011). Finally, scholars that are more conservative see it as limitation to create any other unions different from heterosexual ones (Dąbrowski 2011). As highlighted by one of the interviewees, the present Polish Constitution came into force in 1997, in times when Nordic Countries started to recognize same-sex couples rights (Robinson 2008). Thus, according to some of the respondents, Polish politicians introduced Article 18 specifically to prevent the same scenario in Poland. Respondents highlighted that most probably due to the confusion in interpreting the Constitution if any same-sex partnerships law would be introduced it will have to pass the test in the Constitutional Court. Today, however, no one can predict the result of this judgement. As for the introduction of same-sex marriages, it would be possible only if the Constitution is changed, which might require a successful confirmatory referendum, such as happened recently in Ireland (Johnston

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[154] See *Table 4 - Category 'CONSTITUTIONAL DEADLOCK'.*

2015, Dziennik Ustaw 1997: 235 (6)). However, with current level of public support of any marriage equality policy stands no chance (CBOS 2013).

As a conclusion, same-sex partnership policy is a novelty for Poland. No similar laws that are preparing the ground for a new policy are in place right now and the discussion of the issue started quite recently, which does not contribute to the success of same-sex partnerships policy. Additionally there is a serious level of disharmony between the proposed policy and the Polish Constitution, which lowers its chances of being enacted into Polish law. Also the policy is not considered to be important or good for the country by the majority of mainstream politicians as well as the population. Having this in mind, I conclude that the same-sex partnerships policy are in disharmony by all the criteria proposed by Schimmelfennig.

5.2.4 Intervening Variables

Veto players in political system

According to the respondents the main formal veto players, which stand against the same-sex partnerships policy are the conservative and right wing MPs and governmental officials as well as the Catholic Church clergy. The interviewees also mentioned local administration clerks as informal veto players.

The domination of conservative politicians[155] in all branches of power and weakness of the pro-reform left wing parties was named by most of the respondents as the main reason for the failure of same-sex partnership bills in the past. Overall, conservative parties control both houses of the parliament as well as most important ministries[156]. My respondents believe that politicians are not well informed on the subject of the same-sex partnerships policy, and see it mainly from the perspective of electoral

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[155] See *Table 4 - Concept 'Conservative Politicians'*.
[156] Currently the liberal-conservative PO has 39.2% of seats in the Sejm, 63% in Senate, and 9 out 18 ministers in the cabinet of the Prime Minister Ewa Kopacz (PO). Another three ministers are represent PO's junior coalition partner the Polish People's Party, which are agrarian conservatives and have 8.4% of seats in the Sejm and 2% of seats in the Senate. The second biggest conservative player is PiS, a national conservative and soft Eurosceptic party, which has 29.9% of seats in the Sejm, 31% of seats in the Senate, but no representatives in the government (PKW 2011, Nordsieck 2015, PSL 2014, and Chancellery 2015).

struggle. They believe that supporting controversial policies would damage their political career, as they would not get re-elected. According to the most of my interviewees, Polish politicians mistakenly believe that their electorate when it comes to the rights of same-sex couples is more conservative than it really is and the country is not ready for such a change. As an argument, respondents referred to public opinion polls, which show quite high support for some rights related to the same-sex partnerships policy[157]. There is also a vocal group of radical politicians, which seek to win electoral support by demonizing and attacking the LGBT community as a source of threat[158] (Graff 2010: 596, 590). However, according to some of the respondents, today this kind of aggressive political behaviour is quite rare in Poland and is followed only by very marginal radical politicians like Janusz Korwin-Mikke (Kusiak, Błańska 2014).

Another phenomenon mentioned by many respondents is the influence of the Catholic Church[159]. The Polish Roman Catholic Church guards conservative values in the social and political life, including a ban on abortion and support for homophobic politicians (Szulc 2011: 159). It finds gay marriage or partnerships unacceptable and in recent years Polish bishops were devoted to the struggle against so-called 'gender ideology', a concept that demonizes the LGBT community as well as the EU. The word 'gender' symbolizes all social changes that Church rejects[160]. According to respondents, the Church has a strong influence on politics mostly due to the conviction of Polish politicians that it has the power to affect public opinion. In other words, politicians are afraid to support policies that go against the teaching of the Polish Catholic Church[161] (Sierakowski 2014). Interviewees believe that although the position of the Church historically was very important in Poland, today its influence

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[157] Such as the right to obtain medical information about the partner, to inherit, to have a common tax accounting, to inherit the pension of a deceased partner, etc. (CEAPP 2012: 37).

[158] Some of the high-rank politicians who in the past explicitly declared their homophobic views are: former President Lech Kaczyński, former Prime Minister Kazimierz Marcinkiewicz and former MP Kazimierz Michał Ujazdowski from PiS as well as former Minister of Education Roman Giertych and former MEP Wojciech Wierzejski from League of Polish Families (LPR) (Amnesty 2006: 6,7).

[159] See *Table 4 - Concept 'Catholic Church'*.

[160] According to the clergy, 'gender' is a cultural concept and, a source of perversion and a threat to traditional family values and children. Priests and Catholic commentators push this concept in the Polish media. In 2013 the highest church authority (Polish Episcopal Conference) issued a letter titled 'The Dangers Stemming From Gender Ideology' to be read in churches (Sierakowski 2014, Kozlowska 2014, Pastoral Letter (2013).

[161] One of the respondents stated that the Catholic Church is the most homophobic institution in Poland.

on politics and public opinion is decreasing. There are recent examples of politicians ignoring the Church's outcry on the issues, which are highly supported by the population[162]. However, the public support for same-sex partnerships is still not high enough. Thus, politicians would not feel comfortable to oppose the Church and its 'gender' crusade.

Lastly, clerks in public administration[163], who, according to respondents, have a lot of power to discriminate against LGBT people, regardless of existing laws, can be labelled as informal veto players. One of the examples related to same-sex couples was already mentioned[164] case of refusal of some officials to issue required civil status certificated to Polish LGBT people who wanted to conclude same-sex unions abroad (KPH 2009; Bodnar, Sledzinska-Simon 2014: 240). According to respondents, the law regarding the issues of certificates is very general, which leaves the final decision to the hands of clerks. The main argument behind this assumption is that the issue or denial of a certificate did not follow any system. In other words, people received both negative and positive decisions in the same places and similar circumstances, which suggest that what made the difference was the human factor. Respondents mentioned that today the issue is still unsolved, despite the years of lobbying, media attention[165], work on the new bill on civil status[166], support of EU[167] and non-EU institutions[168].

Based on the above, I conclude that there are many strong veto players in Poland who oppose the same-sex partnerships policy. Most importantly, currently they represent the majority of the ruling class, which stands in a way of any legal recognition of same-sex couples. I believe that the general interest of all veto players is

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[162] One example is the law on in-vitro fertilization which was supported by nearly 76% of the Polish population according to public opinion polls signed in July 2015 by the president Komorowski (CBOS Newsletter, 2015) and the The Voice of Warsaw, July 2015). Another document signed by Komorowski in April 2015, which was opposed by the Church, is the Council of Europe Convention on preventing and combating violence against women and domestic violence (The Voice of Warsaw April 2015).

[163] See *Table 4 - Concept 'Public administration'*.

[164] See section *5.2.2 - Horizontal mechanisms*.

[165] The issue gathered large media attention in Poland and was followed by a massive European campaign organized by the Campaign Against Homophobia that draw attention to the numerous cases where Polish authorities refused to issue certificates to homosexuals (KPH 2009).

[166] That KPH drafted together with the Ministry of Interior.

[167] Such as the EP's Committee of Petitions.

[168] One of the interviewees mentioned that currently one case against Poland on this issue is pending in the ECtHR. The case was submitted by LGBT activist Tomasz Szypuła (Geitner 2012).

homogeneous at this point, i.e. to resist the recognition of any rights of same-sex couples. At the same time, political changes in Poland are quite unpredictable. This is why some of my interviewees argued that the only way to change the status quo[169] on LGBT rights in Poland is to bring to power more pro-reform politicians[170] who can change not only the opinion of their colleagues, but also the public attitude. However, this seems quite unrealistic in the short-term as LGBT rights are currently not a priority for the public and the electorate does not take into account the position of politicians on this issue during elections[171].

Scope and type of executive leaderships in the country

As conservative politicians are considered to be the main veto players, which stand in the way of same-sex partnership policy, it might appear that the scope and type of executive leadership is irrelevant to the case study. However, not all the politicians in the ruling coalition have a homogeneous interest[172]. This could be seen during the last attempt to introduce same-sex partnerships bills to the parliament in 2013, when the Civic Platform submitted their own draft, so called Dunin's bill, which was supported by the Prime Minister Donald Tusk. It was similar to French PACS contracts, but more restrictive than left-wing parties' bills. It excluded the right to jointly declare taxes, since PO was afraid that this would bring the status of same-sex partnerships too close to marriage (Bodnar, Sledzinska-Simon 2014: 235). According to the respondents, this draft was the most limiting in terms of rights comparing to the other two bills introduced by left-wing parties. It had the highest chance to succeed, yet it was voted down in the same way as the other two bills. According to respondents, this was an attempt by PO to address their more liberal voters and to be included in the discussion. However, it showed that even among members of the ruling party there is no consensus on the issue and that the leadership represented by Tusk is quite vulnerable, as many party members did not support Dunin's bill (Borowski 2013; Bodnar, Sledzinska-Simon 2014: 235). Interviewees believe that this is a very bad signal for the future of the reform, since after the 2013 failure PO most probably would not take the risk of supporting a similar policy in future. Therefore, the

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[169] See *Table 4 - Concept 'Change of political structure'*.
[170] Especially from the LGBT community like Biedron or Grodzka.
[171] See section *5.2.3 Social Learning mechanisms - Resonance / Disharmony*.
[172] See *Table 4 - Category 'CONFLICT IN POLITICAL LEADERSHIP'*.

fragmented position of the leadership on the issue serves as another Intervening Variable on the way of the reform.

Impact of the EU policy on domestic policy coalitions

Many interviewees admitted that the EU influence changed dramatically the context[173] in which LGBT NGOs as the main pro-reform agents work to promote same-sex partnerships policy. Some admitted that the EU presence, its attention to the LGBT issues and support[174] was the single most important thing, which encouraged LGBT NGOs to fight for their rights and move forward putting the same-sex partnerships policy on the agenda. Moreover, EU has 'set the scene' to enable cross-loading exchange between Poland and other EU states[175].

Due to this empowerment, LGBT NGOs today are strong enough to re-submit the two existing bills on same-sex partnerships to the Sejm[176], change their outreach strategy and policy discourse, and start work on marriage equality bill[177]. Organization Love does not Exclude is planning to unite LGBT NGOs to prepare a long-term strategy on same-sex marriages guided by the US experience with the focus on changing the public attitude in Poland. Same-sex partnership policy could become one of the stages, which will prepare the public opinion to more radical changes. For many Polish NGOs getting the population on their side is a crucial move, which was not taken before, and which is possible today due to the developments enabled by the EU. It is expected by many respondents that the change in public perception would lead to a change of political attitude towards the issues of same-sex couples in Poland.

4.2.5 Domains of Change and the Outcome

Taking into account all the phenomena described above we can state that the Europeanisation of same-sex partnership policy does take place in Poland, although on a slow pace and through irregular mechanisms such as horizontal knowledge

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[173] See *Table 4 - Concept 'Change of context'*.

[174] Even though often not very efficient.
[175] As mentioned by one of the respondents, EU might put little pressure, but it has a big influence.
[176] Lower house of the Polish Parliament.
[177] See *Table 4 - Concept 'From civil unions to marriage equality'*.

exchange between states and NGOs and so far without many measurable results. Therefore, we can say that the final outcome of the Europeanisation of same-sex partnerships policy in Poland according to Radaelli's criteria is Inertia, or the lack of change, with some elements of Retrenchment (i.e. strengthening of the opposition to the reform) built on the anti-EU discourse[178].

However, the process of change is ongoing and, most importantly, the approach of pro-reform actors is changing and adapting to the local context. This change is triggered among other factors by the experience of other EU states and a slow development of public attitudes due to enhanced mobility across the EU. Therefore, I conclude that the Europeanisation of same-sex partnerships policy in Poland has influenced many areas, or Domains following Radaealli's criteria.[179]

Europeanisation of same-sex partnerships policy did not affect at all the Political Structures sub-domain, as the scope of changes was too small to have any influence. In Cognitive and Normative Structures Domain it changed the Discourse as well as Narratives and Frames in which Policy Paradigms are constructed. It is slowly influencing the Identities, but it is difficult to prove change has occurred here. However, the Europeanisation process leaves more fundamental features, such as Norms and Values as well as State Traditions intact. So far, the EU directly or through its proxies failed to change the Political Legitimacy of the same-sex partnerships policy in Poland, which today is rejected by the majority of the population and political leaders.

The Europeanisation of same-sex partnership policy also made changes in the Structures of Representation and Cleavages sub-domain. It has empowered Pressure groups such as LGBT NGOs. However, it seems that it did not affect political parties. As for Societal-cleavage structures, based on the rising acceptance of LGBT rights in Poland, we can assume that there were some changes, but it is difficult to tell if they are generational, ideological or have some other nature.

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[178] See *Table 2 Outcomes of Europeanisation.*
[179] See *Table 1 Domains of Europeanisation.*

The Europeanisation of the same-sex partnerships policy definitely influenced the Public Policy Domain. Most importantly, it changed the perception of the Policy Problem, as it is know evolving from partnerships to marriages. This process was inspired and supported by the expertise of other EU states, which today are making reforms to expand the rights of same-sex couples. We can say that the composition of Actors did not change at all under the influence of the policy, however, the Instruments that LGBT NGOs are using to push it evolved greatly. Mostly they are either based on pressuring the government through EU institutions, which has an ambiguous effect, either on learning new methods of campaigning, lobbying from the other EU countries. In terms of the Financial resources the LGBT NGOs as the main reform advocates or any other actors did not benefit greatly from the Europeanisation process. Finally, in terms of Style, the presence of the EU certainly made LGBT NGOs more assertive and demanding, and at the same time, conservative politicians have changed their rhetoric towards the LGBT community to a less aggressive and less humiliating one.

5.3 Conclusion

In conclusion, I contend that the proposed Hybrid Theoretical Model withstands the test by empirical data. All the Concepts and Categories developed based on the empirical data fit well into the Hybrid Theoretical Model design, which helped to better explain the dynamics, links and relations between elements of the case study in question. This model has capacities to provide explanations for the cases where the Europeanisation process is lagging or failing as well as to take account of the processes, which are difficult to record and formalize. Overall, this model should be tested on more cases with similar profiles to prove its performance capacities. The analysis of the empirical data confirmed some of the assumptions formulated earlier and provided insights on the role of the EU in the development of same-sex partnerships policy in Poland. These points will be further developed in the concluding chapter.

Firstly, we can confirm that the Europeanisation of the policy is taking place. The most important element in this process is the horizontal knowledge exchange between other EU states. Secondly, the EU institutions do not play an important role in this

process. Their actions are both limited by their competences as well as by the resistance of domestic political elites, which not only block the development of the policy in the Poland, but also prevent attempts for any element of same-sex couples recognition to be present at the EU level. Thirdly, as EU institutions lack capacities to influence development of the same-sex partnerships policy in Poland, local advocates seek support in other international institutions, such as CoE. Fourthly, the local pro-reform actors mainly represented by the LGBT NGOs are very active and were empowered in the past by the EU to develop their activities. They managed to work together and present several policy proposals without any support fro the government. Their main weakness is political representation or lack of political support due to the weakness of leftist parties in Poland. Fifthly, the policy discourse and framing play the crucial role in Poland. The use of the EU values discourse was important for policy promotion, but had controversial effects on the perception of the policy by politicians and population. Sixthly, although all past attempts to introduce same-sex partnerships bills for discussion in the Parliament failed, their success might have brought even more troubles to the beneficiaries or the community, since the bills were quite weak and vague from the legal point of view. Seventhly, the legal system in Poland and the revised Constitution play against the pro-reform actors, thus the potential policy introduction will be followed by serious legal shake-up. In this sense, it is very important for pro-reform actors to change the public attitudes towards the policy. Lastly, the growing EU and global trend of recognizing same-sex couples' rights is believed to influence Poland at some point in the future, taking into the account the generational change, Polish international prestige and enhanced mobility in the Community. However, this assumption so far does not have enough grounds in the research to confirm that these factors have an effect on the opinion of the public or elites in Poland.

Chapter 6. Conclusions on the EU's impact on same-sec partnerships policy in Poland

This research investigated the impact of the European Union on same-sex partnerships policy development in Poland. The research defined the concept of Europeanisation in a broad way as a transfer a of rules, policy paradigms and 'ways of doing things' into the logic of domestic discourse, identities and public policies through the EU institutions or local actors as their proxies as well as other EU Member states. Seven main conclusions can be drawn from the case study.

Firstly, the Europeanisation of same-sex partnerships policy in Poland is taking place and LGBT NGOs as the main pro-reform actors acknowledged the empowering role that EU had on LGBT movement in the past[180]. The EU raised the issue of LGBT rights in Poland and provided the legal grounds for the recognition of LGBT rights in the domestic legislation. However, currently the role of European Union institutions in this process of same-sex partnerships policy development in Poland is limited due to the EU's restricted competence and the controversial nature of the issue, which prevents the EU from developing a common stand in the intergovernmental system of decision-making.

Secondly, in circumstances of limited EU influence domestic elites are the most important actors that determine the future of the policy. In Poland, two main actors prevent policy from developing. Conservative politicians who are currently in power find the policy too risky for their career and ambiguous to support. Additionally, currently there is a big split in the ruling party (PO) on the issue, which makes the policy even more unlikely to be discussed. The Polish Catholic Church, which has a high authority in questions related to family and moral issues, strongly opposes the policy and recently started a 'gender crusade' against the LGBT community. At the same time, the Church still has a strong influence on conservative politicians. Despite the fact that this influence is gradually weakening, the pro-reform actors, represented mainly by LGBT NGOs and small left-wing parties, cannot win in a 'power play' with such strong veto actors. Additionally, the public administration serves as an

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[180] This point was introduced by Brzezinska (2011: 116) and confirmed by my interviewees.

informal veto player, when it comes to LGBT rights in Poland. If the rules securing LGBT rights are too vague, clerks have a lot of power to decide how these rules will be implemented, which was manifested in the situation with Polish civil status certificates required to conclude same-sex unions abroad.

Thirdly, despite the fact that marriage equality is a main goal of the majority of LGBT NGOs, the movement is split on the issue of the strategy. One big group is opting for introducing same-sex partnerships as an intermediate stage that will prepare public opinion for the idea of same-sex marriages. The other big group wishes to introduce same-sex marriages directly. Both groups have strong arguments to support their strategic view. However, the lack of unity and clear strategic vision led to the creation of weak bills in 2011, which would be easily defeated by policy opponents. However, as the political lobbying efforts of LGBT NGOs were also weak, the bills did not even get minimum support to be eligible for discussion in the Parliament. In these circumstances of low operational capacities, Polish LGBT NGOs desperately need unification around one idea and strategic perspective.

Fourthly, the persuasive powers of the EU are not convincing for the main policy veto players in Poland. The continuous application of non-compulsory instruments by the EP has so far been inefficient and sometimes been met by rejection from the conservative politicians and the Church. Other non-compulsory tools such as the Open Method of Coordination lacks capacities to introduce change as they take decisions based on consensus and with regard to same-sex unions so far there is none. In relation to LGBT rights, only binding EU regulations have proved to have any effect in Poland. However, Poland tries to implement the minimum of the necessary binding regulations and at the slowest possible pace. At the same time, the Polish governmental officials work preventively to block or amend any EU laws, which aim to introduce same-sex unions, mention same-sex couples' rights, or interfere with the exclusive rights of Member states to regulate family law.

Fifthly, in these circumstances of limited EU action, the pro-reform domestic actors are forced to address and ask for support from other international organizations dedicated to human rights protection such as the Council of Europe. LGBT activists apply to the CoE's European Court of Human Rights since it has binding powers over

Poland in family law, unlike the Court of Justice of the European Union. The ECtHR make decisions only on separate cases. However, these decisions are often taken into account by domestic courts in Poland. LGBT NGOs also seek support from the Parliamentary Assembly of CoE as it is less dependant on politics than EP and more outspoken on LGBT rights due to the more leftist composition of the membership. However, CoE institutions have the same low level of persuasive power on Polish politicians as the EP. Thus, CoE impact in Poland is supplementary. It has almost no capacity to influence the change of specific legislation in Poland.

Sixthly, EU institutions had an important role in Poland preparing the grounds for same-sex partnerships policy development in the pre-accession period. However, in the post-accession period, in the environment of limited action, the EU member states became the main agents of Europeanisation of the same-sex partnerships policy. The importance of EU membership is that it 'set the scene' enabling the knowledge exchange between Polish LGBT NGOs and their counterparts in other EU states on governmental and non-governmental level. NGO activists take into account the successful bills in other EU states, strategies on policy campaigns and framing of the public discourse. So far, the preference of Polish pro-reform activists went to the best practices examples of EU states that had similar levels of religiosity and conservatism in the society. However, Polish advocates did not blindly follow the policy solutions from abroad, but developed them taking into account the local context as well as the experience of other non-EU states, most prominently the US. Additional research of the bills' drafting process is required to asses more accurately EU member states' best practices influence.

Seventhly, the issue of discourse and framing in Poland appears to be crucial for the same-sex partnerships policy success. The controversial character of the policy transports it from the social issue domain to the ideological area. Its framing based on civil rights and EU values revealed the multilayered character of the attitudes towards the European Union in Polish society, with at least two levels of identification with the EU in Poland. Whereas on a 'physical' level Poles are supportive of the European Union reforms and feel very connected to the Community, when it comes to the policies tackling the 'spiritual' level of identification, Poles do not feel much connection with the EU's values or the authority of the Union in this area. So far the

advocates mostly ignored this feature of policy development, which manifested in their own controversial perception of the EU discourse and population attitude towards it. Although, in recent years some LGBT NGOs started to gradually change the framing of the issue, referring to the conservative values that would be more convincing for local politicians and society. This change was enabled among other things by knowledge exchange with the other EU member states. For pro-reform actors explaining the contents of same-sex unions' policy and securing more support from the public is crucial. It is an important tool in the 'power play' with veto actors that might weigh down the scale in policy debate. Additionally, the new policy might require amending the Article 18 of Polish Constitution. This will call for a referendum where public opinion will be a decisive factor for the future of the policy. There are several factors, which seem to change public opinion in Poland towards more acceptance of LGBT rights, such as generational change, enhanced mobility in the EU and peer pressure from growing numbers of EU and non-EU states that have recognized same-sex couples. Yet, the research exploring the effect of these factors on public opinion so far gives contradictory results and more investigation in this area is needed to make solid conclusions.

Based on above, I conclude that the theoretical research of Europeanisation should develop more in the areas, which would explore the mechanisms of knowledge and policy exchange between EU member states as well as the importance of the policy framing as an instrument of EU influence in post-accession environment. Another important feature is the development of models, which would have capacities to explain reasons for the failure of specific Europeanized policies. This will require theoretical models to focus more on domestic actors as well as on the process of policy development. Developing these theoretical areas would be crucial for understanding the Europeanisation of policies similar to this case study, where EU institutions have limited capacity to introduce change. The Hybrid Theoretical Model[181], which I have proposed has proved that it has capacities to explain the case study and can serve as a basis for developing this new theoretical framework.

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[181] See Figure 1.

Bibliography

Academic publications

Bache, I. (2008) Europeanization and Multilevel Governance: Cohesion Policy in the European Union and Britain, Plymouth: Rowman and Littlefield.

Bodnar, A., Sledzinska-Simon, A. (2014) 'Between Recognition and Homophobia: Same-Sex Couples in Eastern Europe', Same-Sex Couples before National, Supranational and International Jurisdictions, ed. by Gallo D. et al., Berlin: Springer-Verlag, pp. 211 - 247.

Börzel, T. (1999) 'Institutional Adaptation to Europeanisation in Germany and Spain', Journal of Common Market Studies, Vol. 37, No. 4, pp. 573-596.

Börzel, T. (2002) 'Member state Responses to Europeanisation', Journal of Common Market Studies, Vol. 40, No. 2, pp. 193 – 214.

Börzel, T., Risse, T. (2000), 'When Europe Hits Home: Europeanisation and Domestic Change', European Integration Online Papers, Vol. 4, No. 15.

Börzel, T., Risse, T. (2003) 'Conceptualizing the Domestic Impact of Europe' in The politics of Europeanisation, ed. by K. Featherstone and C. Radaelli, Oxford: Oxford University Press, pp. 55 – 78.

Boucher, A., Mahboob, A., Dutcher, L. (2013) 'Power and solidarity in elite interviews', A paper for the American Political Science Association General Meeting, Chicago, August 28, https://www.academia.edu/4557169/Power_and_solidarity_in_elite_interviews, last consulted on 13.08.2015.

Brinkmann, S. (2013) Qualitative Interviewing: Understanding Qualitative Research, New York: Oxford University Press.

Brzezińska, O. (2011) 'LGBT Pride and Sexual Minorities in Poland', Extending the Boundaries of Civic Membership: Polish NGOs as Change Agents ed. By Czajkowska B., pp. 111–27, RECON Report No. 16, Oslo: ARENA.

Bulmer, S., Burch, M. (2001) 'The Europeanization of Central Government: the UK and Germany in Historical Institutionalist Perspective', The Rules of Integration: Institutional Approaches to the Study of Europe, ed. by Schneider G., Aspinwall M., Manchester: Manchester University Press.

Buller, J., Gamble, A (2002) 'Conceptualising Europeanisation', Public Policy and Administration, Vol. 17, No. 2, pp. 4-24.

Burch, M., Gomez, R. (2003) 'Europeanisation and the English Regions', ESRC/UACES Series of Seminars on EBP, University of Sheffield, http://aei.pitt.edu/1725/, , last consulted on 16.08.2015.

Charmaz, K. (1983) 'The grounded theory method: An explication and interpretation', in Contemporary field research, ed. by Emerson, R., Illinois: Waveland Press, pp. 109 - 126.

Charmaz, K. (2002) 'Qualitative interviewing and grounded theory analysis', in Handbook of Interview Research: Context & Method, ed. by Gubrium, J. & Holstein, J., London: SAGE, pp. 347 – 366.

Chiva, C. (2009) 'The Limits of Europeanisation: EU Accession and Gender Equality in Bulgaria and Romania', Perspectives on European Politics and Society, Vol. 10, No. 2, June 26, pp. 195-209.

Craig, P., De Burca, G. (2015) EU Law: Text, Cases, and Materials (6th edition), Oxford: Oxford University Press.

Czajkowska, B. (2011) Extending the Boundaries of Civic Membership: Polish NGOs as Change Agents, RECON Report No. 16, Oslo: ARENA.

Dabrowska, M. (2009) <u>LARG Comparative Report: Poland</u> (Vienna: IWM).

Darbi, W., Hall, C. (2014) 'Elite interviews: Critical practice and tourism'<u>, Current Issues in Tourism</u>, Vol. 17, No. 9, pp. 832-848.

Dunia, F. (1999) <u>Harmonizing Europe: Nation-states within the Common Market</u>, New York: State University of New York Press.

Dyczewski, L. (2002) <u>Values in Polish Cultural Tradition</u>, The Council of Research in Values and Philosophy: Washington.

Dyson, K., Goetz, K. (2002) 'Germany and Europe: Beyond Congruence', presented at <u>British Academy Conference 'Germany and Europe: A Europeanised Germany?'</u>, Draft, March 11.

Flockhart, T. (2010) 'Europeanisation or EU-ization? The Transfer of European Norms across Time and Space', <u>Journal of Common Market Studies</u>, Vol. 48, No. 4, pp. 787–810.

Fúsková, J., Kočnerová, M. (2011) 'Identity of homosexual minority in the Central-European surrounding: Case study of Czech and Slovak Republic', <u>The Annual of Language & Politics and Politics of Identity</u>, Vol. 5, pp. 125-132.

George, S. (2001) 'The Europeanisation of UK Politics and Policy-Making: The Effects of European Integration on the UK', <u>Queen's Papers on Europeanisation</u>, No 8.

Glaser, B., Strauss, A. (2009) <u>The Discovery of Grounded Theory: Strategies for Qualitative Research</u>, New Jersey: Transaction Publishers.

Goetz, K., Hix, S. (2000) 'Europeanised Politics? European Integration and National Political Systems', <u>West European Politics</u>, Vol. 23, No. 4.

Grabbe, H. (2006) The EU's Transformative Power: Europeanisation Through Conditionality in Central and Eastern Europe, Palgrave.

Graff, A. (2010) 'Looking at Pictures of Gay Men: Political Uses of Homophobia in Contemporary Poland', Public Culture, Vol. 22, No 3, pp. 583 - 603.

Gross, E. (2009) The Europeanization of National Foreign Policy: Continuity and Change in European Crisis Management, Basingstoke: Palgrave Macmillan.

Gruszczynska, A. (2009) Queer enough? Contested terrains of identity deployment in the context of gay and lesbian public activism in Poland, PhD thesis, Aston University.

Hang, N. (2011) 'Europeanization: simply a top-down process?', Marmara Journal of European Studies, Vol. 19, No. 1, pp. 135 – 151.

Haynes, J. (2009) Religion and Politics in Europe, the Middle East and North Africa, New York: Routledge.

Héritier, A. (1996) 'The Accommodation of Diversity in European Policy Making', Journal of European Public Policy, Vol. 3, No. 2.

Howell, K. (2003) 'The Europeanisation of British Financial Services', ESRC/UACES Series of Seminars on EBP, University of Sheffield, http://aei.pitt.edu/1721/, last consulted on 12.08.2015.

Howell, K. (2004) 'Developing Conceptualisations of Europeanisation: Synthesising Methodological Approaches', Queen's Papers on Europeanisation, No. 3, April.

Hughes, J., Sasse, G., Gordon C. (2004) 'Conditionality and Compliance in the EU's Eastward Enlargement', Journal of Common Market Studies, Vol. 42, No. 3, pp. 523–51.

King, R., Ruiz-Gelices (2003) 'International student migration and the European 'Year Abroad': effects on European identity and subsequent migration behaviour', International Journal of Population Geography, Vol. 9, No. 3, May 14, pp. 229 – 252.

Kliszynski, K. (2001) 'A Child of a Young Democracy: The Polish Gay Movement, 1989-1999', Pink, Purple, Green: Women's, Religious, Environmental and Gay/Lesbian Movements in Central Europe Today, ed. by Flam H., New York: Columbia University Press.

Kuhar, M. (2012) 'Use of the Europeanisation Frame in Same-Sex Partnership Issues across Europe', The Europeanisation of Gender Equality Policies: A Discursive-Sociological Approach ed. by Lombardo E., Forest M., New York: Palgrave Macmillan.

Ladrech, R. (1994) 'Europeanisation of domestic politics and institutions: the case of France', Journal of Common Market Studies, Vol. 32, No. 1, pp. 69-88.

Lenschow, A. (2006) 'Europeanisation of Public Policy', European Union: Power and Policy-making, 3rd Edition, ed. by Richardson J., New York: Routledge.

Merin, Y. (2002) 'Recognition of Same-Sex Partnerships in Other European Countries: Hungary, Czech Republic' in Equality for Same-Sex Couples: The Legal Recognition of Gay Partnerships in Europe and the United States, Chicago: The University of Chicago Press.

Mole, R. (2012) 'Homophobia in Central and Eastern Europe: the Failure of Europeanisation in the Latvian Context', Collective Identity and Democracy in the Enlarging Europe, ed. by Góra M., Mach Z., Zielińska K., Warszawa: Peter Lang, pp. 185 - 205.

O'Dwyer, C. (2010) 'From Conditionality to Persuasion? Europeanisation and the Rights of Sexual Minorities in Post Accession Poland', Journal of European Integration, Vol. 32, No. 3, pp. 229-247.

O'Dwyer, C. (2012) 'Does the EU help or hinder gay-rights movements in post-communist Europe? The case of Poland', East European Politics, Vol. 28, No. 4, pp. 332-352.

Oktay, J. (2012) Grounded Theory: Pocket Guides to Social Work Research Methods, New York: Oxford University Press.

Owczarzak, J. (2009) 'Defining democracy and the terms of engagement with the postsocialist state: insights from HIV/AIDS', East European Politics and Societies, Vol. 23, No. 3, pp. 421–445.

Pankowski, R (2010) The Populist Radical Right in Poland: The Patriots, London: Routledge.

Pelz, M. (2014) 'Europeanisation, Party Systems, and LGBT Rights: The Cases of Estonia, Latvia, Montenegro, and Serbia', PhD Thesis, University of Toronto: Department of Political Science.

Pilinkaite-Sotirovic, V. (2009) 'Limits of Europeanisation: marriage, family and reproduction policies in Lithuania', Quality in Gender Equality Policies, http://www.quing.eu/files/WHY/pilinkaite.pdf, consulted at 23.02.2015.

Prusak, J. (2003) 'Homoseksualizm z perspektywy Kościoła katolickiego', Męska rozmowa: Chrześcijanie a homoseksualizm, ed. by Jabłońska K., Gawryś C., Warszawa: Biblioteka Więzi.

Radaelli, C. (2003) 'The Europeanisation of public policy' in The politics of Europeanisation, ed. K. Featherstone and C. Radaelli, Oxford: Oxford University Press, pp. 27–56.

Ramet, S. (2014) Religion and Politics in Post-Socialist Central and Southeastern Europe: Challenges Since 1989, New York: Palgrave Macmillan.

Reyniers, P. (2014) 'Same-Sex Couples in France and Belgium: The Resilient Practice of Judicial Deference', <u>Same-Sex Couples before National, Supranational and International Jurisdictions</u>, ed. by Gallo D. et al., Berlin: Springer-Verlag, pp. 249 - 263.

Schimmelfennig, F., Sedelmeier, U. (2005) <u>The Europeanisation of Central and Eastern Europe</u>, Ithaca: Cornell University Press.

Sigalas, E. (2010) 'Cross-border mobility and European identity: The effectiveness of intergroup contact during the ERASMUS year abroad', <u>European Union Politics</u>, Vol. 2, No. 11, pp. 241 - 265.

Stark, B. (2009) 'Domestic Partnerships and Same-Sex Marriage', <u>Family Law in the World Community: Cases, Materials, and Problems in Comparative and International Family Law</u>, ed. by Blair M., Weiner M., Stark B., Maldonado S., Durham: Carolina Academic Press, pp. 211 - 246.

Szczerbiak, A. (2007) 'Why do Poles love the EU and what do they love about it?: Polish attitudes towards European integration during the first three years of EU membership', <u>Sussex European Institute Working Paper</u>, No. 98, November, <u>https://www.sussex.ac.uk/webteam/gateway/file.php?name=sei-working-paper-no-98.pdf&site=266</u>, last consulted on 19.08.2015.

Szulc, L. (2011) 'Chaper 11. Queer in Poland: Under Construction' <u>Queer in Europe: Contemporary Case Studies</u>, ed. by Gillett R. and Downing L., pp. 159 - 173, Ashgate: Burlington.

Tekin, A., Güney, A. (2015) <u>The Europeanisation of Turkey: Polity and Politics</u>, Routledge: New York.

Tinney, D. (2010) 'Family Law and the European Union: International Human Rights and Member state Diversity', <u>CES Conference Final Draft</u>, April 13, <u>https://www.academia.edu/432536/Family_Law_and_the_European_Union_International_Human_Rights_and_Member_State_Diversity</u>, last consulted on 18.08.2015.

Tremblay, M., Paternotte, D., Johnson, C. (2011) <u>The Lesbian and Gay Movement and the State: Comparative Insights Into a Transformed Relationship</u>, Farnham: Ashgate Publishing.

Wong, R. (2011) 'The Europeanization of Foreign Policy', <u>International Relations and the European Union, 2nd ed</u>., ed. by: Hill C., Smith M., Oxford: Oxford University Press, pp. 149 – 170.

Zatezalo, M. (2007) 'The Dual Nature of Europeanization: Divergent National Mechanisms to Common Monetary and Securities Markets Policy', <u>Essay</u>, University of Twente: Enschede, http://essay.utwente.nl/58085/1/scriptie_Zatazalo.pdf, last consulted on 28.08.2015.

Newspaper articles and internet sources

Amnesty (2006) 'Poland and Latvia: Lesbian, Gay, Bisexual and Transgender Rights in Poland and Latvia', <u>Amnesty International</u>, November 15, https://www.amnesty.ie/sites/default/files/report/2010/04/lesbian%20gay%20bisexual%20transgender%20rights%20in%20poland.pdf, last consulted on 20.08.2015.

Bell, M. (2001) 'The European Union – a new source of rights for citizens in the accession countries?', <u>ILGA-Europe, equality for lesbians and gay men: A relevant issue in the EU accession process</u>, Brussels: ILGA-Europe, pp. 80–89.

Borgatti, S. (2006) 'Introduction to Grounded Theory', <u>MB 870 Qualitative Research Methods web site</u>, http://www.analytictech.com/mb870/introtogt.htm, last consulted on 12.08.2015.

Borowski, C. (2013) 'Polish parliament rejects efforts to legalize gay unions', <u>Reuters</u>, January 25, http://www.reuters.com/article/2013/01/25/us-poland-homosexuals-idUSBRE90O0LU20130125, last consulted on 07.04.2015.

Casinge, E. (2014) 'EU anti-discrimination law one step closer to adoption', EUROACTIVE, October 30, http://www.euractiv.com/sections/social-europe-jobs/eu-anti-discrimination-law-one-step-closer-adoption-309620, last consulted on 17.08.2015.

CBOS (2002) 'Konkubinat Par Heteroseksualnych i Homoseksualnych, CBOS Public Opinion Research Centre, http://www.cbos.pl/SPISKOM.POL/2002/K_049_02.PDF, last consulted on 07.04.2015.

CBOS (2005) 'Akceptacja Praw dla Gejów i Lesbijek i Społeczny Dystans wobec Nich', CBOS Public Opinion Research Centre, http://www.cbos.pl/SPISKOM.POL/2005/K_127_05.PDF, last consulted on 07.04.2015.

CBOS (2010) 'Prawa Gejów i Lesbijek', CBOS Public Opinion Research Centre, http://www.cbos.pl/SPISKOM.POL/2010/K_095_10.PDF, last consulted on 07.04.2015.

CBOS (2013) 'Stosunek do Praw Gejów i Lesbijek oraz Związków Partnerskich', CBOS Public Opinion Research Centre, http://www.cbos.pl/SPISKOM.POL/2013/K_024_13.PDF, last consulted on 18.08.2015.

CBOS (2015) 'Zmiany w Zakresie Podstawowych Wskaźników Religijności Polaków po Śmierci Jana Pawła II', CBOS Public Opinion Research Centre, Number 26, http://www.cbos.pl/SPISKOM.POL/2015/K_026_15.PDF, last consulted on 28.08.2015.

CBOS Newsletter (2015) 'The Poles Still in Favour of In Vitro', CBOS, http://www.cbos.pl/EN/publications/news/2015/23/newsletter.php, last consulted on 07.04.2015.

CEAPP (2012) 'Równe Traktowanie Standardem Dobrego Rządzenia', Centrum Ewaluacji i Analiz Polityk Publicznych UJ,

http://rownetraktowanie.gov.pl/sites/default/files/rtsdr_prezentacja_wybranych_wynik
ow_-_slajdy_oraz_ich_opisy_2.pdf, last consulted on 18.08.2015.

Chancellery (2015) 'Government', The Chancellery of the Prime Minister
https://www.premier.gov.pl/en/people.html, last consulted on 20.08.2015.

Civil Justice (2015) 'Family matters and successions', European Commission,
http://ec.europa.eu/justice/civil/family-matters/index_en.htm, last consulted on
28.08.2015.

Connolly, K (2007) 'Poland to ban schools from discussing homosexuality', The
Guardian, March 20,
http://www.theguardian.com/world/2007/mar/20/schools.gayrights, last consulted on
25.08.2015.

Dąbrowski, S. (2011) 'Opinia o poselskim projekcie ustawy 'O umowie związku
partnertskiego' (Druk Sejmu RP VI kadencji 4418)', Sąd Najwyższy - Biuro Studiów i
Analiz, August 4,
https://drive.google.com/file/d/0B7MluRBFfYdiYmM5ZmIzZjUtZjRkZC00ZDhmL
ThjNDYtYWE3MGRmODdjZDM1/view, last consulted on 07.04.2015.

EASPD (2015) 'Open Method of Coordination', European Association of Service
Providers for Persons with Disabilities, http://www.easpd.eu/en/content/open-method-
coordination, last consulted on 19.08.2015.

EP (2015) 'About Parliament ', European Parliament,
http://www.europarl.europa.eu/aboutparliament/en/, last consulted on 17.08.2015.

Eurobarometer 77 (2012) 'European Citizenship: Report', European Commission,
http://ec.europa.eu/public_opinion/archives/eb/eb77/eb77_citizen_en.pdf, last
consulted on 19.08.2015.

Eurobarometer 82 (2014) 'European Citizenship: Report', <u>European Commission</u>,
<u>http://ec.europa.eu/public_opinion/archives/eb/eb82/eb82_citizen_en.pdf</u>, last
consulted on 19.08.2015.

Eurostat (2015) Population of the EU on January 2015, <u>Eurostat</u>,
<u>http://ec.europa.eu/eurostat/tgm/table.do?tab=table&language=en&pcode=tps00001&</u>
<u>tableSelection=1&footnotes=yes&labeling=labels&plugin=1</u>, last consulted on
16.08.2015.

EU Special Representatives (2015) <u>European External Action Service</u>,
<u>http://eeas.europa.eu/background/eu-special-representatives/index_en.htm</u>, last
consulted on 17.08.2015.

Faris, S. (2013) 'How Poland Became Europe's Most Dynamic Economy', <u>Bloomberg</u>,
November 27, <u>http://www.bloomberg.com/bw/articles/2013-11-27/how-poland-</u>
<u>became-europes-most-dynamic-economy</u>, last consulted on 19.08.2015.

Finn, C. (2015) 'Ireland is sending a real signal to other countries that change is
possible', <u>Thejournal.ie</u>, May 25, <u>http://www.thejournal.ie/ireland-same-sex-marriage-</u>
<u>referendum-international-2122382-May2015/</u>, last consulted on 18.08.2015.

Geitner, P. (2012) 'On Gay Marriage, Europe Strains to Square 27 Interests', <u>The New</u>
<u>York Times</u>, July 25, <u>http://www.nytimes.com/2012/07/26/world/europe/on-gay-</u>
<u>marriage-europe-strains-to-reconcile-27-interests.html</u>, last consulted on 20.08.2015.

Gennarini, S. (2014) 'European court: Gay marriage is not a human right', <u>LifeSite</u>,
July 25, <u>https://www.lifesitenews.com/news/european-court-gay-marriage-is-not-a-</u>
<u>human-right</u>, last consulted on 12.08.2015.

Gera, V. (2014) 'Robert Biedron Becomes Poland's First Openly Gay Mayor', <u>The</u>
<u>Huffington Post</u>, January 12, <u>http://www.huffingtonpost.com/2014/12/01/robert-</u>
<u>biedron-poland-gay-mayor-_n_6248648.html</u>, last consulted on 07.04.2015.

Gray, J. (2011) 'Krystian Legierski: an interview with the Polish gay rights campaigner', New Internationalist Magazine, July 1, http://newint.org/columns/makingwaves/2011/07/01/legierski-poland-gay-rights/, last consulted on 07.04.2015.

IZA Research Report (2008) 'Geographic mobility in the European Union: Optimising its economic and social benefits ', IZA Research Report, No. 19, http://www.iza.org/highlights/manage_highlights/docs/040_GeographicMobilityinthe EuropeanUnionOptimisingitsEconomicandSocialBenefits_IZAResearchReportNo19_ 2008.pdf, last consulted on 20.08.2015.

Johnston, C. (2015) 'Ireland becomes first country to legalise same-sex marriage by popular vote - as it happened', The Guardian, May 23, http://www.theguardian.com/global/live/2015/may/23/counting-underway-for-irelands-referendum-on-marriage-equality, last consulted on 18.08.2015.

Kozlowska, H. (2014) ''Gender' Is the New Enemy of the Polish Church', Foreign Policy, January 10, http://foreignpolicy.com/2014/01/10/gender-is-the-new-enemy-of-the-polish-church/, last consulted on 20.08.2015.

KPH (2009) 'Parlament Europejski zajmie się petycją KPH', Campaign Against Homophobia, February 25, http://www.kph.org.pl/pl/allnews/15-kph/98-parlament-europejski-zajmie-si-petycj-kph, last consulted on 07.04.2015.

KPH (2010) 'KPH's success at the European Parliament Petitions Committee!', Campaign Against Homophobia, June 01, http://world.kph.org.pl/index.php?lang=en&doc=news&id=28&o=0, last consulted on 12.08.2015.

KPH (2013) 'Parents, dare to speak out', Campaign Against Homophobia, February 28, http://world.kph.org.pl/index.php?lang=en&doc=news&id=72&title=parents_speak_o ut, last consulted on 18.08.2015.

Kusiak, N., Błańska, M. (2014) 'Korwin-Mikke ostro o homoseksualistach: Lepszy związek z SZYMPANSICĄ', Kafeteria TV, June 11, http://kafeteria.tv/Gej-to-NASLANY-Z-ZACHODU-facet-Udaje-by-dostac-dof-HTRVRUKhpNK, last consulted on 20.08.2015.

Leigh, J. (2006) 'Polish Culture', Diversicare, June, http://diversicare.com.au/wp-content/uploads/Polish.pdf, last consulted on 20.08.2015.

Lipka, M. (2015) 'Where Europe stands on gay marriage and civil unions?', PEW Research Center, June 9, http://www.pewresearch.org/fact-tank/2015/06/09/where-europe-stands-on-gay-marriage-and-civil-unions/, last consulted on 29.08.2015.

Members (2015) ILGA Europe, http://www.ilga-europe.org/who-we-are/members, last consulted on 18.08.2015.

Moussis, N. (2011) 'The legal system of the European Union', Europedia, http://www.europedia.moussis.eu/books/Book_2/2/3/3/index.tkl, last consulted on 19.08.2015.

Nordsieck, W. (2015) 'Poland', Parties and Elections in Europe, http://parties-and-elections.eu/poland.html, last consulted on 20.08.2015.
PACE in brief (2015) Parliamentary Assembly of the Council of Europe, http://website-pace.net/en_GB/web/apce/in-brief, last consulted on 17.08.2015.

Pastoral Letter (2013) 'Pastoral letter of the Bishops' Conference of Poland to be used on the Sunday of the Holy Family 2013', Konferencja Episkopatu Polski, December 29,
http://episkopat.pl/dokumenty/listy_pasterskie/5584.0,Pastoral_letter_of_the_Bishops_Conference_of_Poland_to_be_used_on_the_Sunday_of_the_Holy_Family_2013.prn, last consulted on 07.04.2015.

Petras, J. (2015) 'Greece and the European Union: First as Tragedy, Second as Farce, Thirdly as Vassal State', Global Research, July 28,

http://www.globalresearch.ca/greece-and-the-european-union-first-as-tragedy-second-as-farce-thirdly-as-vassal-state/5465321, last consulted on 07.04.2015.

PEW (2014) 'A Fragile Rebound for EU Image on Eve of European Parliament Elections', Pew Research Center, May 12, http://www.pewglobal.org/2014/05/12/a-fragile-rebound-for-eu-image-on-eve-of-european-parliament-elections/, last consulted on 19.08.2015.

PKW (2011) 'Wybor do sejmu i Senatu Rzeczypospolitej Polskiej', Państwowa Komisja Wyborcza, http://wybory2011.pkw.gov.pl/wsw/pl/000000.html#tabs-2, last consulted on 20.08.2015.

Political groups (2015) Parliamentary Assembly of the Council of Europe, http://website-pace.net/en_GB/web/apce/political-groups, last consulted on 17.08.2015.

President.pl (2015) Poland needs euro to play bigger EU role, The official website of the President of the Republic of Poland, July 7, http://www.president.pl/en/president-komorowski/news/art,854,poland-needs-euro-to-play-bigger-eu-role.html, last consulted on 18.08.2015.

President.pl (2015) 'Poland wants to represent interests of Central Europe', The official website of the President of the Republic of Poland, June 20, http://www.president.pl/en/president-komorowski/news/art,843,poland-wants-to-represent-interests-of-central-europe.html, last consulted on 18.08.2015.

PSL (2014) 'Polskie Stronnictwo Ludowe', Forum for Visegrad+ Studies, August 24, http://visegradplus.org/party/polskie-stronnictwo-ludowe/, last consulted on 20.08.2015.

Robinson, B. (2008) 'Governments that have recognized same-sex relationships' Ontario Consultants on Religious Tolerance, May 14, http://www.religioustolerance.org/hom_mar4.htm, last consulted on 18.08.2015.

Siedlecka, E. (2015) 'Związki partnerskie. Rząd staje Unii okoniem i blokuje negocjacje', Wyborcza, February 06, http://wyborcza.pl/1,75478,17366534,Zwiazki_partnerskie__Rzad_staje_Unii_okoniem_i_blokuje.html#ixzz3id8F4V9L, last consulted on 12.08.2015.

Sierakowski, S. (2014) 'The Polish Church's Gender Problem', Political Critique, February 06, http://politicalcritique.org/opinion/2014/sierakowskithe-polish-churchs-gender-problem/, last consulted on 07.04.2015.

SOGI (2015) 'Sexual Orientation and Gender Identity Unit', Council of Europe, http://www.coe.int/t/dg4/lgbt/Default_en, last consulted on 17.08.2015.

Statewatch (2008) 'EU-Poland: Opt-out Protocol to the Charter of Fundamental Rights', Statewatch: monitoring the state and civil liberties in Europe, January 01, http://www.statewatch.org/news/2008/jan/01eu-poland.htm, last consulted on 16.08.2015.

Szczerbiak, A. (2014) 'Law and Justice are likely to come out ahead in the European Parliament elections in Poland', European Politics and Policy, January 30, http://blogs.lse.ac.uk/europpblog/2014/01/30/law-and-justice-are-likely-to-come-out-ahead-in-the-european-parliament-elections-in-poland/, last consulted on 19.08.2015.

The Economist (2014) 'A constitutional right', The Economist, June 26, http://www.economist.com/blogs/democracyinamerica/2015/06/gay-marriage-america, last consulted on 19.08.2015.

The Mandate (2015) 'Commissioner for Human Rights', Council of Europe, http://www.coe.int/en/web/commissioner/mandate, last consulted on 17.08.2015.

The Voice of Warsaw (2015) 'President Komorowski signs domestic violence convention', The Voice of Warsaw, April 2015, http://www.warsawvoice.pl/WVpage/pages/article.php/31506/news, last consulted on 07.04.2015.

The Voice of Warsaw (2015) 'President signs IVF bill into law', <u>The Voice of Warsaw,</u> July 2013, http://www.warsawvoice.pl/WVpage/pages/article.php/32474/news, last consulted on 07.04.2015.

Williams, J. (2015) 'Poland passes first gender recognition bill', <u>Pink News</u>, July 24, http://www.pinknews.co.uk/2015/07/24/poland-passes-first-gender-recognition-bill/ last consulted on 16.08.2015.

Wyrzykowski, M. (2011) 'Konstytucja zobowiązuje do wprowadzenia związków partnerskich', <u>Homiki.pl</u>, November 22, http://homiki.pl/index.php/2011/11/konstytucja-zobowizuje-do-wprowadzenia-zwizkw-partnerskich/, last consulted on 07.04.2015.

Official documentation

Bratza, N. (2010) 'The case of Kozak v. Poland', <u>European Court of Human Rights</u>, March 2, Strasbourg, http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-97597#{"itemid":["001-97597"]}, last consulted on 07.04.2015.

CFR (2000) 'Charter of Fundamental Rights of the European Union, Official Journal of the European Communities, December 18, http://www.europarl.europa.eu/charter/pdf/text_en.pdf, last consulted on 07.04.2015.

CoE (2009) 'Contribution of the Commissioner for Human Rights to the work of the European Committee on Legal Co-operation (CDCJ)', <u>Council of Europe</u>, https://wcd.coe.int/ViewDoc.jsp?id=1443329, last consulted on 19.08.2015.

Comprehensive monitoring report (2003) 'Comprehensive monitoring report on Poland's preparations for membership', <u>Commission of the European Communities</u>, November 5, http://aei.pitt.edu/44596/1/poland_SEC_(2003)_1207.pdf, last consulted on 25.08.2015.

Directive (2010) 'Summaries of EU legislation', EUR-lex, September 01, http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:l14527, last consulted on 19.08.2015.

Directive 2012/29/EU (2012) 'Establishing minimum standards on the rights, support and protection of victims of crime', EUR-lex, 25 October, http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012L0029, last consulted on 12.08.2015.

Dziennik Ustaw (1997) 'The Constitution of the Republic of Poland', Dziennik Ustaw, No. 78, Item 483, April 2, http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm, last consulted on 07.04.2015.
EC (2011) 'Council Regulation on jurisdiction, applicable law and the recognition and enforcement of decisions regarding the property consequences of registered partnerships', European Commission, March 16, http://ec.europa.eu/justice/policies/civil/docs/com_2011_127_en.pdf, last consulted on 18.08.2015.

EP (2014) 'Motion for a European Parliament Resolution on the EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity (2013/2183 (INI))', European Parliament, January 8, http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2014-0009&language=EN, last consulted on 07.04.2015.

EP Debates (2014) 'Homophobia and discrimination on grounds of sexual orientation and gender identity (short presentation)', Debates: European Parliament, February 3, http://www.europarl.europa.eu/sides/getDoc.do?type=CRE&reference=20140203&secondRef=ITEM-017&language=EN&ring=A7-2014-0009, last consulted on 17.08.2015.

EP Resolution (2014) 'European Parliament resolution of 4 February 2014 on the EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity (2013/2183 (INI))', European Parliament, February 4,

http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0062+0+DOC+XML+V0//EN, last consulted on 07.04.2015.

EP Resolution (2015) 'European Parliament resolution of 12 March 2015 on the Annual Report on Human Rights and Democracy in the World 2013 and the European Union's policy on the matter', European Parliament, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0076+0+DOC+XML+V0//EN&language=EN, last consulted on 12.08.2015.

FRA Annual Report (2013) 'Fundamental rights: challenges and achievements in 2013', European Union Agency for Fundamental Rights, http://fra.europa.eu/sites/default/files/fra-2014-annual-report-2013-2_en.pdf, last consulted on 12.08.2015.

Grodzka, A., Śledzińska-Simon, A. (2014) 'Gender Recognition in Poland: The Gender Accordance Act DRAFT', Trans-fuzja, April 11, http://transfuzja.org/en/artykuly/gender_recognition_in_poland/the_gender_accordance_act_draft.htm, last consulted on 12.08.2015.

Information Paper (2014) 'Information Paper on LGBTI Discrimination in Poland for the European Commission Against Racism and Intolerance ', PTPA, Warsaw, April, http://ptpa.org.pl/public/files/LGBT_Raport%20FINAL.pdf, last consulted on 12.08.2015.

Oliari v. Italy (2015) 'Oliari and Others v. Italy', European Court of Human Rights, July 21, http://hudoc.echr.coe.int/eng?i=001-156265#{"itemid":["001-156265"]}, last consulted on 19.08.2015.

Protocol No. 30 (2007) 'On the application of the Charter of Fundamental Rights of the European Union to Poland and to the United Kingdom', Protocols - Declarations annexed to the Final Act of the Intergovernmental Conference, which adopted the Treaty of Lisbon, EUR-lex, December 13, http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012M/TXT&from=EN, last consulted on 07.04.2015.

Regular Report (2002) 'Regular Report on Poland's Progress towards Accession', Commission of the European Communities, October 9, http://ec.europa.eu/enlargement/archives/pdf/key_documents/2002/pl_en.pdf, last consulted on 25.08.2015.

Rozakis, C. L. (2003) 'The case of Karner v. Austria', European Court of Human Rights, July 24, Strasbourg, http://hudoc.echr.coe.int/sites/eng/pages/search.aspx#{"appno":["40016/98"],"itemid" :["001-61263"]}, last consulted on 07.04.2015.

Signatures and ratifications (2015) 'European Convention on Human Rights', Council of Europe, http://conventions.coe.int/Treaty/Commun/ListeTableauCourt.asp?CL=ENG&MA=3, last consulted on 17.08.2015.

TEU (2008) Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, EUR-lex, http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:12012M/TXT, last consulted on 19.08.2015.

10 PL - EU (2014) 'Poland's 10 years in the European Union', Ministry of Foreign Affairs, Warszawa, https://www.msz.gov.pl/resource/fa393546-1309-4ea8-ad30-2c93d01e7f36:JCR, last consulted on 07.04.2015.

Appendices

Appendix 1 – List of Interviewees

Ten interviews were conducted during March and April 2015. The preferred method was face-to-face interviewing. However, some of the interviewees wished to be interviewed by Skype with activated microphone and camera instead of meeting face-to-face. Mostly this was due to distance and the tight schedule of the interviewees. The data was recorded in a digital format using a digital voice recorder or in the case of the Skype interviews – special recording software. The interviews were transcribed word-for-word for a later analysis to assure the accuracy of collected data. All interviews were conducted in English to assure clear understanding of the gathered information and avoid misinterpretation. Each interview was approximately 40 minutes long. During interviews field notes were also taken in order to place on record important insights and ideas. These notes were mostly used as a guide for a researcher, which help to make sense of data later in the analysis and start developing ideas at the spot. The interviews were based on the questionnaire (see) guide made up of open-ended questions, which offers the interviewees space for developing their ideas. The guide was not followed strictly, so it would not limit the flow of thoughts of the interviewees. It was applied more as a point of reference to emphasize the important issues, and letting the interviewees to dive into the questions they had more expertise on. The respondents gave consent to be named in any publications arising from the research. Bellow is the list of 10 interviewees:

1. Campaign Against Homophobia (Warsaw)
   Agata Chaber – President

2. Homo Faber (Lublin)
   Katarzyna Bierzanowska – Activist; Piotr Skrzypczak - Activist

3. Lambda (Warsaw)
   Yga Kostrzewa – President

4. Miłość nie wyklucza (Warsaw)

   Marcin Szczepkowski – President

5. Polish Society of Anti-Discrimination Law (Warsaw)

   Krzysztof Śmiszek – President

6. Pracownia Różnorodności Association (Torun)

   Przemek Szczeplocki – President

7. Replika - LGBT Magazine (Warsaw)

   Mariusz Kurc – Chief Editor

8. Tolerado Association (Gdansk)

   Marta Abramowicz – Activist and researcher

9. Trans-Fuzja Foundation (Warsaw)

   Wiktor Dynarski – President

10. University of Warsaw

    Jakub Pawliczak – Researcher (specialising in marriage equality and family law)

Appendix 2 – Questionnaire

1. What level of importance has the same-sex partnerships agenda for the LGBT movement in Poland?
    - Why is it important?
    - How did the importance changed in time
    - Why did it changed?

2. How influential are European-level institutions in shaping gay-rights policy in Poland?
    - Did their role changed with time?
    - How and why did it changed?

3. How would you describe your organization / LGBT movement relations with the EU institutions?

4. Who are the most important actors today in the process of pushing forward / resisting same-sex partnerships legislation?
    - Why they are important?
    - Did their role change with time?

5. How important is the EU's role in the process of putting forward same-sex partnership policy in Poland?
    - Did it role changed with time?
    - Were there any concrete actions?
    - What effects these actions had?

6. Why numerous same-sex partnership legislation drafts failed to be adapted?
    - Why there were several drafts in 2013 at the same time?

7. How important was the experience / best practices examples from other EU countries in the process of drafting / framing same-sex partnerships legislation in Poland?

8.   What is the current situation in the area?

9.   What is the prospective of adopting the same-sex partnership policy in the next
10 years?

- What needs to be done for it to succeed?

- Can EU become an agent of change?

Appendix 3 – 1st stage of Open Coding

After transcribing 10 interviews with the LGBT NGOs leaders on the issues of same-sex partnerships policy in Poland and the influence of the EU in this process, I ended up with a text, which had around 49 000 words. In the first stage of Open Coding, I applied the word-by-word analysis technique in order to identify the main topics, phenomena and links each respondent referred to in their interviews. This narrowed down the overall volume of the 10 interviews to 8 500 key words and phrases. Bellow is an example of how coding on this stage was done:

Transcription of the interview	Codes
Question: Do you think that currently the EU positively influences the development of LGBT rights in Poland? 07:31 It is not really influencing at all, really. The recommendations or any work done by the European Commission or the European Parliament has absolutely no impact on what's happening in Poland and are not in any way an argument in our favour or in any favour. Because the politicians and the public doesn't really care what happens on the EU level. This is just something so outside the country they don't deem that it is important in any way.	EU Commission work + EP recommendations - no impact on Poland – not an argument in favour Politicians + public don't care about the EU level – outside the country – not important

Appendix 4 – 2nd stage of Open Coding: Categories and Concepts

As many codes in the 1st stage of Open Coding were repeating in each interview and subjected to generalization, the overall text volume from 8 500 in the 1st stage decreased to approximately 2 000 words, representing Categories, Concepts and their Properties, following the Grounded Theory criteria. As a result, I ended up with 11 Categories, which represented the broadest and most generalised topics, referred in the interviews. Among them were phenomena like 'EU Institutions Influence', 'Veto Players', 'Policy Importance', 'Discourse', etc. In turn, these very general Categories were formed out of smaller units called Concepts. Depending on the case, each Category housed between 2 to 5 Concepts, making the total number of 29. For example, Category 'Veto Players' housed three Concepts: 'Conservative Politicians', 'Catholic Church' and 'Public administration', which represented smaller and more specific units of analysis. There were some exceptions, where the Category was a stand-alone unit with no internal Concepts at all, for example, 'Constitutional Deadlock'. All units of analysis developed from the interviews are presented in the Table 3 bellow:

Table 3 Concepts and Categories

Category	Concept
EU INSTITUTIONS INFLUENCE	Biding instruments Non-biding instruments Financial Support Change of context EU Mobility
ECtHR / CoE INFLUENCE	CoE instruments ECtHR instruments
POLISH POLICY UPLOADING	
POLISH POLICY CROSS-LOADING	Justification PACS bill German model bill Scandinavian model bill Non-EU Sources of Policy
STRATEGY OF POLICY DEVELOPMENT	Lack of unity Less for less strategy Methods of data gathering From civil unions to marriage equality
POLICY IMPORTANCE	Importance for LGBT NGOs Importance for politicians Importance for population Importance for media
VETO PLAYERS	Conservative Politicians Catholic Church Public administration
CONSTITUTIONAL DEADLOCK	
CONFLICT IN POLITICAL LEADERSHIP	
DISCOURSE	EU discourse Conservative values discourse Public opinion
POSSIBILITY OF CHANGE	Change of public perception through discourse Change of political structure

Appendix 5 – Example: Properties describing the Concept

Bellow is the example of Properties that describe the Concept 'Conservative Politicians', which is the part of the Category 'Veto Players':

CATEGORY: VETO PLAYERS	
Concepts	**Properties**
Conservative Politicians	Dominate Polish politics Oppose same-sex partnerships - most important reason for policy failure Focus on local politics – power struggle More conservative than population Opposing the change – against their values Don't care about the LGBT Believe Poland is not ready Ignorant regarding LGBT issues Listen to Church's opinion – believe it has influence on people Some examples when politician oppose Church – Convention on violence against women is signed by president + InVitro Law (85% of population support) – realise Church has less influence than they imagine Don't want anything controversial – damage for the career Use LGBT issues for their own benefit – address voters (pro or contra) – some build career on attacking LGBT as a threat – electoral support
Catholic Church	
Public Administration	

Appendix 6 – Fitting Empirical Concepts into the Hybrid Theoretical Model

The main units of the Hybrid Theoretical Model are different type of mechanisms that connect actors such as EU institutions, EU member states, Polish pro and contra policy advocates with the same-sex partnerships policy. The main mechanisms are Top-down, Bottom-up, Horizontal and Social Learning. They are accompanied with Intervening Variables, which stand between the actors and policy Outcome. Although they are formulated in different terms, the Concepts developed in the previous section, describe each of this mechanisms through their internal structure (i.e. through their Properties). Therefore, by carefully assessing each Concept, we can assign it to one of the mechanisms of the Hybrid Theoretical Model. For example, the Properties of such concepts as 'Binding Instruments' and 'Non-binding Instruments' of EU institutions are describing the process within the Top-down Mechanism of the Hybrid Theoretical Model. They are assessing how important for the same-sex partnerships policy were EU directives on non-discrimination, why they were important, why they were the only ones tackling LGBT rights, etc. At the same time, they are compared with non-binding instrument such as EP resolutions, their importance, effect and reasons for such an effect. The Table 4 bellow presents the result of fitting empirical concepts into the framework of Hybrid Theoretical Model:

Table 4 Fitting Empirical Concepts into the Hybrid Theoretical Model

Theory Unit	Concept	Category
Top-down Mechanisms	Biding instruments	EU INSTITUTIONS INFLUENCE
Bottom-up Mechanisms		POLISH POLICY UPLOADING
Horizontal Mechanisms: Minimalist and non-compulsory regulations	Non-biding instruments Financial Support CoE instruments ECtHR instruments	EU INSTITUTIONS INFLUENCE ECtHR / CoE INFLUENCE
Horizontal Mechanisms: Open Method of Coordination	N/A	N/A
Horizontal Mechanisms: Micro Level Lesson Drawing Strategies	Sources of Policy PACS bill German model bill Scandinavian model bill Non-EU	POLISH POLICY CROSS-LOADING
Social Learning: Legitimacy / Illegitimacy	EU discourse Conservative values discourse Change of public perception through discourse	DISCOURSE POSSIBILITY OF CHANGE
	Quality Justification Less for less strategy Methods of data gathering Lack of unity	POLISH POLICY CROSS-LOADING STRATEGY OF POLICY DEVELOPMENT
Social Learning: Identity / Otherness	EU Mobility	EU INSTITUTIONS INFLUENCE

| Social Learning: Resonance / Disharmony | Importance for LGBT NGOs Importance for politicians Importance for population Importance for media | POLICY IMPORTANCE

CONSTITUTIONAL DEADLOCK |
|---|---|---|
| Intervening Variables: Veto players in political system | Conservative Politicians Catholic Church Public administration

Change of political structure | VETO PLAYERS

POSSIBILITY OF CHANGE |
| Intervening Variables: Scope and type of executive leaderships in the country | | CONFLICT IN POLITICAL LEADERSHIP |
| Intervening Variables: Impact of EU policy on domestic policy coalitions. | Change of context

From civil unions to marriage equality | EU INSTITUTIONS INFLUENCE

STRATEGY OF POLICY DEVELOPMENT |
| DOMAINS | | |
| OUTCOMES | | |

University of Glasgow | School of Social & Political Sciences

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Name **DMITRI ROMANOVSKI**

Student Number **2048619**

Course Name **INTERNATIONAL MASTERS IN RUSSIAN, CENTRAL AND EASTERN EUROPEAN STUDIES (IMRCEES)**

Assignment Number/Name **IMRCEES DISSERTATION**

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