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ALBANIA
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WESTERN BALKANS

INFRASTRUCTURE AND ENERGY FROM A GEOPOLITICAL PERSPECTIVE

WARSAW | POLAND 29th MAY 2019

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Ministry of Foreign Affairs Republic of Poland

Poznań 2019 Western Balkans Summit

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Dear Readers,

Poland and the rest of the EU member states are about to face two significant challenges related to their EU memberships. First of all, citizens of each member state will vote in the upcoming European elections in May. Secondly, the EU will have to deal with the issues stemming from a potential enlargement of six Western Balkan states. I encourage you to read the analysis by Professor **Tomasz Grzegorz Grosse**, an expert at Warsaw Institute. The author studied the strategies of the largest Polish political parties in European politics, their stances on the future of Europe, strategies towards the political model, as well as reforms within the community.

Polish Deputy Minister of Foreign Affairs **Szymon Szynkowski vel Sęk** writes about building an alliance between the countries of the Western Balkans and the EU. Poland's presidency in the Berlin Process this year makes its role in this context particularly important. In the article, the author highlights Poland's support for Western Balkans in their efforts to integrate into the European Union.

In another article discussing the subject of the Western Balkans, **Piotr Bajda** Ph.D. emphasizes that the V4 countries started bringing the Balkan countries closer to the EU, as evidenced by the successful and widely known formula seen in the "V4 + Western Balkans" meetings. For years, the Visegrad countries have served as a kind of ambassador of the Western Balkans in the European Union. The author analyzes the geopolitical interests of Western European countries in the context of rapprochement with the region.

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It is worthwhile to recommend the analysis by **Grzegorz Kuczyński,** director of Eurasia Program at Warsaw Institute, who writes about the Nord Stream 2 gas pipeline. He puts forward a thesis that the project is, in fact, Moscow's anti-Ukrainian strategy aimed at removing Ukraine from the European gas transit system. The author analyzes the consequences that the implementation of the Russian project may have and what scenarios may arise in this context for Kiev.

Moreover, proposed for our readers is the topic of the lost city of Warsaw. In her article, **Katarzyna Utracka** describes the extermination of the city after 1939. This tragedy consisted of the murders of the Polish and Jewish population, the destruction of culture, art, architecture, and Polish identity. The article emphasizes that the losses suffered by Warsaw at that time cannot even be compared to the losses in any other European country.

I wish you all an enjoyable read,

Izabela Wojtyczka
Editor-in-Chief
The Warsaw Institute Review

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POLAND IN STRATEGIC RELATIONS BETWEEN THE EUROPEAN UNION AND THE BALKANS

Szymon Szynkowski vel Sęk

We constantly support the European Union, built on the ideas of companionship and mutual respect for diversity and sovereignty of states. These principles, therefore, have also become the foundation of the plans of our Berlin Process presidency – the aim of which is to encourage the countries of the Western Balkans to join the European Community.

Six countries within the region of Southeast Europe are also part of the Western Balkans. This term, although imprecise, reflects the geographical location and the current political context of Albania, Bosnia and Herzegovina, Montenegro, Kosovo, Northern Macedonia, and Serbia. In other words, the region brings together six entities with ethnic, linguistic and religious diversities – which translates into different needs and problems. Regardless of whether we are talking about the countries of

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the Western Balkans or candidates for EU membership, such terms will always appear in the context of the enlargement policy of the European Union.

The population of the Western Balkans amounts to almost 19 million people. Of the six countries, the highest GDP *per capita* – in Montenegro – represents 43% of the EU average[1]. Extensive Stabilization and Association Agreements regulate the current relations of all the Western Balkan countries with the European Union, and the process of accession talks is described in the agreements regarding the so-called negotiating framework.

Serbia and Montenegro are the leaders of the enlargement process with 16 and 32 negotiating chapters open, respectively (out of 35). The most important chapters, in line with the principle *fundamentals first*, are chapters 23 – judiciary and fundamental rights, and 24 – justice, freedom, and security. In the case of Serbia, another issue of crucial importance for the integration process is regulating relations with Kosovo (which it does not recognize). This problem is being addressed in the format of the so-called standardization dialogue, moderated by the European External Action Service. Northern Macedonia and Albania have been candidates for EU membership since 2005 and 2014, respectively.

The population of the Western Balkans amounts to almost 19 million people.

[1] Based on: https://www.cia.gov/library/publications/resources/the-world-factbook/

The European Union and its member states have a chance to open accession negotiations in 2019, provided that reforms are effectively implemented in a dozen or so areas, mainly in the judiciary and the fight against corruption and organized crime.

The European Union and its member states have a chance to open accession negotiations in 2019, provided that reforms are effectively implemented in a dozen or so areas, mainly in the judiciary and the fight against corruption and organized crime. It should be stressed that Northern Macedonia, following the historic agreement with Greece on the name of the state (the *Prespa* Agreement) and the introduction of constitutional changes, is an example of how politically mature leaders can reach consensus on an impossible issue.

Bosnia and Herzegovina is still working towards candidate status and is counting on a favorable decision before the end of 2019. The recent general elections in the country solidified social divisions along ethnic and religious lines. Besides, the system and activity of state structures, based on the Dayton agreement (which is partly no longer functional) do not encourage the dynamics of state development, which resulted in a high percentage of the population emigrating out of the country. The youngest in the region, Kosovo, is still struggling with the recognition of its statehood by the international community and is seeking membership in international organizations[2].

Why does Poland support further EU enlargements? The answer to this question must relate to both values and experiences and the current world's geopolitical situation. The countries of the Western Balkans create a geographical, historical and cultural part of Europe. In light of their shared roots and conviction of a shared, deeply humanist social foundation, their full participation in the European project is simply a matter of solidarity. Moreover, all previous enlargements, including the largest in 2004, have undoubtedly led to an increase in the importance of the EU as a global actor and has led to positive developments within the community itself. The impact of EU accession on the situation in the countries that have so far joined the community is not insignificant, and the success of the Polish transformation is a highly valued example among the representatives of the Western Balkans Six.

Although the circumstances are different today and the skepticism of some Western European countries towards the enlargement of the community is extreme, enlargement remains the most effective tool for the EU to work for peace, security, and prosperity of the candidate countries. At this point, it is necessary to stress the interdependence aspect – just as the Balkan countries need the EU, the EU

[2] Kosovo has been recognized by more than 100 countries. It is still not a member of the UN. Recognition is opposed by Russia and China. Some EU countries – Cyprus, Greece, Spain, Romania and Slovakia – have also not recognized Kosovo.

needs openness and cooperation on the part of its Balkan partners.

Faced with the challenges of the often-destructive influence of so-called third actors, the problem of uncontrolled migration, extremism or terrorism, weak economies or the lack of economic convergence between this region and the rest of Europe, the EU cannot afford to leave a vacuum in an area surrounded by its member states. We constitute one body and regardless of the position of some member states ideologically distant from the idea of enlargement, we must develop a model of cooperation that will benefit all the countries of Europe.

Poland has consistently defended the position stating that the most appropriate way forward is for both sides to strive for full accession of the Western Balkan countries. Our support for enlargement is not unconditional – all countries aspiring to the EU should make clear progress to accelerate integration with the community. Every year Poland increases its commitment to supporting the reform efforts of the Balkan countries. We share our pre-accession experience with our Balkan partners by participating in twinning projects, organizing trainings for officials and expert bilateral conferences and seminars for young people in the field of reconciliation.

All the more pleasing is the attitude of the European Commission, presented since September 2017. Its document "*A credible enlargement perspective for and enhanced EU engagement with the Western Balkans*" (the so-called EC Strategy for the Western Balkans of February 2018) was well-received by the interested parties and by other countries – supporters of the enlargement policy.

A 2025 target date for the next wave of enlargement was already mentioned in

Poland has consistently defended the position stating that the most appropriate way forward is for both sides to strive for full accession of the Western Balkan countries.

Juncker's State of the Union address of 2017 and repeated in the EC Strategy, awakening hopes and demonstrating to the citizens of the Western Balkans a real prospect of accession.

The order of the EU Council Presidency has also contributed to a definite improvement in the dynamics of enlargement policy. It started with the Bulgarian Presidency, which included the organization of the first summit of EU and Western Balkan leaders in 15 years last May in Sofia, and continued through the Austrian Presidency with a security focus in the region and this year's presidencies of the Tallinn Group[3] members, Romania and Finland, to Croatia, which is planning another 27+6 summit.

The hopes awakened by the results of the package of reports on aspiring countries published by the European Commission in April 2018 were suppressed by the postponement of the start of accession negotiations with Albania and Northern

[3] The Tallinn Group is an informal group of EU member states that are supporters of enlargement. The group members are Poland, other V4 countries and the Baltic States as well as Finland, Romania, Slovenia, Sweden, Italy and the United Kingdom.

The EU and the UN agreed to intensify joint work on the primary security priorities: combating terrorism and extremism and preventing radicalization; strengthening cooperation in the fight against organized crime, in particular arms and drug trafficking, smuggling of goods and persons, as well as cyber and hybrid threats, migration and border management.

Macedonia and the failure of the plan of the European Commission and the Austrian Presidency to introduce visa-free travel with Kosovo[4] in the second half of 2018.

On the other hand, the declaration signed at the Sofia Summit underlines the importance of a sustained commitment by the Western Balkan countries to the rule of law, the fight against corruption and organized crime, respect for human rights and the rights of people belonging to minorities. At the same time, the EU reaffirms its commitment to the countries of the region, strengthening connectivity in transport and energy infrastructure, digitization and people–to–people contacts, and enhancing cooperation in the face of common challenges to security, migration, the geopolitical situation and good relations among neighbors.

The EU and the UN agreed to intensify joint work on the primary security priorities: combating terrorism and extremism and preventing radicalization; strengthening cooperation in the fight against organized crime, in particular arms and drug trafficking, smuggling of goods and persons, as well as cyber and hybrid threats, migration and border management.

The expectations of Balkan societies towards the community are high, although they are understandably manifested in different ways. The challenge, which seems to be common to all the countries of the region, is to remove political, social and economic barriers in order to accelerate development in domains that allow societies, especially the younger generation, to believe in the sense of

[4] Kosovo is the only country in the Western Balkans whose citizens have to apply for short-term visas to EU countries. On July 18, 2018, the European Commission published a document updating information on the state of implementation of the Visa Liberalization Roadmap criteria. The commission confirms that Kosovo has met the last two criteria of the roadmap and that all criteria previously set out are still in the process of being met. In this context, it also positively evaluates Kosovo's security and migration situation. Against this background, the commission recommends that the council and the European Parliament continue the procedure with the proposal submitted on May 4, 2016 to lift visa travel for Kosovo. In response to this report, the European Parliament's Committee on Civil Liberties (LIBE) supported on August 30, 2018, by a large majority, the start of the trilogue meetings with the council on visa-free travel for Kosovo citizens as soon as possible. This request received strong support also at the EP plenary meeting held on September 13, 2018. Finally, the proposal was not discussed by the council in the light of opposition from some member states.

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building their own countries and the prospect of individual growth without having to look for their own future in the current EU member states.

This means a determined fight by the state apparatus against corruption, nepotism, organized crime and its links with the spheres of power or the police, ensuring freedom of the media and security for whistleblowers, guaranteeing political pluralism in the name of democratic rules and opening up the elite to a genuinely free civil society – very active and conscious in the countries of the Western Balkans.

An essential aspect of bringing the countries of the region closer to the European Union is the development of regional cooperation, including in the framework of the so-called Berlin Process. This process was initiated in 2014 by Chancellor Angela Merkel[5] as a reaction to

An essential aspect of bringing the countries of the region closer to the European Union is the development of regional cooperation.

the slowdown in EU enlargement policy, symbolized by the politically demobilizing statement by Jean–Claude Juncker, President of the European Commission, that there will be no new members during his term of office.

The Berlin Process brings together six Western Balkan countries (covered by EU policies) and several EU member states[6].

[5] Successive summits of the Berlin Process were held in 2015 in Vienna, 2016 in Paris, 2017 in Trieste and 2018 in London.

[6] The members are: Austria, Bulgaria, Croatia,

At the heart of the Berlin Process is the economy and regional cooperation.

Its connection with the enlargement policy of the union is not unambiguous. First of all, it should be stressed that the Berlin Process – although representatives of the European Commission participate in the meetings – is not part of the enlargement policy or the EU initiative, but it is of an intergovernmental and informal nature. Therefore, on the one hand, it is sometimes criticized as a replica of the European Commission's actions, and on the other hand, there are fears that the process has, in fact, become an alternative, a kind of "security", if the prospect of the Western Balkans' accession would be postponed into the very distant future. Poland, while appreciating the importance of the Berlin Process, takes the view that it complements the EU's enlargement policy, as in some areas the EC's technical accession process works better, while in others it is the Berlin Process that gives it the necessary political impetus.

The European Commission's strategy for the Western Balkans, published in February 2018, has many similarities to the Berlin Process agenda and refers to the issues that have been initiated in this process (e.g., the Regional Youth Cooperation Office). Regardless of how we define the relationship between the Berlin Process and EU enlargement policy, reforms and initiatives of the process support the progress of the Western Balkan countries towards integration and, even more importantly, contribute to improving the lives of their inhabitants.

Greece, France, Germany, Italy, Poland, Slovenia, United Kingdom. Romania was invited to join.

The distinguishing feature of the Berlin Process is its multilayered nature. How these layers are combined depends to a large extent on the leadership. At the heart of the Berlin Process is the economy and regional cooperation. The most important tool for economic integration is the Multiannual Action Plan for the Regional Economic Area, adopted by the prime ministers of the Western Balkan countries at the Trieste Summit. Its four pillars – trade, investment, mobility, and digital inclusion – set out areas for intensive reforms, bringing economies and societies closer together.

Another aim of the Berlin Process is to implement infrastructure projects (related to energy and transport) included in the Connectivity Agenda. They include, for example, the reconstruction of a port, the construction of another section of the ring road or the renovation of a railway line. These projects are currently underway and will become the most tangible effect of the process once put into service.

However, connectivity is understood more broadly in the Berlin Process – not only as the construction of physical infrastructure but also the introduction of proper regulations (soft measures), which will make this infrastructure serve the economy and residents. An example of such an important area already regulated in the EU for the inhabitants of the Western Balkans is the reduction of roaming charges. A new element, introduced by the United Kingdom in 2018, is security, including the fight against organized crime and the illicit trade in small arms and light weapons. This new element is entirely in line with the commission's strategy towards the UN – where one of the six flagship initiatives is dedicated to cooperation in the area of security and migration.

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PODGORICA, MONTENEGRO, MARCH 1, 2017. PRESIDENT OF THE PARLIAMENT OF MONTENEGRO IVAN BRAJOVIC SHAKES HANDS WITH EU HIGH REPRESENTATIVE FEDERICA MOGHERINI, DURING HER VISIT IN PODGORICA.

Last but not least, interconnections are not just about building a road or laying a fiber-optic cable, making these investments translates into a smoother flow of people and ideas. The Berlin Process is, therefore, intended to unite the nations of the Western Balkans – with one another, and also with the countries of the European Union. That is why it is so important for the Berlin Process to build good neighborly relations, progress on bilateral problems still being the legacy of the tragic events of the 1990s, and reconciliation, as well as the involvement of civil society and young people.

This multidimensionality of the Berlin Process is also reflected in the involvement of many stakeholders – governments and EU institutions, international organizations (such as the OECD), regional organizations (such as the Regional Cooperation Council or Regional Youth Cooperation Office), and international financial institutions (such as the European Investment Bank and the European Bank for Reconstruction and Development), entrepreneurs, civil society and youth organizations – in its actions.

Poland joined the Berlin Process at the invitation of Chancellor Merkel in 2018 when we took part for the first time in the Western Balkans Summit in London and the accompanying meetings of the ministers of economy, foreign affairs

This year, it is Poland that organizes the summit and holds its chairmanship. It will take place on July 4-5 in Poznań.

and home affairs. This year, it is Poland that organizes the summit and holds its chairmanship. It will take place on July 4-5 in Poznań. The choice of the capital of Greater Poland (one of Poland's regions, often known by its Polish name *Wielkopolska*), as the host city, is not accidental. Poland's prime minister, Mateusz Morawiecki, took into account the city's 90 years of tradition organizing and hosting fairs, initiated by the General National Exhibition in 1929, which made the rebirth of Polish entrepreneurship and economy in Europe famous abroad. On the other hand, Poznań, as a well-connected city, situated halfway between Warsaw and Berlin, is a thriving academic center, where about 150,000 young people study every day. All these aspects are in line with the agenda of the Polish presidency of the Berlin Process. The leaders and heads of government of the countries of the process will gather in Poznań on June 5. Before this day, meetings of ministers of economy and internal affairs will be organized. The summit will accompany the European Union–Western Balkans Business Forum, Civil Society Forum, and EU–Western Balkans Think Tank Forum. At the ministerial level, however, Poland's presidency begins earlier – with a meeting of foreign ministers on April 11-12 in Warsaw, which will focus on bilateral issues. In addition, the presidency is more than just the organization of a summit – Poland is, therefore, planning a whole series of events – from round tables for civil society in the capitals of the Western Balkans to the Forum of Cities and Regions organized by the Ministry of Investment and Economic Development, the latter of which is expected to bring together several hundred participants, headed by ministers for regional development.

We constantly support the European Union, which was built on the ideas of companionship and mutual respect for diversity and sovereignty of states. These principles, therefore, have also become the foundation of the plans of our Berlin Process presidency– the aim of which is to encourage the countries of the Western Balkans to join the European community. Poland did not want to play the role of a teacher disciplining its students, but as a partner and a friend, seeing mutual opportunities in the enlargement.

That is why we started the preparations for the presidency plan by listening to the expectations of our Balkan partners. We took into account the opinions and suggestions of the countries of the region, expressed during the consultations at the end of 2018 with my counterparts in the Ministry of Foreign Affairs of the Western Balkan countries. We also took into account the Polish experience gained during the accession to the EU and the achievements of the Berlin Process to date. The plan of the Polish presidency is based on four pillars: economy, connectivity, civil society (including bilateral issues, culture, and youth), and security.

From the outset, Poland has been cooperating very closely with the European Commission in planning the presidency and the summit, so that the Berlin Process and the enlargement

agenda complement each other rather than compete. The process is also an essential tool for working closely with our most important economic and political partners in the European Union. Participating in the chairmanship role of the Berlin Process also established an opportunity to deepen contacts with international financial institutions, OECD, RCC, and RYCO.

Finally, the most critical question is what was the reason for Poland's participation in the Berlin Process. First of all, these motivations coincide with those which make Poland an advocate of an open-door policy for the EU and a "friend of enlargement" among the member states. Poland wants to extend the zone of security and prosperity in Europe, and the way to do this is to support reforms and regional cooperation in the EU neighborhood. Secondly, the presidency is also an opportunity for Poland to share experiences of opportunities and threats related to political transformation and reforms in the pre-accession and post-accession periods. In this way, Poland can bring its experience to the process, being the first organizer of the summit that joined the EU after 2000.

As the initiator and promoter of another initiative promoting the enlargement policy – the Eastern Partnership – Poland becomes a credible multi-dimensional advocate of the EU enlargement policy on its 10th anniversary, thanks to its leadership in the Berlin Process. This will allow us to emphasize the importance of the Eastern Partnership in the international arena.

Poland is aware of the unique moment in which the summit will take place. It is a difficult moment but at the same time a decisive one for sustaining the positive dynamics in the enlargement process initiated by the 2017 State of the Union Address. The Western Balkans summit in Poznań will take place just over a month after the elections to the European Parliament; a few weeks after the General Affairs Council, at which Poland hopes to decide to open accession talks with Albania and Northern Macedonia, and during the negotiations on the new composition of the European Commission. Therefore, Poland is aware of the importance of the message of the leaders gathered at the Poznań Summit concerning the European perspective of the Western Balkans. These countries are now facing significant and difficult challenges, determining not only the future of the region but also the fate of Europe.

Poland wants to extend the zone of security and prosperity in Europe, and the way to do this is to support reforms and regional cooperation in the EU neighborhood.

We want to support our partners on their way to the European Union – and not to Europe, because they have always been its part. We keep our fingers crossed for our friends and wish them success. We are convinced that as our great fellow countryman Pope John Paul II said that Europe must breathe with her "two lungs" – eastern and western – to fully be Europe.

Szymon Szynkowski vel Sęk

WESTERN BALKANS – A SOMEWHAT FORGOTTEN PLACE ON THE MAP OF EUROPE

Piotr bajda, PhD

In January 2019, Poland assumed an annual presidency of the Berlin Process – a regional cooperation model, initiated in 2014, to support the integration of the Western Balkan countries with the European Union. In the middle of 2019, Poland will host the next EU – Western Balkans Summit.

For Warsaw, the integration of the Western Balkans with the EU and the tasks related to its presidency in the Berlin Process is of big importance, as evidenced by Polish Prime Minister Mateusz Morawiecki appointing Szymon Szynkowski vel Sęk, the current Secretary of State of the Polish Ministry of Foreign Affairs to the position of Government Plenipotentiary for the Western Balkans on September 27, 2018, and assigning him the responsibility of presiding over the Polish annual presidency.

One of the results attributed to the end of the war in Fromer Yugoslavia following the intervention of NATO troops and the Dayton peace agreement in 1995, was that the Balkans stopped being a burning issue. For a long time, the Balkans have been treated more as a problem than an opportunity, which is why they have

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LONDON, ENGLAND, JULY 10, 2018. POLISH PRIME MINISTER MATEUSZ MORAWIECKI, BRITISH PRIME MINISTER THERESA MAY, AND GERMAN CHANCELLOR ANGELA MERKEL DURING A PRESS CONFERENCE IN LONDON AS PART OF THE MEETING OF LEADERS OF COUNTRIES PARTICIPATING IN THE BERLIN PROCESS.

become a somewhat forgotten area from the perspective of the old member states of the European Union. The most modern parts of the Balkans were accepted into the EU (Slovenia in the framework of the major enlargement in 2004, Croatia in 2013, and the rest were promised membership at the Thessaloniki Summit in 2003). Occasionally, the EU has been involved in solving internal problems, such as the organization of an independence referendum in Montenegro in 2006 or support for Kosovo's independence in 2008. However, the earlier announcements of the Europeanization of the region turned out to be not much more than just announcements, and NATO had more determination to strengthen its presence in the area. The first country of the Former Yugoslavia accepted by NATO was Slovenia – in 2004. In 2009, Croatia and Albania were admitted, and in 2017 NATO

For a long time, the Balkans have been treated more as a problem than an opportunity, which is why they have become a somewhat forgotten area from the perspective of the old member states of the European Union.

also accepted Montenegro's candidature. Among the Western Balkan countries, only Serbia is officially not interested in joining the North Atlantic Alliance, favoring military cooperation with the Russian Federation over NATO.

Slovenia and the European Commission[1]. Such a contoured format of the meeting indicated that it is organized without the participation of the Visegrad Group (V4), which provoked many comments. For years, V4 has been calling to intensify

Table 1. Status of Western Balkan countries in Euro-Atlantic institutions.

Status of Western Balkan countries in Euro-Atlantic institutions

Country	Status in the European Union	Status in NATO
Albania	Associated since 2009 Official candidate since 2014	Member since 2009
Bosnia and Herzegovina	Associated since 2015 Applied for membership in 2016	Candidate
Croatia	Member since 2013	Member since 2009
Kosovo	Associated in 2016	Officially has no armed forces
Macedonia	Associated since 2004 Official candidate since 2005	Candidate
Montenegro	Associated since 2010 Official candidate since 2010 Start of accession talks in 2012	Member since 2017
Serbia	Associated since 2013 Official candidate since 2012 Start of accession talks in 2014	Has not applied for membership
Slovenia	Member since 2004	Member since 2004

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The Berlin Process Initiating Meeting, organized by Germany in 2014, has been one of the most critical integration impulses since the EU summit in Thessaloniki. The event in the German capital was attended by 6 countries of the Western Balkans outside the European Community (Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia), and, representing the EU: Germany, France, the United Kingdom, Italy, Croatia, the integration process of the remaining Balkan countries with the European Union before it became fashionable in Brussels. A permanent element of the presidency of the Visegrad Group held by individual states was the organization of meetings between the V4 and Western Balkans, to which the representatives of the European Commission were

[1] The only online platform informing about the Berlin Process from 2016 is a Twitter account @ BerlinProcess (accessed: January 6, 2019).

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„SKOPIJE, MACEDONIA, MARCH 12, 2018. JACEK CZAPUTOWICZ MINISTER OF FOREIGN AFFAIRS OF THE REPUBLIC OF POLAND AND NIKOLA DIMITROW MINISTER OF FOREIGN AFFAIRS OF NORTH MACEDONIA DURING A PRESS CONFERENCE IN SKOPIJE.

sometimes invited. The Balkan countries could always count on the support of the Visegrad Group. The countries of the Western Balkans and the Eastern Partnership are the only ones that can benefit from funding offered by the International Visegrad Fund within the framework of grant and scholarship programs[2].

Although in the past, Poland may not have been the most active spokesman for the Western Balkans, having had closer relationships with its Eastern neighbors or the Baltic states, but for Poland's Visegrad partners this region was one of the main areas of their diplomatic efforts. Therefore, the exclusion of Prague, Bratislava or Budapest from the first meeting raised some eyebrows, especially since, previously, it was the Visegrad diplomats who represented the EU in the Balkans in many situations. In 2006, today's Slovak Foreign Minister, Miroslav Lajčák, organized and supervised an independence referendum in Montenegro on behalf of the European Union.

For Poland's Visegrad partners this region was one of the main areas of their diplomatic efforts.

This exclusion of the actors that have been involved in the Western Balkans so far can be evidence of an attempt to take over the final stage of the Western Balkans – EU integration process. Interestingly, Poland and Austria were included in the initiative at the last summit organized as part of the Berlin Process. The signed final declaration announced the willingness

[2] More information: https://www.visegradfund.org/, (accessed: January 6, 2019).

Chinese investments in the Western Balkans can now be conducted without restrictive regulations in many European areas.

to open up to new interested partners[3]. The involvement of the most important European capitals and the participation of the UK (leaving the EU) in the Berlin Process indicate that, in recent years, the Western Balkans have been recognized as a key issue. The lack of further interest in the Western Balkans threatened to increase the scope of involvement of other international actors. Russia, for instance, sees the strengthening of its influence in Serbia and the Serbian part of Bosnia and Herzegovina the last chance to halt the enlargement process of the European Union. For Turkey, which has more and more problems with its relations with Brussels, the Balkans offer an opportunity to take on the role of local leader, defending the followers of Muhammad and reverting back to the greatness of the Ottoman Empire. Chinese investments in the Western Balkans can now be conducted without restrictive regulations in many European areas. Some citizens of the Balkan states left their countries to fight on the side of the Islamic State. These few examples show how the Western Balkans are Europe's soft underbelly and a challenge to the European community and continuing to abandon this area could deepen these threats.

Polish participation in the Berlin Process is, therefore, becoming even more critical. Warsaw will represent the Visegrad Group in this body, highlighting the achievements of V4 in promoting the idea of integrating the Western Balkans with the EU. The agenda of the current presidency, which belong to Slovakia in 2019, it was pointed out that the V4 is the only European regional group that maintains regular dialogue with the Balkans and the Eastern Partnership countries[4]. If this experience and knowledge of the smaller Visegrad countries can be used, the Polish contribution can become substantial and noticeable, and it has a chance to creatively influence the perception of the Balkans as a vital part of Central Europe. In optimal scenarios, through participation in the Berlin Process, Poland can strengthen its position in the Visegrad Group and elevate the V4, demonstrating that it is an important regional group with a definite agenda in areas of importance for the European Union.

For Bratislava, Prague or Budapest, dealing with the issue of the Western Balkans is not only a result of good relations with the countries of the region but also an attempt to look for their specialization – a specific niche on the market of European tasks. When small countries enter the European Union, they try to mark their presence, especially in the most influential capitals and in the European Commission. They often take on auxiliary functions and offer excellent

[3] Two annexes were attached to the final declaration of the London Summit; the first was a declaration on joint action to clarify the fate of missing persons, and the second on consistent action to settle war crimes committed during the civil war, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/724294/180710_WBS_Joint_Declarations.pdf, (accessed: January 6, 2019).

[4] *Dynamic Visegrad for Europe. Slovak presidency 2018/2019 of the Visegrad Group*, p. 4, https://www.mzv.sk/documents/10182/276214/Program+predsedn%C3%ADctva+Slovenskej+republiky+vo+Vy%C5%A1ehradskej+skupine+EN/ba84a58e-6b6a-4ad4-bdd0-3043d687c95b, (accessed: January 7, 2019).

services. Slovakia, for example, wants to play such a role in the European Union. Its commitment to the Western Balkans is more than just regional cooperation. One Slovak expert wrote that for Bratislava the Balkans are "geographically, linguistically and historically the closest post-conflict area," with which they share experiences from the Habsburg Empire[5]. We can, therefore, see historical links in these Balkan fascinations. However, this is not the only explanation why this support for the integration of the Western Balkans into the European Union is permanently inscribed as the top priorities of the Slovak Ministry of Foreign Affairs. The strategy of Slovak diplomacy lies in dealing with this subject to be one of the elements of building the prestige and recognition of Bratislava. It is also supposed to bring value for Europe. Being aware that after the end of the civil war in the former Yugoslavia, other crises were a more significant challenge for the major European capitals, paving the way for the Slovaks and the Czechs to take over this abandoned task on behalf of the whole community. They are, therefore, seeking to become EU experts for the Western Balkans. The strategy of Poland's southern neighbors is characteristic of small states, which try to take on supporting roles, freeing stronger actors from the need to deal with less important matters. It is also a way to strengthen the political position and image, as weaknesses in these areas are characteristic of small states. From the perspective of Berlin, Paris or Brussels, the crisis in the euro area, migration, relations between the European Union and the United States are more important challenges than the integration of a few small countries on the periphery of Europe. That is why this temporary aid with these problems was received with gratitude. Hence, it was only when the process of integration of the Western Balkans was decided to be initiated and the negotiation mechanisms were launched, that the most important countries returned to the subject, creating a group in the format of the Berlin Process.

The strategy of Poland's southern neighbors is characteristic of small states, which try to take on supporting roles, freeing stronger actors from the need to deal with less important matters.

Just as Slovakia wants to represent the entire Visegrad Group in the Eurozone, now Warsaw can become a V4 representative in the Berlin Process and, taking advantage of the experience of our Visegrad partners, can contribute a lot to speed up the integration of the Western Balkans into the EU. From a Polish perspective, involvement in the Berlin Process can have an additional advantage. Recognizing the Three Seas Initiative as one of Poland's top foreign policy priorities, the integration of the entire Western Balkans potentially strengthens this new regional cooperation project especially since a certain introduction to the inclusion of non-EU Balkan countries in the new regional cooperation project was made at the last summit of the Three Seas Initiative in Bucharest in September 2018. During the meeting

[5] M. Nič, *Balkánsky podbrušok Európy: spomalená integrácia*, [in:] T. Valášek, M. Nič, B. Jarábuk, J. Bátora, K. Hirman, J. Kobzová, *Bruselenie valašiek. Naša zahraničná politika po novemu*, Bratislava 2010, p.77.

In addition to inter-state relations, another essential element to build useful contacts for the future, would be to strengthen the position of existing geopolitical think tanks in Central Europe, or to establish a network of new geopolitical think tanks, which could create a narrative in line with the interests of the countries of the region.

in the Romanian capital, a plan for the implementation of more than 40 infrastructure projects was agreed upon, some of which included opportunities for the Western Balkan countries to become involved. These are not minor projects, but initiatives crucial for the future of the whole region. For example, Serbia and Albania are to participate in a plan to build a Central European hydrographic monitoring platform, and Zagreb proposed to construct an Ionic Adriatic Pipeline linking Croatia with Montenegro and Albania. Bosnia and Herzegovina is to take part in smaller projects. Only Macedonia remains a little beyond the cooperation created under the Three Seas Initiative[6].

[6] During the last summit of the Three Seas Initiative and the accompanying Business Forum, Member States had the opportunity to propose the implementation of specific energy, infrastructure and ICT projects. The full list can be found on the official website of The Three Seas Initiative. Priority Interconnection Projects, Seas Initiative Summit, Bucharest, September 17–18, 2018, http://three-seas.eu/wp-content/uploads/2018/09/LIST-OF-PRIORITY-INTERCONNECTION-PROJECTS-2018.pdf, (accessed: January 7, 2019).

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Moreover, it would be good if the Polish presidency of the Berlin Process was used to catch up in terms of what constitutes the "Western Balkans." This time should also be used to further develop contacts with the leaders of countries aspiring to obtain EU membership, who may become partners in discussions in Brussels. In addition to inter-state relations, another essential

BUDAPEST, HUNGARY, 04 DECEMBER 2017. FAMILY PHOTO DURING A FOREIGN MINISTERS' MEETING OF THE VISEGRAD GROUP OR V4 COUNTRIES AND BULGARIA, CROATIA, GREECE, ROMANIA, SERBIA AND SLOVENIA.

element to build useful contacts for the future, would be to strengthen the position of existing geopolitical think tanks in Central Europe, or to establish a network of new geopolitical think tanks, which could create a narrative in line with the interests of the countries of the region. The increased interest in mutual contacts should be followed by cooperation between non-governmental organizations, which is already partly implemented with the help of the International Visegrad Fund. The task of the coordinating such a network could be taken on by the Institute of Central Europe impaneled by the Polish Parliament at the end of 2018.

Therefore, 2019 may prove to be a pivotal year for building new relations between the Western Balkans and the European Union. Therefore, it would be a good idea for the Central European countries, which have much more in-depth knowledge and a greater sense of historical context than the European Commissioners, to participate in this process in the broadest possible way.

Piotr Bajda
January 13, 2019

ATTITUDES OF POLISH POLITICAL PARTIES TOWARDS EUROPEAN INTEGRATION

Tomasz Grzegorz Grosse, Professor

The aim of this text is to analyze agendas of the major political parties in Poland before the upcoming elections to the European Parliament (in 2019).

The political status of the Polish debate on European integration is growing. This is reflected, for example, in the results of the last local government elections in 2018, it which the European issues mattered more than the local situation, especially to voters in large cities. The role of the EU has been gradually growing since Poland's accession in 2004 and became of even greater importance in the period of European crises.

However, these are not the most fundamental reasons for the growing role of Europe in the contemporary Polish political scene. What is crucial here is rather the deepening polarization between the conservative Law and Justice (PiS), the party in power, and factions of liberal opposition, the main aim of which is to negate the entire agenda of PiS and to remove it from power. Therefore, European issues have become one of the biggest areas of the dispute between the

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SZELIGI NEAR WARSAW, DECEMBER 15, 2018. CONVENTION OF THE LAW AND JUSTICE PARTY.

government and the opposition, especially Civic Platform (PO).

The analysis focused on the points of view of individual parties concerning the future of Europe, their preferred political model, and potential institutional changes to be introduced. It further described attitudes regarding Poland's membership in the Economic and Monetary Union (EMU), responses to the migration crisis, and views on the internal market. Moreover, it examined opinions on increasing cooperation in defense program (CSDP) and a vision of the future of EU foreign policy (CFSP). Finally, the study covered Brexit and its implications for Poland's relations with the UK.

The first part of the study will focus on a synthetic presentation of the European doctrine from a historical perspective. Then the views of the government (and its political environment) will be presented, followed by the views of the opposition. The objective is to diagnose which ideas of the opposition converge with the ideas of the government, and thus can be additionally strengthened on the international arena. Another research question is which issues arouse controversy and go beyond the consensus of political forces in relation to European politics. In Poland, all major political forces support EU membership. Yet, the increasing polarization of the two

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hostile camps is making the consensus on European issues increasingly shallow, while, at the same time, some right-wing groups are tightening their stance on European integration.

DOCTRINE

It is not easy to identify the Polish doctrine in European politics due to the relatively short participation in integration processes, but also because of the differences of the main political forces towards the EU (i.e., Eurosceptics versus pro-Europeans) highlighted in the literature[1].

However, it is feasible to try to outline a common theme and continue to take part in European politics. All Polish governments after 2004 stressed the slogan „A Strong Poland in a Strong Europe" which reflected their focus towards the achievement of national interests and supported the development of integration. They all refrained from building federations in the EU and criticized the tendency to divide it into a „two-speed Europe" (between the countries in the eurozone and the rest of the EU). In around 2012, as it seems, the doctrine of EMU membership had emerged. Entry into the eurozone was to be contingent upon overcoming the euro crisis, reforming the monetary union and the strengthening of the Polish economy so as not to repeat the fate of the countries of the south of EMU[2]. During the migration crisis, the politicians of the biggest parties insisted on protecting the EU's external borders. They expressed distance or even opposition to permanent mechanisms of the relocation of refugees or immigrants. The Polish doctrine is consistently in favor of extending the four freedoms in the internal market and opposes protectionist tendencies in this area. Successive Polish governments supported the development of the EU's foreign and defense policy, but on the assumption that this would not constitute competition or a threat to NATO and transatlantic relations. EU foreign policy postulated the development of cooperation with eastern EU countries, support for the membership of Ukraine and Balkan countries in the EU and force Russia to respect international law and respect the sovereignty of other states. At the same time, Poland kept the best possible relations between the EU and the USA. The Polish authorities also maintained friendly relations with the United Kingdom, and, as a result, we can expect the continuation of this policy even after Brexit, including the best possible relations between the EU and the UK after the country's exit from the European Union.

VIEWS OF THE GOVERNMENT

Law and Justice took over in Poland in November 2015. In accordance with the Polish doctrine of European policy, it

[1] M. A. Vachudova, *Tempered by the EU? Political parties and party systems before and after accession*, „Journal of European Public Policy" 2008, 15:6, pp. 861-879.

[2] Ch. Schweiger, *Poland, Variable Geometry and the Enlarged European Union*, „Europe–Asia Studies", vol. 66, no. 3, 2014, pp. 394-420 [405-410].

rejected the development of integration towards the federal direction. According to this party's official position, the EU should remain a community of sovereign and equal nations. One of its key priorities is to oppose the growing power of the largest member states in the integration processes. It is worth recalling here the basic principle of the former Prime Minister Beata Szydło about the future of Europe: „Equal with the equal and free with the free"[3]. At the same time, PiS stressed that democracy in Europe is present primarily in nation-states, which is why it is so important to respect the subjectivity of all governments, the voice of national parliaments in decisions taken at the EU level. The party intended to increase the participation of these parliaments in the future EU regime. It also opposed the division into a „two-speed Europe", although it approves of participating in the shaping of cooperation in Central Europe, including the deepening of cooperation within the Visegrad Group and the Three Seas Initiative[4]. The aim is to balance the dominance of the French–German tandem in the EU and the predominance of Western European interests over the perspective of Central Europe. Members of PiS are against further centralization of powers in the EU, and thus would like to slow down the integration progress[5]. They believe that the competences of EU institutions should not be extended without amending the treaties. „The European Commission is not a super-government, and the EP a super-parliament, and any 'competence

Law and Justice took over in Poland in November 2015. In accordance with the Polish doctrine of European policy, it rejected the development of integration towards the federal direction.

not conferred on the Union by the treaties should belong to the Member States"[6]. At the same time, Law and Justice observed with concern the increase in disciplinary supervision over the member states by EU institutions and the enforcement of EU law[7]. PiS did not expedite the process of joining the eurozone[8]. The government maintained a „pragmatic distance towards the euro". It supported the necessary reforms in EMU and did not accept divisions in the internal market and in the union itself (the „two-speed Europe")[9]. In particular, it did not agree to set up separate political institutions for the euro area, such as a parliament, government or minister of finance, and finally to establish a separate budget for EMU[10]. The government disagreed

[3] *Prime Minister Beata Szydło's Speech at the 15th Foreign Policy Forum*, November 9, 2017, http://www.minsk.msz.gov.pl/pl/aktualnosci/xv_forum_polityki_zagranicznej, (accessed: April 27, 2018).

[4] *Program PiS 2014*, http://pis.org.pl/dokumenty, (accessed: April 27, 2018).

[5] Z. Krasnodębski, *Co dla Polski oznaczają zmiany w Unii Europejskiej*? [*What Do Changes in the EU mean for Poland?*], [in:] *'Myśląc: Polska'. Konwencja Programowa Prawa i Sprawiedliwości oraz zjednoczonej prawicy*, Katowice, July 3–5, 2015, pp. 80-81.

[6] *Information of the Polish Foreign Affairs Minister on the principles of the Polish foreign policy*, Sejm RP, March 21, 2018, http://www.msz.gov.pl/pl/aktualnosci/wiadomosci/minister_jacek_czaputowicz_o_priorytetach_polskiej_dyplomacji_w_2018_roku, (accessed: April 27, 2018).

[7] *Agenda of Law and Justice, 2014*, http://pis.org.pl/dokumenty, (accessed: April 27, 2018).

[8] *Ibidem*.

[9] *Konrad Szymański: Strefa euro nie odjeżdża Polsce*, „Rzeczpospolita", May 22, 2017, http://www.rp.pl/Unia-Europejska/305219925-Konrad-Szymanski-Strefa-euro-nie-odjezdza-Polsce.html, (accessed: April 27, 2018).

[10] Z. Krasnodębski, *Co dla Polski oznaczają zmiany w Unii Europejskiej*? [*What Do Changes in the EU*

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GLOBAL VIEW AT THE PLENARY CHAMBER AT EUROPEAN PARLIAMENT HEADQUARTERS IN STRASBOURG, FRANCE.

with the forced relocation of refugees, and it proposed to strengthen the EU's external borders and to intensify humanitarian and development policy activities beyond the EU's borders[11]. Under the doctrine of European policy, Law and Justice demanded respect and development of the four freedoms of the Treaty of Rome (1957) in the internal market and opposed any protectionist measures, including those resulting from the amendment of the directive on the posting of workers in the framework of the provision of services, which restricted the free movement of workers in the internal market[12]. The government did not agree with the introduction of new European taxes or tax harmonization in the internal market. It opposed the introduction of majority voting on these matters in the EU, considering that taxes are a sovereign competence of national authorities, especially democratic parliaments. The government was critical of the EU's increasingly ambitious climate policy, which involved the elimination of coal-based energy[13]. The party approved of progress made in the EU's defense policy, although it stressed that it must not compete, duplicate or pose a threat to NATO and transatlantic relations. PiS advocated equal opportunities of access to the European Defense Fund for all member states, i.e., no preference should be given to the largest corporations or research centers in Western Europe to use this fund. The EU's foreign policy accepted the enlargement of the EU to include the Balkan countries, as well as the inclusion of Ukraine in the EU structures. They supported further development of the Eastern Partnership and transatlantic relations. They also demanded that all EU member states show solidarity towards Russia, especially in dealing with its aggressive policy towards the west. Regarding Brexit, they proposed to

mean for Poland?], [in:] *'Myśląc: Polska'. Konwencja Programowa Prawa i Sprawiedliwości oraz zjednoczonej prawicy*, Katowice, July 3–5, 2015, pp. 80-81

[11] *Information of the Polish Foreign Affairs Minister on the principles of the Polish foreign policy*, Sejm RP, March 21, 2018, http://www.msz.gov.pl/pl/aktualnosci/wiadomosci/minister_jacek_czaputowicz_o_priorytetach_polskiej_dyplomacji_w_2018_roku, (accessed: April 27, 2018).

[12] *Ibidem*.

[13] J. Szyszko, *Globalna polityka klimatyczna* [*Global climate policy*], [in:] *'Myśląc: Polska'*…, pp. 33-36.

establish allied relations between the EU and the UK, both on the economic level and in defense policy. Many views of the Law and Justice party, especially those concerning the EU's foreign and defense policy, seem in line with the European doctrine of Polish diplomacy.

VIEWS OF THE OPPOSITION

The largest opposition party, **Civic Platform**, has for years been supporting the further development of European integration. For instance, it has supported the strengthening of the Commission as a body designed to contribute to protecting the interests of the smaller member states. Radosław Sikorski, former Minister of Foreign Affairs, supported reducing the number of Commissioners and merging the position of President of the European Council and President of the European Commission[14]. He directed some of his speeches towards a federation, for example, regarding the support for a pan-European list of candidates for EP elections. According to Sikorski, a number of competences should become the domain of member states, especially regarding „national identity, religion, lifestyle, public morality, and tax rates". This refers to the conservative approach to political matters represented by PiS. In turn, in 2018, the head of PO objected to linking payments from European funds to the issue of respect for the rule of law, which was in line with the position of the government of the Law and Justice party[15]. Even at the beginning of the crisis in EMU, the former

The largest opposition party, Civic Platform, has for years been supporting the further development of European integration.

government formed by PO was in favor of adopting the euro as soon as possible. However, under the pressures caused by the growing problems in the monetary union, it took the position that entry into the eurozone must be conditioned by the end of the crisis, the reform of EMU and appropriate preparation of the Polish economy for membership in the monetary union. At the same time, it tried to ensure that Poland took part in all initiatives taken by the monetary union countries, such as the Fiscal Pact or the Banking Union, which was referred to as „keeping one's foot in the door" tactics[16]. During the Law and Justice party's term of office, Civic Platform continued its earlier political ideology, while supporting the introduction of further reforms in EMU. In 2018, the head of PO pointed out that Poland should prepare for the adoption of the common currency, and at the same time Poles should be persuaded to take part in this project[17]. In this way, this party

[14] '*Polska a przyszłość Unii Europejskiej*' [*Poland and the Future of the EU*]. *Speech of Polish Minister of Foreign Affairs Radosław Sikorski, Berlin, November 28, 2011*, „TVN24.pl", https://www.tvn24.pl/polska-a-przyszlosc-unii-europejskiej,192356,s.html, (accessed: April 27, 2018).

[15] *Schetyna: Rządy PiS przeminą, budżet UE zostanie [The Rule of PiS Will End, the EU Budget Will Stay]*, February 27, 2018, http://fakty.interia.pl/polska/news-schetyna-rzady-pis-przemina-budzet-ue-zostanie,nId,2550855#utm_source=paste&utm_medium=paste&utm_campaign=chrome, (accessed: April 27, 2018].

[16] *Tusk obiecuje, że przed wejściem do eurolandu odbędą się konsultacje. Danuta Huebner już mówi, że nie możemy 'stać okrakiem nad barykadą'* [*Tusk Promises There Will Be Consultations Before Entering Euroland…*], „wPolityce.pl", December 20, 2012, https://wpolityce.pl/polityka/147055-tusk-obiecuje-ze-przed-wejsciem-do-eurolandu-odbeda-sie-konsultacje-danuta-huebner-juz-mowi-ze-nie-mozemy-stac-okrakiem-nad-barykada, (accessed: April 27, 2018).

[17] *Schetyna: Przyjęcie euro nie musi oznaczać wzrostu cen* [*Schetyna: Entering Eurozone Does Not Have To Mean Increasing Prices*], „Rzeczpospolita", February 27, 2018, http://www.rp.pl/Platforma-Obywatelska/302279962-Schetyna-Przyjecie-euro-nie-musi-oznaczac-wzrostu-cen.html, (accessed: April 27, 2018).

At the end of 2018 new accents appeared in the statements of the politicians representing PO.

softened its approach to EMU, recognizing that the crisis had been resolved and that preparations for membership of the monetary union should be reopened. It was a change of stance largely referring to the domestic political polarization, which increasingly translated into emphasizing pro-European content in the opposition's agenda. In 2015, the Civic Platform government supported the EU regulation on forced relocation of refugees in the EU. Because of public opinion and unsuccessful elections, the government tightened its position on the matter, considering that the division of refugees must be voluntary, and that the EU policy must emphasize the control of the EU's external borders[18]. At the same time, the head of PO promised not to accept illegal migrants if it took power[19]. As a result, the position of this party has come close to the policy of the ruling party. According to the Polish doctrine in European politics, the largest opposition party declared its willingness to increase the four freedoms in the internal market. It also referred to the initiative of its own government (2007–2015) in the field of energy cooperation, especially the joint European purchases of oil and gas from external producers. Also, with regard to the EU's foreign and defense policies, the previous agenda was continued, i.e., it advocated the development of integration of these policies, while maintaining good transatlantic relations and maintaining European cohesion in the face of Russia's aggressive policy. Further development of the EU's eastern policy was called for, and in the area of CSDP, the emphasis was placed on combating terrorism[20]. In all these matters, the opposition strengthened the position of the Law and Justice government. However, at the end of 2018 new accents appeared in the statements of the politicians representing PO. There was more and more frequent criticism of the American administration of President Donald Trump, including reservations concerning the government's deepening of bilateral military relations between Poland and the USA (e.g., the Fort Trump project, i.e., increasing the US military presence in Poland, was being criticized)[21]. Politicians of PO increasingly stressed the need for Polish diplomacy to support the development of EU defense policy. The aim was not only to complement or strengthen NATO's potential but also to build European geopolitical autonomy in relations with the world's largest powers. In this way, the politicians of the opposition were clearly approaching a similar program presented in recent years in Paris and Berlin, while distancing themselves from the strongly pro-American position of the Law and Justice government.

[18] *Platforma Obywatelska* [*Civic Platform*]. *Projekty Platformy–Polska, Europa, świat #PolskaObywatelska [Projects of PO–Poland, Europe, World]*, October 2, 2016, http://www.platforma.org/aktualnosc/45497/projekty-platformy-polska-europa-swiat-polskaobywatelska (accessed: April 27, 2018).

[19] *Schetyna potwierdza: Nie będziemy przyjmować nielegalnych migrantów* [*Schetyna Confirms: We Will Not Admit Illegal Migrants*], „Newsweek Polska", May 10, 2017, http://www.newsweek.pl/polska/schetyna-nie-bedziemy-przyjmowac-migrantow-po-o-uchodzcach,artykuly,409922,1.html, (accessed: April 27, 2018).

[20] *Platforma Obywatelska [Civic Platform]. Projekty Platformy–Polska, Europa, świat #PolskaObywatelska [Projects of PO–Poland, Europe, World]*, October 2, 2016.

[21] *Politycy komentują prezydencką wizytę w USA* [*Politicians Comment on Presidential Visit in the US*], „Onet.pl", September 19, 2018, https://wiadomosci.onet.pl/kraj/andrzej-duda-w-usa-komentarze-politykow/5mph8zr, (accessed: November 27, 2018).

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BELGIUM, 30 JANUARY 2019. EUROPEAN PARLIAMENT PRESIDENT ANTONIO TAJANI.

The views of the next opposition party, .**Nowoczesna** [EN: .*Modern*], are usually much more pro-European, although due to its declining electoral support in 2018, its influence on the government's policy was moderate. .Nowoczesna strongly supported all pro-integration initiatives discussed in the EU and was also in favor of adopting the euro as soon as possible[22]. It also stated that Poland should welcome refugees and immigrants and all EU's initiatives concerning this matter. Regarding doctrine in European politics, it advocated the promotion of the four freedoms on the internal market[23]. Similarly, the party supports the development of the EU's foreign and defense policy and supports the traditional directions of Polish foreign policy.

Kukiz'15 is an opposition party that stressed the Eurosceptic position more than the Law and Justice government, thus helping to stiffen the position of

[22] *Tekst wystąpienia Ryszarda Petru w sejmowej dyskusji o polskiej polityce zagranicznej* [*Speech of Ryszard Petru in Parliamentary Discussion on Polish Foreign Policy*], https://nowoczesna.org/tekst-wystapienia-ryszarda-petru-w-sejmowej-dyskusji-o-polskiej-polityce-zagranicznej/, (accessed: May 27, 2018).

[23] *Nowoczesna Polska dla każdego–program partii* [*Nowoczesna Poland for Everyone–party's agenda*], https://nowoczesna.org/nowoczesna-polska-dla-kazdego-program-partii/, (accessed: May 27, 2018).

The aim of Polish politics should be to limit the role of the Brussels bureaucracy, and to defend national democracy, thereby reducing the power of EU institutions over the member states.

the ruling party in many places on the European part of its agenda. In systemic matters, Kukiz'15 advocated the „Europe of sovereign nations" and was against „the imperialist attempts of Germany and France" that have a tendency to dominate politics in the EU[24]. The aim of Polish politics should be to limit the role of the Brussels bureaucracy, and to defend national democracy, thereby reducing the power of EU institutions over the member states[25]. Kukiz'15 strongly opposed Poland's entry into EMU, which turned out to be an "unsuccessful experiment". It proposed the controlled dismantling of EMU as the only possible scenario for the well-being of Europe. It strongly opposed EU plans to relocate refugees and immigrants. Kukiz'15 was a supporter of the internal market and at the same time advocated for the deregulation of EU law and for the reduction of protectionist tendencies in the EU. Simultaneously, it opposed preferences for foreign investors in Poland, at the expense of the rights of domestic entrepreneurs or consumers. It advocated for Poland's denunciation of the energy and climate change package, as it leads to the destruction of Polish industry and increases in energy prices.

SUMMARY

The policy of the government formed by PiS is, in many aspects, in line with the agenda of the previous government coalitions. This applies in particular to foreign and defense policy, as well as to the internal market. In some cases, the ruling party has very similar views to the opposition's agenda, especially on the issues on which opinions of the public are clear and visible (for example migration). It should be noted, however, that the current government has a more distanced stance towards many reforms discussed in the EU arena compared to its predecessors, and the current opposition is divided in this respect. In some matters (for instance migration) it is quite close to the government, while in others it is divided into either more Euro-Enthusiastic or Eurosceptic than the ruling party (e.g., in relation to the adoption of the euro). In several cases, the liberal opposition is closer to the canon agenda of the German or French government than to the Polish one[26]. The most emotional conflict between the government and a part of the opposition in 2017–2018 concerned internal reforms, especially those regarding the justice system. These reforms were also criticized by European institutions and some member states as an alleged violation of EU's rule of law. Apart from internal reforms, this dispute also concerned Poland's role in the EU, understood in the context of prestige and influence on the decision-making process.

[24] *Paweł Kukiz o Unii Europejskiej* [*Paweł Kukiz About the EU*], June 27, 2016., http://ruchkukiza.pl/pawel-kukiz-o-unii-europejskiej/, (accessed: May 27, 2018).

[25] *Strategia Zmiany. Kukiz'15. Potrafisz Polsko!* [*Strategy of Change. Kukiz'15. You Can, Poland!*], http://ruchkukiza.pl/klub-poselski/strategia-zmiany/, (accessed: May 27, 2018).

[26] Grosse, T. G., Polska, Francja i Niemcy wobec Unii. Europejskie wizje w Trójkącie Weimarskim. Raport [*Poland, France and Germany towards the EU*], *Nowa Konfederacja*, November 5, 2018, https://nowakonfederacja.pl/raport/polska-francja-i-niemcy-wobec-unii-europejskie-wizje-w-trojkacie-weimarskim/, (accessed: November 27, 2018).

The dispute contributed to the deepening of political polarization and certain political repercussions on the discussion on Poland's future in the EU. According to representatives of the liberal opposition, the reforms of the judiciary introduced by the government violated the Polish Constitution. Interestingly, the opposition never consulted the Constitutional Tribunal (the only institution of the Polish law that has the right to settle constitutional disputes) if the judiciary reform is compliant with the Polish Law. The opposition decided to ask European institutions and some member states to intervene instead, thus using the authority of the EU institutions to settle internal disputes and participate in electoral rivalry with Law and Justice, as evidenced by its local government elections campaign in 2018. The success of the opposition in the largest cities in these elections was to a large extent based on the accusation that the government is moving towards Poland's exit from the EU. During the discussion on the reform of the judiciary, two different visions of European integration emerged – envisioned by the conservative government, and the other by the liberal opposition. Representatives of the ruling party have repeatedly declared that they do not want Poland to leave the EU. However, they are in favor of changing the current political practice in the EU. For the government, the intervention of the European institutions is a breach of treaty law, according to which the reform of the judiciary is the exclusive competence of particular member states. Moreover, criticism of the Polish judicial reform is a too far-reaching intervention of external institutions in Poland's internal affairs, as a consequence of which, Polish sovereignty and Polish democracy have been violated. That is why the opposition's efforts to seek support abroad were treated as a sign of betrayal, both by representatives of PiS and by some non-liberal opposition politicians, for instance some members of Kukiz'15[27]. In turn, for representatives of the liberal opposition, external political interference – both by some member states and European institutions – was justified by the processes of European integration, in which no state is fully sovereign, and its sovereignty is „shared" with other states and EU institutions. The EU institutions were, therefore, not treated as external but as belonging to a political system.

In this way, two visions of further European integration were confronted: conservative and liberal. According to Law and Justice, integration should be based on the autonomy and subjectivity of nation states, and true democracy is only possible at the national level. This means that other states should show respect for the government's policy chosen and supported by local voters. External interference disturbs voters' rights and restricts national democracy. Within the framework of a liberal and cosmopolitan vision of integration, European nations delegate more and more powers to European institutions, which means that political activity and elections held in these countries may be influenced by the media and politicians from other countries or officials from EU institutions. The dispute also concerned the fundamental values and principles of the Treaty of the European Union (TEU). The value of the rule of law (Article 2 TEU) was of key importance for PO. For PiS, it was essential to defend the values of democracy (Article 2 TEU), the principle of respect for national identity, inseparably linked with respect for fundamental political and constitutional structures of the member states (Article 4 TEU). The principle of conferral, according to which the EU's institutions act only within the limits of

[27] *Mocne słowa Jakubiaka: Wizyta Schetyny u Angeli Merkel to Targowica* [*Jakubiak in Strong Words: Schetyna's visiting Merkel is Targowica*], *Do Rzeczy*, September 25, 2018, https://dorzeczy.pl/78208/Mocne-slowa-Jakubiaka-Wizyta-Schetyny-u-Angeli-Merkel-to-Targowica.html, (accessed: November 27, 2018).

Defending national interests, especially the ones which gained majority in parliamentary elections, is an essential task of a democratic government.

the powers conferred on it by the member states in the treaties, is also very important (Article 5 TEU).

The principle of equality among member states (Article 4 TEU) was also crucial for the government as it should mean that larger and more politically influential states are not privileged by the European Commission or the Court of Justice compared to smaller states, especially when their democratic governments have a different perception of national interests than the perception held by the largest states. Politicians representing liberal opposition stressed the compatibility of Polish policy in the EU with European reform proposals put forward by EU institutions or the largest member states. The improvement of Poland's image on the European arena was of fundamental importance here. This forced a greater willingness to accept external proposals. According to the arguments of politicians representing the liberal opposition, only an improved image guarantees Poland a greater influence on European reforms[28]. On the other hand, for government politicians, it was of fundamental importance to assess external proposals and changes taking place in the EU through the prism of national interests and to block changes perceived as not being beneficial for Polish society. Such an attitude may, and sometimes even has to, take place at the cost of worsening the image of the Polish government abroad. Defending national interests, especially the ones which gained majority in parliamentary elections, is an essential task of a democratic government. Jarosław Kaczyński, President of Law and Justice, said that his party was authorized by the voters to defend the interests of Poland and not to stroke anyone in the EU or take care of someone else's interests[29]. For the ruling Conservatives, respect for democracy and national interests as defined in the elections was of fundamental importance (unlike image issues, which were not that important).

Electoral polarization around European issues resulted in a decrease in the consensus of Polish political forces towards European integration. The dispute with the EU over the reform of the judiciary led to political radicalization, both by liberal and right-wing groups. For an increasing number of right-wing voters, the political ideology of PiS is excessively pro-European, so there are groups demanding Poland's exit from the EU. In this way, the radicalization of voters and the deepening polarization of opinion around European integration affected Polish society in a similar way as societies in the western part of the continent.

Tomasz Grzegorz Grosse
December 27, 2018

[28] *Schetyna: PiS zniszczyło międzynarodowy wizerunek Polski. PO zaproponuje scenariusz przyjęcia przez Polskę* [*Schetyna: PiS Destroyed Poland's International Image. PO to Propose Scenario…*], „Dziennik Gazeta Prawna", February 24, 2018, https://www.gazetaprawna.pl/artykuly/1106895,schetyna-na-radzie-krajowej-po.html, (accessed: December 27, 2018).

[29] *Zostaliśmy upoważnieni przez wyborców do obrony interesów Polski. Wywiad z Jarosławem Kaczyńskim* [*We Were Empowered by Our Voters to Defend Polish Interests. Interview with Jarosław Kaczyński*], May 25, 2016, Law and Justice, http://pis.org.pl/aktualnosci/zostalismy-upowaznieni-przez-wyborcow-do-obrony-interesow-polski, (accessed: November 27, 2018).

NORD STREAM 2: A TRAP FOR UKRAINE[1]

Grzegorz Kuczyński

Nord Stream 2 is a political project targeted at Ukraine, among others. It is an essential element of Russia's anti-Ukrainian strategy and a tool to eliminate Kiev from the European gas transit system. This would be a severe political and financial blow to the Ukrainian state.

At the end of January 2019, the European Commission, Ukraine, and Russia held trilateral talks in Brussels on maintaining the transit of Russian gas through Ukraine after the expiration of the 2009 agreement. Just like the first round of negotiations in July 2018, this one also cannot be considered a breakthrough. The next one is expected to be held after the presidential elections in Ukraine. Russia is apparently trying to buy some time. All of this is related to the Nord Stream 2 project. The issue of this gas pipeline is closely related to the problem of Russian gas transit through Ukraine.

[1] This text is a shortened version of the special report of the Warsaw Institute "Ukraine-Nord Stream 2: Struggle Over Gas Transit" by Grzegorz Kuczyński published on January 15, 2019. The whole text can be found at the following link: https://warsawinstitute.org/ukraine-nord-stream-2-struggle-gas-transit/.

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LUBMIN, GERMANY, MARCH 16, 2019. CONSTRUCTION WORK ON NORD STREAM 2 IN LUBMIN, GERMANY.

THE BATTLE OF THE GAS PIPELINES

The Nord Stream 2 pipeline, the construction costs of which are estimated at 9.5 billion euro, will double the capacity of the previously built pipeline from 55 billion m^3 to 110 billion m^3 per year. This, however, does not mean a sudden increase in Russian gas exports to Europe. The reason is simple: Russia will not have new sources of gas for Europe in the near future. This means that gas pumped by two new branches of the Baltic gas pipeline will not flow along an existing export route. Given that at the end of 2019 the Russian-Ukrainian agreement on the transit of gas through Ukraine ends, it is evident that Gazprom will redirect it to the new Nord Stream 2 gas pipeline. There is a threat of a drastic reduction in the amount of Russian gas exported by the Ukrainian gas pipeline system to the EU and Moldova. For the time being, Ukraine is the leading transit country through which Russian gas flows to Europe. In

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2017, it was more than 93 billion m³ (the highest level out of the last seven years), accounting for approximately half of the Russian gas exports to the EU and Turkey. 39% of Europe's supplies of Russian gas ran through Ukraine.

Launching new pipelines aiming to bypass Ukraine – the second branch of Nord Stream (in the north) and Turkish Stream (in the south) – may, in the worst-case scenario, lead to the halting of Russian gas supplies through the Ukrainian transmission system. To make matters worse, this situation can pose a threat to shipment and complicates the security of gas imports via Ukraine. Back in 2013, Ukraine was Gazprom's third largest client in terms of the volume of gas purchased – with 22.6 billion m³ per year. In 2017, Ukraine's total import statistics amounted to 14.1 billion m³, none of which came from Russian suppliers. Gas purchases from Gazprom were halted in 2014, and Ukraine has since then imported most of its supplies from EU countries. In terms of infrastructure, such a solution seems to be both cheap and easy, especially since it is Russian gas that flows into Europe through Ukraine, while in this case intermediary companies almost immediately resell part of the contracted gas to Ukraine. In other words, Naftogaz, de facto, acquires gas just as it used to: it is transported to Ukraine from the east. However, it is no longer directly purchased from Russia's Gazprom, but from other European energy companies. Similarly, complete or severe restrictions on Russian gas transit will deprive Naftogaz of most of its profits. For instance, in the first three quarters of 2017, Ukraine's transport and distribution of gas constituted over 90% of its turnout. The CEO of Naftogaz Andriy Kobolyev estimates the company's annual profit at between 2 and 3 billion dollars, which accounts for 2.5-3 % of Ukraine's GDP. The nominal capacity of the Ukrainian gas transmission system (GTS)

Shipment intensity has begun to increase again in the last couple of years; however, increased demand in Europe is not the only driver behind this shift.

amounts to 142 billion m³ per year. At the end of the last decade, it was not that high – 110 billion m³, which constitutes 80 percent of all Russian gas exports to Europe. Nord Stream 2, however, had a considerable impact on Ukrainian transit. In 2011, it amounted to 104.2 billion m³ of gas. In 2012 and 2013, it decreased to 84-86 billion m³ (about 50% of supplies exports to Europe). A year later, it dropped to 62.2 billion m³ (40 percent of all exports to Europe), and in 2015 to 51 billion m³, accounting for 30 percent of exports. These figures are a result of significant reductions in gas demand in Europe as well as the launch of Nord Stream in 2011, the maximum annual capacity of which was estimated at 55 billion m³. Shipment intensity has begun to increase again in the last couple of years; however, increased demand in Europe is not the only driver behind this shift. This rising trend was not affected by the Russian-Ukrainian conflict: in 2016, its volumes amounted to 82.2 billion m³ and 93.46 billion m³ only a year later, marking 13.7% growth, 90.75 billion m³ of which were transported to the EU market, while 2.71 billion m³ – to Moldova. When it comes to Gazprom, it was forced to make use of Ukrainian services as it needed liquid funds due to western sanctions, the effect of which was a significant reduction of hydrocarbon prices and capital outflow from Russia. Therefore, the company had to sell as

Ukraine's GTS proves to be good enough to function, having proven that it posed no threat to the security of gas supplies to the European Union.

much gas as possible to Europe while demand was still growing. Russian gas volumes exported to the European Union amounted to 138 billion m^3 in 2010, 158 billion m^3 in 2015, and 178 billion m^3 in 2016. This result would not be achievable without the Ukrainian gas transmission system. Unsurprisingly, such business turned out lucrative for Kiev, as it collected transit fee profits.

Meanwhile, Russia was still spreading anti-Ukrainian information, accusing its neighbor of unstable and unsafe transit due to the allegedly poor technical condition of Ukrainian gas pipelines. At the same time, Ukraine's GTS proves to be good enough to function, having proven that it posed no threat to the security of gas supplies to the European Union. The system's flexibility is considered its most valuable advantage, while persistent large-scale changes in the amount of gas have not affected its operational quality. For example, in September 2017, when Nord Stream was undergoing planned maintenance work, transit through Ukraine increased significantly: amounting to 120 billion m^3 (180 million m^3 per day) on an annualized basis. However, Russia intends to use the expiration of the current agreement to drastically reduce its transport through Ukraine. In April 2018, CEO of Gazprom Alexei Miller said that once alternative export routes (Nord Stream 2, Turkish Stream) were launched, his company could keep transit through Ukraine after 2019 at only 10-15 billion m^3 annually. For Ukraine, this is absolutely unacceptable. In order for the GTS to be profitable, Ukraine should contract no less than 60 billion m^3 of gas per year.

SCENARIOS FOR UKRAINE

Kiev does not stand on a lost position. It can at least be sure of one thing: the current gas deal's expiration will not bring about any serious problems. At the end of 2019, Russia can neither completely stop its gas transport through Ukraine nor reduce its volumes to 10–15 billion m^3 annually, which would be disastrous for Kiev. This may happen as the pipelines intended to bypass the neighbor's territory will not be ready to supply raw material directly to EU contractors, which have outstanding agreements that have to be delivered on. If the Nord Stream 2 pipeline reaches the German shore in 2019, as it was initially scheduled, yet not at all certain, it is very unlikely that the route will be fully operational. Furthermore, infrastructure delivering gas to Germany and neighboring countries still needs to be expanded upon and launched. This mostly references the EUGAL gas pipeline which runs through Germany. Its completion is scheduled for 2022. Even if it is possible to launch the first phase without any delays, Russia will initially be only able to use Nord Stream 2's maximum capacity of 34 billion m^3, forcing Gazprom to transport up to 40 billion m^3 of gas before the pipeline's second phase becomes functional. Ukraine seems to be completely aware of this, hoping to use it in negotiations with Moscow; for example, by demanding a long-term transit agreement that may guarantee more gas. If Gazprom rejects this, it would have to face the possibility of decreasing a significant amount of its gas export quantity to Europe for two years. The question remains,

though, if Russia can afford not to keep their contracts with European recipients.

Given the current situation, provoked by the anticipated expiration date of the Gazprom-Naftogaz deal and the threat of a drastic reduction in gas transit – or even its complete suspension, Ukraine's authorities, and the company's management came up with several possible options. The most optimal plan is to block the Nord Stream 2 construction. It seems, however, that Kiev somehow accepted the fact that the project would eventually be implemented, at least given Naftogaz's official standpoint. On November 4, 2018, the company's managing director Yuriy Vitrenko admitted that, "it is already impossible to stop the construction of the Nord Stream 2 pipeline," urging Russia to maintain gas shipment through Ukraine. It can, therefore, be said that the project will be implemented while the German government and companies are eager to back the venture (a plan that is likely to halt gas transit through Ukraine). In view of this, as a member of the Naftohaz management guaranteed, the company is launching a "plan B" which aims to offset as much as possible for the financial losses resulting from the future closure of the transit. Ukraine's state-owned firm may, therefore, find it difficult to negotiate a fair deal in terms of period, gas volumes and effective tariffs. Gazprom is, therefore, likely to stall for time while postponing any

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binding decisions until the official results of the spring presidential elections, and, more importantly, the autumn parliamentary ballot. Much will, therefore, depend on a new balance of power in Ukraine.

Ukraine can count on two options to minimize the costs arising from the establishment of Nord Stream 2 and to limit the transit. The first option provides for the highest possible involvement of European partners in the Ukrainian gas sector. In June 2017, UkrTransGaz launched a customs warehouse based on gas storage facilities, enabling gas traders to store natural gas for over 1000 days without customs clearance. Its first potential clients have already appeared. Storing EU gas volumes would guarantee hundreds of millions of dollars of profits for Ukraine. Another solution, even safer from Kiev's perspective, would perhaps be entrusting its entire gas transmission system to the western consortium within the framework of a long-term agreement. For the Germans and the Dutch, such a solution would yield real economic benefits, giving them authority over gas import starting from the Russian border and being much more profitable than the Gazprom-controlled Nord Stream 2 pipeline. If established, a similar consortium would automatically solve Ukraine's problems with Gazprom. Another option of minimizing losses stemming from the launch of Nord Stream 2 is an attempt to achieve gas self-sufficiency. Ukraine has the third-largest confirmed gas reserves in Europe currently, ahead of Norway and Russia. However, the country does not make full use of its vast potential. In 2017, Ukraine's total gas output amounted to 20.5 billion m^3 while the United Kingdom, which has lodges that are five times smaller, extracts more than 40 billion m^3. Similarly, Norway produces 123 billion m^3, with reserves that are two thirds greater than those in Ukraine. This seems to illustrate the potential of Ukraine's gas production sector, despite the loss of Crimean lodges.

EUROPEAN DISAPPOINTMENT, AMERICAN HOPE

In June 2018, Naftogaz's managing director, Yuriy Vitrenko, reminded that Germany was putting pressure on Kiev to seal the deal back in 2009. "They did not want to go into details. For them, it was enough to be assured by Gazprom that the contract conformed to European standards. Later, it turned out that it had nothing to do with such regulations, constituting rather a purely Russian approach to these rules. It was a truly neocolonial policy," Naftogaz's Facebook page quoted him as saying. It does not come as a surprise that Ukrainian authorities are cautious about any support declarations from Germany, especially as Berlin's official standpoint appears crucial in the context of the Nord Stream 2's construction.

"Germany sees Ukraine as a reliable gas transit country and an important trading partner," Germany's Minister for Economic Affairs and Energy, Peter Altmaier, declared on May 14, 2018, in Kiev, at a meeting with Ukraine's Prime Minister, Volodymyr Groysman. "We must develop safeguards in order to continue transit of gas through the territory of Ukraine," Altmaier said. Four days later, German Chancellor Angela Merkel paid a visit to the Russian city of Sochi. While she stressed the need to preserve gas shipment through Ukraine, Russia's President, Vladimir Putin, claimed that the implementation of the Nord Stream

GERMANY, 26 MARCH 2019. A FLAG READING 'NORD STREAM 2' ON THE CONSTRUCTION SITE OF THE NORD STREAM 2 IN LUBMIN.

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2 pipeline did not prevent Russian gas from flowing through Ukrainian territory. More importantly, he added that Russia "will continue gas shipments as long as they are economically justified."

Last spring, Germany announced its eagerness to help the European Commission in searching for investors for Ukrainian gas pipelines with the aim of "maintaining Russian gas shipment," followed by multilateral consultations held in Brussels in the summer and in September. Naturally, they did not yield any results. Germany's offer appeared nothing more than an actual desire to play on time while attempting to delay possible U.S. sanctions. Unofficially, Germany put forward several transit variants, as reported by the Ukrainian media, an example of which was the idea of dividing a separate section of the Urengoy–Pomary–Uzhhorod pipeline, coming from the Kursk corridor direction, that could be then handed over to an external consortium. This may be due to the Berlin's need to transit 30 billion m^3 of gas, annually, through Ukraine before

It does not come as a surprise that Ukrainian authorities are cautious about any support declarations from Germany, especially as Berlin's official standpoint appears crucial in the context of the Nord Stream 2's construction.

Nord Stream 2 becomes fully operational. Therefore, Germany is not at all interested in other capabilities of Ukraine's gas transmission system. Partial gas shipments, if maintained, would enable the Germans to

Brussels and EU institutions are generally in favor of Ukrainian demands. The problem is that there is probably no other matter in which we can see that European solidarity is a myth, and the last word generally belongs to Berlin.

admit that they had managed to keep their word while assuring Ukraine that Nord Stream 2 would pose no threat to its transit operations. If someone on the Ukrainian side had any illusions about receiving German aid in matters related to Nord Stream 2 and Russian transit through Ukraine, they probably lost them in November and December 2018. After firing at and seizing Ukrainian warships in the Kerch Strait area, Christian Democrats representative Peter Altmaier stated that the Nord Stream 2 issue should be excluded from the discussion on how to respond to Russian actions in the conflict around Crimea.

Brussels and EU institutions are generally in favor of Ukrainian demands. The problem is that there is probably no other matter in which we can see that European solidarity is a myth, and the last word generally belongs to Berlin. An advocate of keeping Russian transit through Ukraine at a safe level is the deputy head of the European Commission. On May 25, 2018 during a meeting held in Brussels, Maroš Šefčovič stated that "Ukrainian pipelines constitute the most important transport route for Russian gas to be transported to Europe." He recalled the official position of the European Commission that Ukraine should remain an important transit country for Russian gas also after the expiration of the contract between Naftogaz and Gazprom. However, for the time being, trilateral talks on this issue with the participation of Russia, Ukraine, and the European Commission have not produced any results. For Moscow, the only thing that matters is Berlin's position on the subject. The Americans openly say that they do not believe in the effectiveness of Germany's efforts to obtain a guarantee from Russia that the transit of gas to Europe through Ukraine will be maintained. (Sandra Oudkirk from the Department of State: "We do not believe in the effectiveness of such guarantees.") However, the USA does not offer specific solutions in return. Meanwhile, every month we are closer to finalizing the worst-case scenario for Kiev: Nord Stream 2 is being constructed and Gazprom drastically reduces transit through Ukraine. It seems that the Ukrainians have less and less of a choice: the only option left is focusing on looking for ways to mitigate the consequences of turning off the tap by the Russians. At the same time, it can count on delays in the implementation of Nord Stream 2 and EU legislative actions resulting in a significant increase in the cost of gas supply through the pipeline on the Baltic seabed. The optimal scenario from Kyiv's point of view (the complete suspension of the construction of the pipeline as a result of sanctions imposed by the USA) seems to be only theoretical.

Grzegorz Kuczyński
February 10, 2019

US AND EU IMMIGRATION POLICIES

Jan Wójcik

It is harder to think of anything more contradictory than the public images of President Donald Trump and Chancellor Angela Merkel on the issue of immigration.

On one side, we have a strongman threatening the use of weapons against the wave of illegal migrants. Conversely, on the other side we see a sentimental leader naively destroying Europe, by accepting anyone willing to settle in Germany. In this case, anyone with a different opinion is called a bigoted and callous xenophobe who opposes an open-minded, tolerant and globally responsible leader. The question is if these images are real or are the differences between policies of United States and European Union not so substantial since all states need to apply similar policies? The other question is if Germany and France can shape EU's migration policy alone, or if there is no common position on migration in the EU?

Although the US is traditionally considered to be a country built by immigrants, Donald Trump won the presidential nomination due to his tough anti-immigration rhetoric. He promised to build a wall on the US-Mexico border, tighten migration and asylum policies, and pursue mass deportation of illegal migrants. There is no precedent in modern US history when an administration has focused so strongly on immigration policy.

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GREECE, OCTOBER 11, 2015, A CROWDED FISHING BOAT CARRYING REFUGEES AND IMMIGRANTS AFTER CROSSING THE AEGEAN SEA FROM TURKEY TO GREECE.

Therefore, the migration debate should be focused on economic, security, and social issues.

No president before was so committed to restricting both legal and unauthorized migration. In the meantime, Germany or France began to realize that although being historically homogenous countries they are slowly becoming countries where a huge proportion of residents are immigrants[1]. That leads to the conclusion that any historical arguments about being migrant or non-migrant country are pointless. Therefore, the migration debate should be focused on economic, security, and social issues.

Both the US and EU are trying to achieve basically the same goals in their migration policy. This includes limiting irregular and illegal migration, increasing return and deportation effectiveness, attracting qualified regular migration that stimulates the economy, and providing humanitarian support to asylum seekers without derailing internal security.

MIGRATION SITUATION OF THE US AND EU

Although the goals are similar, conditions of their migration policies are different. The EU has recently experienced the highest numbers of illegal border crossings in its history. Conversely, the number of annual apprehensions at the US borders is almost four times lower than it was between 2004–2006 or during the 1990s. Still, the US borders are crossed by more than 300.000 irregular migrants each fiscal year (October

[1] *The Changing Face of the Country*, „Der Spiegel", April 19, 2018, http://www.spiegel.de/international/germany/germany-and-immigration-the-changing-face-of-the-country-a-1203143.html, (accessed: January 4, 2019).

Projected population growth in millions

Location	2015	2020	2025	2030	2035	2040	2045	2050
Africa	1 194,4	1 352,6	1 522,3	1 703,5	1 896,7	2 100,3	2 311,6	2 527,6
Latin America and the Caribbean	632,4	664,5	693,3	718,5	739,7	757,0	770,4	779,8

to September)[2]. In the EU, after overcoming the recent migrant crisis, the 204.000 illegal border crossing detections (2017) are considered to be a success. Factoring in population, (325 million and 497 million, respectively) it is apparent that the EU has less than half per capita illegal border crossings compared to that of the US.

There is also a huge gap, both in absolute and in relative numbers, concerning unauthorized migrants residing in those countries. It is estimated that the US has between 11–12 million illegal immigrants. This number is relatively smaller, 1.9–3.8 million in the EU[3]. Although the EU data is from 2008 and should be increased to account for the recent increased flow of uncontrolled migration, it still does not approach the figures seen in the US.

However, when it comes to future migration potential, the situation in the EU looks worse. Presumably, Europe is going to be exposed to huge migration flows in the coming decades. The source of future migrant flows will come from drastic demographic changes in Africa that will be greater than those in South and Latin America. While Africa's population will almost double by 2050, growing by 1.2 billion people, the population of South and Latin American will rise by "only" 110 million people from 640 million. This growth is one tenth the growth rate of Africa.

Trump's policy is more concerned with current migration problems and their current effects whereas EU experiences relatively smaller migration pressures with greater risks expected in the future.

Trump's policy is more concerned with current migration problems and their current effects whereas EU experiences relatively smaller migration pressures with greater risks expected in the future. The crisis between 2015–2016 in the EU could be considered an early warning.

[2] United States Border Patrol, *Total Illegal Alien Apprehensions By Fiscal Year*, https://www.cbp.gov/sites/default/files/assets/documents/2017-Dec/BP%20Southwest%20Border%20Sector%20Apps%20FY1960%20-%20FY2017.pdf, (accessed: January 4, 2019).

[3] P. Martin, *Irregular migrant workers in the EU and the US, Migration Data Portal*, November 17, 2017, https://migrationdataportal.org/blog/irregular-migrant-workers-eu-and-us, (accessed: January 4, 2019).

Although Trump is widely criticized for promulgating the southwest border wall, EU countries have already built or financed similar protection measures.

Presumably mass migration, being a future perspective and not an immediate problem for the EU could explain the difference in communication between European and American leaders. However, when it comes to differences in real polices, both the US and EU strive to increase border protection, reduce pull factors at home and try to reduce push factors in countries of origin.

ARE MIGRATION POLICIES SO DIFFERENT?

The EU has the Mediterranean Sea as a natural barrier protecting borders from overpopulated and underdeveloped areas. At the same time, the US needs to erect a barrier if it wants to physically increase protection of its border. Although Trump is widely criticized for promulgating the southwest border wall, EU countries have already built or financed similar protection measures. The EU already has a barrier between Greece and Turkey, between Hungary and Serbia and Croatia, between Africa and the Spanish enclaves. The EU has also co-financed the wall between Turkey and Syria[4]. The Mediterranean Sea barrier is enhanced by cooperation with naval guards of transit countries like Turkey, Egypt, Libya, Morocco, Italy or Spain on the other side. There are also other programs sponsored by the EU and its members to stop migration routes in Africa. It is worth mentioning the EU's cooperation with Sahel's G5 (Burkina Faso, Chad, Mali, Mauritania, Niger). There is also controversial financing of the Sudanese Rapid Support Forces connected to Janjaweed militias, a program officially denied by EU officials[5]. Additionally, after the 2015 migration crisis, the EU introduced protection measures on internal borders to limit secondary movements within the EU. Finally, at the end of 2018, the EU decided to increase the number of guards working for Frontex (European Border and Coast Guard Agency) by 10.000, which is almost the same number Donald Trump is willing to increase his border staff.

President Trump also tries to reduce pull factors which include birthright citizenship and the DACA program (which allows people who entered the US illegally as children to be able to obtain a work permit for two years). Other initiatives include the prioritization of the employment of nationals and those with a work permit or improving the ineffective return system. However, American Action Forum – a Republican think tank, warned against Trump's migration policy. The think tank estimated that it would cause up to a 2% fall in GDP, with private sector output slump estimated between $381 billion and $623 billion if the US was to deport every illegal[6]. This and similar calls from other institutes restrained Trump's policy. Despite

[4] M. Popp, *EU Money Helped Fortify Turkey's Border*, „Der Spiegel", March 29, 2018 http://www.spiegel.de/international/world/firing-at-refugees-eu-money-helped-fortify-turkey-s-border-a-1199667.html, (accessed: January 4, 2019).

[5] N. Malik, *Bashir Comes in From the Cold*, „Foreign Policy", July 31, 2016, https://foreignpolicy.com/2016/07/31/europes-new-best-friend-in-africa-is-an-indicted-genocidal-war-criminal/, (accessed: January 4, 2019).

[6] L. Lopez, *Trump's deportation plan could slice 2 percent off U.S. GDP: study*, „Reuters", May 5, 2016, https:// https://www.reuters.com/article/us-usa-election-trump-deportations-idUSKCN0XW0TP, (accessed: January 4, 2019).

this, Trump still reiterates that everyone who entered illegally can be subject to deportation, and those who committed crimes should be deported, while those reentering the country illegally should be penalized. He is also insisting that anyone who is willing to rectify their immigration status on US soil should go back to their home country and start on a legal immigration path.

At the same time, the EU was increasingly more concerned with its return policy as the probability of staying on EU territory was as high as 75% during this time. The overall theme in Germany this year changed from *Willkomenkultur* to what could be called *Gute fahrt!* with billboards advertising policies that offer financing to those willing to return to their countries of origin. There are also similar actions in other countries i.e. Spain has reached a deal with Mali in 2018 that would return 55.000 Malians voluntarily[7].

EU countries are focused on voluntary return more than the US because one of the greatest problems is identification, which is required to establish country of origin. Additionally, there are also stricter measures proposed by the EU Commission: removing failed asylum claimants more quickly at the border, tighten appeals procedures and detaining designated returnees on national security or public order grounds. Still there are ongoing discussions on detention centers for migrants outside EU territory where they can wait for either the recognition of their asylum application or wait for deportation after entry is denied.

Both sides of Atlantic Ocean struggle with the effectiveness of return. The rate of effective return compared to return orders

Still there are ongoing discussions on detention centers for migrants outside EU territory.

decreased from 45.8% to 36.6%[8] in 2017. Overall, between 200.000 to 250.000 non-EU citizens are deported from EU annually[9]. In the US, return figures are at a similar level but effective return rate goes down as local jurisdictions reject ICE request for detainers more often than during Obama's presidency[10]. This leads to increased focus on detention of migrants to prevent them from absconding, both in the EU and the US[11]. Israel has shown that introducing detention centers is also a way to reduce migration pull factors.

If we compare another aspect of the tightening of US migration policy – birthright citizenship – then it's clear that automatic citizenship resulting from unrestricted *ius soli* is not in the place in any EU country.

One of the most criticized policy was Trump's so-called "Muslim Ban," that, in its

[7] *Spain, Mali to implement plan to enable voluntary return of migrants*, „Agencia EPE", December 27 2018, https://www.efe.com/efe/english/world/spain-mali-to-implement-plan-enable-voluntary-return-of-migrants/50000262-3853048, (accessed: January 4, 2019).

[8] European Commission, *State of the Union 2018: Stronger EU rules on return – Questions and Answers*, September 12, 2018, http://europa.eu/rapid/press-release_MEMO-18-5713_en.htm, (accessed: January 4, 2019).

[9] *The Effectiveness of Return in EU Member States 2017*, European Migration Network, February 15, 2018, p.13 https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_return_study_synthesis_report_final_en.pdf, (accessed: January 4, 2019).

[10] F. Wilkinson, *Trump Is Deporting Fewer Immigrants Than Obama Did*, „Bloomberg", May 15, 2018, https://www.bloomberg.com/opinion/articles/2018-05-15/trump-is-deporting-fewer-immigrants-than-obama-did, May 15, 2018, (accessed: January 4, 2019).

[11] L. Barigazzi, *Lock up migrants to stop them absconding, says Commission*, „Politico", March 3, 2017, https://www.politico.eu/article/lock-up-migrants-to-stop-them-absconding-says-commission/, (accessed: January 4, 2019).

Despite illegal immigration to the EU being relatively lower than illegal immigration in the US, the number of asylum seekers is much higher in the EU.

first version, aimed to prohibit the entry of persons from predominantly Muslim countries that pose terrorism risks to the US. In the following years, the project evolved to prohibit foreign nationals from countries associated with terrorism. Finally, when Executive Order 13780 was accepted by the US Supreme Court, it banned migration from Yemen, Iran, Libya, Syria, Somalia, North Korea, and Venezuela.

That kind of ban can be expected to be perceived as too "discriminatory" by EU standards. However, a majority of citizens in 10 EU nations polled by Chatham House in 2017 were in favor of reducing migration from Muslim countries[12].

Despite illegal immigration to the EU being relatively lower than illegal immigration in the US, the number of asylum seekers is much higher in the EU. In 2017, EU countries made one million first instance decisions on petitions for asylum, of which 46% were granted. This figure is the result of a backlog from the crisis years. The number of applications in the same year dropped to 650.000 applicants[13]. In the US, there was only 40.000 asylum petitions during the same period, 65% of which were denied[14].

Both the EU and US are struggling with misuse of the asylum system by irregular migrants. The Department of Justice data through the first nine months of fiscal year 2018 shows that the majority of asylum-seekers who pass their credible fear test (85%) don't end up filing a formal asylum application[15]. Other data shows this number is around 40%[16].

In order to limit illegal border crossing attempts and the petitioning for asylum after being caught, Trump's administration unveiled new rules on asylum seekers who break border laws, in President Donald Trump's latest hardline move on immigration policy. Those who want to seek international protection must go through established border ports[17]. That is very similar to EU's disembarking platforms that are designed to cope with illegal migration and at the same time protect people from drowning.

Although both areas use similar migration policies, with reduced migration flow, reduced number of asylum seekers, general benefits for the economy and much lower

[12] M. Godwin, *What Do Europeans Think About Muslim Immigration?,* Chatham House, February 7, 2017, https://www.chathamhouse.org/expert/comment/what-do-europeans-think-about-muslim-immigration, (accessed: January 4, 2019).

[13] *Asylum Statistics*, Eurostat, https://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics#First_instance_decisions_on_asylum_applications, (accessed: January 4, 2019).

[14] *Asylum Decisions and Denials Jump in 2018*, TRAC Syracuse University, November 29, 2018, http://trac.syr.edu/immigration/reports/539/, (accessed: January 4, 2019).

[15] A. Gomez, *A previous migrant caravan faced the same federal scrutiny…*, „US Today", October 23, 2018, https://eu.usatoday.com/story/news/world/2018/10/23/migrant-caravan-how-many-sought-asylum/1741030002/, (accessed: January 4, 2019).

[16] *FY 2016 Statistics Yearbook 2016*, U.S. Department of Justice, March 2017, p. 49, https://www.justice.gov/eoir/page/file/fysb16/, (accessed: January 4, 2019).

[17] K. Breuninger, *Trump unveils hard-line immigration policy that limits asylum,* „CNBC", November 8, 2018, https://www.cnbc.com/2018/11/08/trump-unveils-hard-line-immigration-policy-that-limits-asylum.html, (accessed: January 4, 2019).

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WARSAW, POLAND, NOVEMBER 21, 2017. THE MAIN OFFICE OF THE EUROPEAN BORDER AND COAST GUARD AGENCY (FRONTEX) IN WARSAW. THE AGENCY HAS ITS HEADQUARTERS IN WARSAW.

prospects for the future migration pressure, Donald Trump's focus on migration and stronger words seem to be disproportional. But President Trump justifies his stance by his willingness to regulate migration through legal paths. Considering the increasing total number of migrants and asylum seekers arriving in Europe, and the huge migration potential, Angela Merkel or Emanuel Macron seem to be too mild. In reality, behind the liberal and open attitudes of EU leaders, there are strong actions to contain migration flows. The only incident, without clear reasoning, occurred in September 2015, when Merkel decided to open Germany's borders. However, the EU-Turkey agreement to stop migration followed shortly afterwards.

IS THERE A COMMON EU MIGRATION POLICY?

Other factors influencing the tightening of EU migration policy should not be ignored as opposition continues to grow in EU member states. The V4 countries (Poland, Czech Republic, Hungary and Slovakia) were strong opponents of the relocation quota scheme that was introduced by the EU Commission and was designed as a constant future mechanism. The general public in each V4 country questions why they should willingly accept the same social and security problems that Western Europe is now facing. There was no explanation as to why V4 countries, none of which were beneficiaries of colonialism, should be burdened by post-colonial liabilities. The solidarity argument was also unpopular when, at the same time, the EU response to the Russian invasion of Ukraine was mild and Germany continued to support construction of the Nord Stream 2 pipeline.

The V4 countries were soon joined in opposition by Austria and Italy, where more and more migrant skeptical societies elected parties promising to stop migration. And in fact, Italy's government implemented harsh but necessary steps to reduce pull factors on the center Mediterranean route. The ability to reach Italian ports was reduced, not only by closing them but also by cooperating with Libyan costal guards. It should be mentioned here that Italy, exposed most greatly to the risk of uncontrolled migration, would like to enforce the "shared migration responsibility plan," which is opposed most strongly by the V4 countries.

In addition, Macron's comments regarding countries that object the EU quota scheme look more like an attempt to push EU federalization forward than a candid concern for migrants and asylum seekers. While France was bashing Poland, Italy, or Austria for its migration views, media reports showed French border guards and policemen violating migrant human rights or smuggling them back to Italy. Macron himself was engaged in creating partnerships with African countries to limit migration.

The diversity in European migration policy was apparent when it was time to sign The Global Compact for Safe, Orderly and Regular Migration. The US withdrawal from the pact was followed by Austria, the V4 countries, Italy, Bulgaria and Latvia. Other EU member states signed the document, but it's worth mentioning that this didn't happen without heated, inner debates within those countries. As was the case of rejection of the relocation scheme by V4, it should be questioned if the rejection was due to the general attitude towards migration or because of a distrust of multilateral, international bodies, especially after the attempt to force the refugee relocation scheme. The grave consequences of distrust grown from pushing countries to adopt certain migration policies are still visible i.e. the inability to create common and decisive European Border Guards.

RHETORIC MATTERS

Finally, there is a question regarding rhetoric itself. Perhaps anti-immigration rhetoric should be considered a migration policy tool? Perhaps Trump's tweets caused declines in asylum applications in US? This is supported by the fact that the steepest declines occurred within the Muslim asylum seeker groups. In fiscal year 2016, 38.900 Muslim refugees came to the United States, according to the State Department. In 2017, that number fell to 22.861. Only 2.107 entered in the first six months of 2018[18].

The narrative also changed in Europe. In 2014, BAMF (German Office for Asylum and Migration) released an instructional advertisement highlighting the asylum process. This film was translated into Arabic, Turkish, Farsi, Pashto and other languages and attracted many people to pursue asylum petitions. Now, the BAMF webpage discourages migrants from settling in Germany. There were also strong anti-migrant comments from the liberal Swedish government. In 2018, Magdalena Andersson, the finance minister, said that "Sweden does not need foreign cleaners"[19]. Similar narratives, that moving to Europe is not the solution, are being promulgated by EU in countries of origin. GCM was also criticized for this reason. Its pro-migration attitude could create another pull factor, an illusion that any risk in attempting to enter Europe or other rich countries is a risk worth taking.

The public's perception of EU and US leaders on migration issues is completely divergent, although their policies, being consequences of migration challenges are not that much different. It seems that the EU recently discovered that direct communication with migrants also matters and as a result, it might implement it as a migration policy tool. This is especially important as the EU is facing much bigger future migration challenges compared to the US.

Jan Wójcik
January 4, 2019

[18] K. Amadeo, *Donald Trump on Immigration, Pros and Cons of His Policies*, „The Balance", December 31, 2018, https://www.thebalance.com/donald-trump-immigration-impact-on-economy-4151107, (accessed: January 4, 2019).

[19] C. Edwards, *'Sweden doesn't need foreign cleaners': Finance Minister*, „The Local", April 16, 2018, https://www.thelocal.se/20180416/sweden-doesnt-need-foreign-cleaners-finance-minister, (accessed: January 4, 2019).

THE ROBOTIC REVOLUTION IN MILITARY AND POLAND'S NATIONAL SECURITY STRATEGY

Maciej Zając

Experts from China, Russia, and the United States unanimously agree that both robotic technologies and artificial intelligence (AI) will dramatically change the image of today's battlefields. The three aforementioned powers seem to be getting more and more involved in a global arms race that would result in the gradual robotization and algorithmization of military operations.

At the same time, both the United Nations and the European Union call for the introduction of a ban on the use of autonomous weapons (including robot soldiers) due to their alleged unethical character. Having the potential to quickly polarize, this dispute forces Poland to make a choice that needs to be confronted both quickly and consciously. The state may be likely to back the drafted ban, despite realizing that Russia may consider it non-binding. Likewise, the Polish authorities could support the similarly situated Baltic States in creating a next generation defense system that could provide Europe with prospects for strategic autonomy and make warfare much more humane.

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GENEVA, SWITZERLAND, NOVEMBER 13, 2006. FRANCOIS RIVASSEAU (R) FROM FRANCE, PRESIDENT OF THE THIRD REVIEW CONFERENCE ON DISARMAMENT OF THE STATES PARTIES TO THE CONVENTION ON CERTAIN CONVENTIONAL WEAPONS, AND NOBUAKI TANAKA (L) OF JAPAN, UN UNDER-SECRETARY-GENERAL FOR DISARMAMENT AFFAIRS. PRESS CONFERENCE ABOUT THE CLUSTER MUNITION COALITION.

On September 1st, during the Group of Governmental Experts to the Convention on Certain Conventional Weapons Forum held in the Swiss city of Geneva, a group of 26 states, mostly of African and Latin American countries that are less powerful in terms of both military and political capacity, applied to formally begin work on a treaty that would prohibit the research, production and use of autonomous weapons, also referred to as robot soldiers (yet some activists and industry experts would prefer to depict them as *killer robots*)[1]. Nonetheless, their application was vetoed by the world's most powerful militaries, including those of the United States, Russia, Israel, South Korea, and Australia, as they all view autonomous weapons as a legal – and probably also morally superior[2] – type of armament. Yet the demand was supported by China; which led some pundits to refer to such a behavior as blatant hypocrisy as Beijing keeps developing similar systems at a rapid pace[3]. Europe's giants, including Germany, France, and Great Britain, did not adopt any radical standpoint in the dispute, preferring to rather call for the standardization of definitions and

[1] J. Delcker, *US, Russia Block Formal Talks on Whether it is Ban 'Killer Robots'*, January 9, 2018, „Politico.eu", www.politico.eu/article/killer-robots-us-russia-block-formal-talks-on-whether-to-ban/, (accessed: September 1, 2018).

[2] United States of America, *Humanitarian benefits of emerging technologies in the area of lethal autonomous weapon systems*, Statement before Group of Governmental Experts to the CCW, Geneva, 9–13 April 2018, CCW/GGE.1/2018/HR.4, (accessed: September 1, 2018).

[3] E. B. Kania, *China's Strategic Ambiguity and Shifting Approach is Lethal Autonomous Weapon Systems*, April 17, 2018, „Lawfare Blog", www.lawfareblog.com/chinas-strategic-ambiguity-and-shifting-approach-lethal-autonomous-weapons-systems, (accessed: September 1, 2018).

regulations. Even though these events extinguish the hopes of introducing a global ban on the use of robotic weapons by some factions, its future in Europe remains open for debate. All parties to this dispute can, however, agree on one thing: the future of war and strategy are at stake.

But what are these weapons and what ramifications could they have in the future? The reputation of this not yet developed form of weaponry is subject to a series of misunderstandings, out-of-context speculations, and ideologically charged aversion. Therefore, the following analysis needs to first describe the status of current advances in autonomous weapons as well as the pace and goals that both engineers and strategists hope to achieve in this regard within the next two decades. Such findings will provide the necessary background for further investigation into the transformative impact of this new weaponry and its subsequent ethical, legal and diplomatic controversies. Lastly, I will discuss three strategies that could potentially be accepted by the Polish state as well as other Central European countries in light of yet another military technological revolution, followed by geopolitical shifts.

Even though these events extinguish the hopes of introducing a global ban on the use of robotic weapons by some factions, its future in Europe remains open for debate.

BRAVE NEW ARMY

The recent debut of Russian remote-controlled tanks in the battlefield could hardly be described as spectacular. In fact, they were reported to have performed poorly in Syria, which seemed to correspond with the previous problems of so-called *game-changing technologies* such as submarines, tanks or aircraft. The Russian Uran–9, a vehicle the size of an SUV and heavily armed with a 30 mm-caliber cannon and guided missile launchers, was a Potemkin-like creation as its essential aim was to demonstrate the technological supremacy of Mother Russia. As a result, the ground vehicle had a faulty chassis and its cannons also proved to be highly inefficient. To make matters worse, the robot tank lost connection with its operators, which drew sharp criticism from Russia's domestic experts[4]. Yet the vast majority of the aforementioned defects can be easily eliminated by enhancing both quality and production processes. The only remaining considerable problem consists of communication disturbances that tend to occur in urban and undulating terrains, validating the need for some of the bolder concepts in the field of military robotics. Therefore, any half-measures such as remote-controlled machines are dead ends. Any combat robot should be granted real operational autonomy in order to assure its high efficiency on modern battlefields, the environments of which are often referred to as becoming increasingly dangerous.

An unmanned tank, controlled by autonomous software, would have various advantages over competitive human-controlled vehicles. A significant, if not the major part of the weight of each tank

[4] K. Mizokami, *Russia's Tank Drone Performed Poorly in Syria*, June 18, 2018, https://www.popularmechanics.com/military/weapons/a21602657/russias-tank-drone-performed-poorly-in-syria/, (accessed: September 1, 2018).

Advanced robotics and AI, military officers, who do not limit themselves only to improving existing solutions, may achieve unheard-of goals, both in the context of minor clashes as well as the grand strategy.

essentially consists of armor whose main task is to protect the crew – the vehicle's most fragile element, the damage of which effectively results in the machine's immediate shutdown. Facing such a possibility, Russia's new generation T–14 Armata main battle tank automates a large part of all onboard systems while its three-man crew is isolated in a single, heavily armored compartment isolated from the rest of the vehicle. This way, it cannot be destroyed by the majority of the existing anti-tank weapons. By definition, all unmanned tanks are insensitive to the threats that need to be prevented by the T–14 engineers; for instance, computer systems can be located in different parts of the vehicles, enabling components, which can remain intact even after being hit multiple times, to take over all functions of the fully destroyed pieces as well as those affected by *graceful degradation*. The lower mass of the tank's armor (the latter of which is no longer necessary to protect the crew), may result in increased speed and maneuverability as well as reduced vehicle size, not to mention its decreased detectability and fuel consumption. In addition, it would allow such a tank to be sent to other battlefields by troop carriers and could traverse relatively narrow roads and bridges. All these solutions would significantly cut costs and facilitate the logistics services, especially as the latter has long been considered to be the „Achilles heel" of all the world's armies. And yet the aforementioned benefits constitute just some of the possibilities of the robot revolution in military which is considered to be the biggest breakthrough since the creation of ballistic nuclear missiles.

Thanks to advanced robotics and AI, military officers, who do not limit themselves only to improving existing solutions, may achieve unheard-of goals, both in the context of minor clashes as well as the grand strategy. First of all, it is vital to discuss its micro-scale components. One of the most prestigious and demanding positions in the military is that of a fighter pilot. Their extensive training may cost up to several million dollars while all the knowledge they have is irrevocably lost when such a person retires or dies in combat or in an accident. In contrast, a computer program that learns to operate a fighter jet, acting in a similar way to a self-driving car's software in California and neither gets older nor dies unless it becomes a victim of an extremely broad cyber-attack. Furthermore, such a program gets better with every flight – both real and simulated (in which case the program may run hundreds of simulations within just one hour); it never tires and is always ready for the next task. Even if such an unmanned aerial vehicle is shot down, it is still able to pass all necessary data on a given incident to its respective control panel, ensuring that the software will not commit the same error twice. Therefore, all abilities to retain and accumulate experiences, to find, adapt and train solutions to every possible scenario – additionally combined with consistent quality of work in all conditions proves that AI has advantages over other technologies. In addition, the prospect

of taking advantage of such algorithms in war may offer the level of excellence comparable to all flying aces combined; a sniper cumulating the aggregate skills of all human snipers. Thanks to its superhuman reaction time, AI is able to stay two steps ahead of any human[5].

Since these robots are neither limited in terms of human reflexes nor in our ability to process only a certain amount of information, nor the need to be protected or to deal with any biological limitations of the human body, it eventually results in the emergence of completely new machines with the potential of unprecedented application. The most interesting and best described of them all is known as *Swarm* consisting of hundreds or thousands of small vehicles capable of communicating with each other with superhuman speech and having numerous possibilities at their disposal, normally unattainable for a single individual. Its simplest forms have already been used by anti-government rebels to attack Russian military bases where they destroyed aircrafts and helicopters, all of which are worth tens of millions of dollars, with only several hundred grams of explosives and a few drones bought in a supermarket[6]. This very same tactic – if better coordinated and deployed on a large scale – could bring about disastrous consequences, both for military and industrial facilities as well as for civilian infrastucture[7].

During conventional combat operations, thousands of relatively cheap robots, whose loss would not be missed by anyone, could potentially execute truly suicidal missions, destroying both the strength and morale of the enemy and enabling a whole range of strategic maneuvers that were until now only possible either on the chess board or in computer games[8]. The ability to sacrifice thousands of robots in order to achieve a tactical advantage would, therefore, provide human commanders with never before experienced limitless possibilities.

The full autonomy of a combat robot on a higher strategic level would make it possible for the commander as well as diplomats and politicians to make promises (and threats) of both unquestionable and unyielding credibility. For instance, if the United Nations were to announce that blue-helmet robots would protect a refugee camp from any acts of aggression, machines programmed to perform these tasks would meekly obey such order; therefore, various actions including threats, negotiations, attempts at bribery and usage of hostages would be rendered completely useless. Any entity that ensures military guarantees, will be able to additionally grant their inviolability, even at the risk of changing orders that were previously issued. Naturally, nobody postulates such actions in the case of nuclear forces or other armies being capable of bringing about

[5] The scenario in question is no longer part of the military science fiction genre. Self-learning algorithms are now capable of defeating tenured pilots on stimulators used for air combat training – *Genetic Fuzzy based Artificial Intelligence for Unmanned Combat Aerial Vehicle Control in Simulated Air Combat Missions*, Ernest et al., „J Def Manag" 2016, 6 (1).

[6] Lt. J. Hanacek, *The perfect can wait; good solutions to the 'drone swarm' problem*, „WarOnTheRocks.com", August 14, 2018, https://warontherocks.com/2018/08/the-perfect-can-wait-good-solutions-to-the-drone-swarm-problem/, (accessed: September 1, 2018).

[7] Lt. C. D. Pinion, *The Navy and Marine Corps Need to prepare for the Swarm of the Future*, WarOnTheRocks.com, March 28, 2018, https://warontherocks.com/2018/03/the-navy-and-marine-corps-must-plan-for-the-swarm-of-the-future/, (accessed: September 1, 2018); T. X. Hammes, *Cheap Technology Will Challenge US Tactical Dominance*, March 29, 2016, https://ndupress.ndu.edu/JFQ/Joint-Force-Quarterly-81/Article/702039/cheap-technology-will-challenge-us-tactical-dominance/, „Joint Force Quarterly" 81, 2nd Quarter 2016, (accessed: September 1, 2018).

[8] Major J. Hurst, *Robotic Swarm in Offensive Maneuver*, October 2017, https://www.researchgate.net/publication/320273069_Joint_Force_Quarterly, „Joint Force Quarterly" 87, 4th Quarter 2017, (accessed: September 1, 2018).

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MOSCOW, RUSSIA, MAY 9, 2018. RUSSIA'S NEWEST ROBOTIC COMPLEX URAN-9 TAKES PART IN THE VICTORY DAY MILITARY PARADE IN THE RED SQUARE.

mass destruction over long distances – although such a vision might eventually make the dreams of some Cold War theoreticians come true. Furthermore, due to ethical considerations, such solutions should be restricted to purely defensive actions. Still, pre-programmed robots offer a new quality in terms of strategic stability, protection of civilians as well as peacekeeping and *nation-building missions*[9].

ROBOTIC REVOLUTION – THE TRAIN THAT HAS ALREADY LEFT

It does not come as a surprise that the world's major powers, including the United States, China, and Russia, are increasingly deploying autonomous unmanned[10] vehicles; for example, the U.S. estimates that by 2035, as much as one-third of its army's ground combat vehicles would not need any human-controlled support. This figure may be even higher in aviation, logistical components and underwater fleets. It should be noted that many potentially ground-breaking military technologies – even those in advanced phases, failed to be officially released, as evidenced by the U.S. Future Combat Systems, an American technological system that was supposed to change the reality of terrestrial combat. This project was canceled in 2009 after billions of dollars were spent on its research and development. However, the consensus by experts regarding the imminent arrival of the era of autonomous weapons results directly from uncontested decisions and not just primitive technological determinism.

First, the creation of such a weapon does not depend on the success of any single project or engineering solution. According to Jurgen Altmann and Frank Sauer, „autonomous weapon systems

[9] Mandate forces, managed by a specialised corps of specialists being subordinate to international agendas, could somehow be a solution to a trap that countries with the highest level of poverty and the lowest degree of technological and institutional progress tend to fell into as they provide their citizens and state institutions with substantial protection without the need to make the latter dependence on any whims of local military clique. This mechanism, as one of the main factors behind the perpetuation of world poverty, is identified by P. Collier in his book *The Bottom Billion; Why the Poorest Countries Are Failing and What Can Be Done About It* (Oxford University Press, New York 2007).

[10] U.S. Department of Defense, *Unmanned Systems Integrated Roadmap: 2017–2042 (2018)*, www.documentcloud.org/documents/4801652-UAS-2018-Roadmap-1.html#document/p1; E. B. Kania, *Battlefield Singularity: Artificial Intelligence, Military Revolution and China's Future Military Power*, November 28, 2017, https://www.cnas.org/publications/reports/battlefield-singularity-artificial-intelligence-military-revolution-and-chinas-future-military-power, Center For New American Security, (September 1, 2018).

need not necessarily take the shape of a specific weapon system akin to, for instance, a drone or a missile. They also do not require a specific military-technology development path. The set of possible forms, which can be assumed by technologies that meet the definition of autonomous weapons, seems undoubtedly very large and it would be difficult to state that all of them may ultimately lead to a failure"[11].

Furthermore, the rapid growth in autonomous weapons stems from the fact that most of the component technologies in these systems are developed as 'dual-use technologies' by the civilian community for non-military goals and motivations. Altmann and Sauer continue: „As AI, autonomous systems and robot technologies mature and begin to pervade the civilian sphere, militaries will increasingly be able to make use of them. Weapons development will profit from the implementation or mirroring of a variety of civilian technologies (or derivatives thereof) and their adoption for military purposes, technologies which are currently either already available or on the cusp of becoming ready for series production in the private sector"[12]. The army is, therefore, able to take advantage of all fruits of technological convergence and are able to use robotic technologies to conduct a wide range of tasks, a phenomenon that, according to Gill Pratt, Program Manager at DARPA (U.S. Defense Advanced Research Projects Agency), could be referred to as a „Cambrian Explosion in Robotics"[13]. In his paper, Pratt mentioned eight *drivers* of such rapid advances in robotic technologies, including steady growth in the human brain's computing power, increases in battery performance and an ever-increasing density and power of local Wi–Fi networks. A similar message was made by Arati Prabhakar, an American engineer and the former head of DARPA, as quoted in the recently announced official U.S. plans for the development of military technologies for the next 25 years[14]. In the document, the U.S. Department of Defense forecasts most of the technological progress to be made in the private sector.

Due to the huge dispersion of R&D activity in the fields of science and engineering – which is crucial for the emergence of autonomous weapons – it would be practically impossible to stop any processes of its creation, either by suspension of funding or a direct ban imposed by international law, additionally backed by sanctions or armed intervention. Funds for research are mostly provided by the civilian market; once the civilian sector finally disseminates mature robotic platforms, their adjustment to combat purposes will require neither the use of any rare and easily detectable materials – as in the case of nuclear weapons – nor the launch of long-term and costly processes that would potentially result in the establishment of clearly identifiable infrastructure (as in the case of nuclear and chemical weapons). No highly qualified specialists need to be recruited either. The difference between existing remote-controlled combat machines and their autonomous versions would be just a matter of creating supplementary software. As exemplified by issues of cyber-crime and cyber war, it is not possible to impose a set of international regulations in order to prevent any programmer, hired by a government to achieve a certain agenda, from performing his or her tasks. In addition, the prohibition of a

[11] J. Altmann, F. Sauer, *Autonomous Weapon Systems and Strategic Stability*, „Survival" 59 (5), p. 124.

[12] Ibidem, pp. 124-125.

[13] G. A. Pratt, *Is a Cambrian Explosion Coming for Robotics?*, „Journal of Economic Perspectives", vol. 29 no. 3, Summer 2015, pp. 51-60.

[14] U.S. Department of Defense, *Unmanned Systems Integrated Roadmap…*, p. 25.

Given this precedent, it is clear that such countries would only acquiesce to the demands of abandoning their armament programs only if threatened by armed intervention as was the case with the Syrian chemical weapons or the Iranian nuclear plans.

whole range of civilian technologies that greatly contributes to the future of the global economy would appear not only extremely costly and highly unpopular but also immoral; such technologies could potentially be used to help victims of accidents, illnesses, disasters or extreme poverty. For instance, autonomous cars hold great potential in significantly decreasing the number of road fatalities.

Taking into account all the conditions described above, the idea of prohibiting the development and production of autonomous weapons by means of an international convention seems as realistic as that of prohibiting the use of computer technologies for military purposes. This is quite obvious even before geopolitical and historical factors are taken into account as evidenced by both explicit and implicit violations of similar conventions by Russia, Iran, North Korea, Syria, and other *rogue states*. Given this precedent, it is clear that such countries would only acquiesce to the demands of abandoning their armament programs only if threatened by armed intervention as was the case with the Syrian chemical weapons or the Iranian nuclear plans. Just as in the case of using inspection as a basic tool for disarmament negotiations, making similar threats towards nuclear powers such as China, Russia and even North Korea is simply not an option.

Under such conditions, each influential state may find it beneficial to develop their own autonomous weapons, regardless of the intentions of other countries; if the latter get involved in such research, it will aim to take a leading position in a technological race that could be easily won.

The idea of a global ban on autonomous arms depends on the assumption that both Western and allied powers, as well as various autocracies and criminal regimes, unanimously agree on sacrificing their own interests and do not seek any solutions developed by the civilian sector in both a spontaneous and inevitable manner. It was easy to predict that none of the geopolitical players would resist their actions on a similar assumption; indeed, this did not happen as evidenced by the section below. Yet, the question emerges: why would the robotic weapons have to be banned?

THE MYTH OF A ROBOT, THE MYTH OF HUMAN

An opposing standpoint is concisely presented by Professor Bonnie Doherty, a lecturer at the Harvard University law department and activist at Human Rights Watch, one of several prominent NGOs that advocate for the total ban on the use of autonomous weapons. In her view,

„Fully autonomous weapons (...) would be unable to feel compassion, an emotion that inspires people to minimize suffering and death. The weapons would also lack

the legal and ethical judgment necessary to ensure that they protect civilians in complex and unpredictable conflict situations.

In addition, as inanimate machines, these weapons could not truly understand the value of an individual life or the significance of its loss. Their algorithms would translate human lives into numerical values. By making lethal decisions based on such algorithms, they would reduce their human targets – whether civilians or soldiers – to objects, undermining their human dignity.

Fully autonomous weapons (...) would likely violate other key rules of international law. Their use would create a gap in accountability because no one could be held individually liable for the unforeseeable actions of an autonomous robot.

(…) Furthermore, the existence of killer robots would spark widespread proliferation and an arms race – dangerous developments made worse by the fact that fully autonomous weapons would be vulnerable to hacking or technological failures"[15].

Although each of the aforementioned arguments is worth being dealt with separately, I would like to first point out two of her assumptions[16]. Professor Doherty seems to think that autonomous weapons will not be effectively subject to the same rigorous process of determining compliance with international humanitarian law routinely applied to new types of combat equipment. She also seems to believe that their development will be guided by elementary norms of self-interest and combat utility. Otherwise, how is it possible to explain her belief that the army would be willing to introduce machines whose functions could be referred to as „unpredictable"[17]? Even if the above-mentioned assumption depicts military engineers and decision makers as both extremely immoral and incompetent, it simultaneously portrays the existence of „idyllic battlefields": a place full of compassion and respect for human dignity, where war crimes are effectively and regularly penalized and commanders as well as top-level politicians are considered to be morally immaculate. Therefore, the myth of a soulless robot, which seemed to personify primitive evil in fairy tales or poor sci-fi publications, intermingles with a Rousseau-inspired vision of a humanity deprived of any faults.

[15] B. Doherty, *Ban 'Killer Robots' is Protect Fundamental Moral and Legal Principles*, August 21, 2018, https://theconversation.com/ban-killer-robots-to-protect-fundamental-moral-and-legal-principles-101427, „The Conversation", (accessed: September 1, 2018).

[16] In the following section I will base my conclusions on the works of ethicists dealing with topics of war and new technologies: K. Anderson, M. C. Waxman, *Law and Ethics For Autonomous Weapon Systems. Why a Ban Won't Work and How the Laws of War Can*, Stanford University, The Hoover Institution Jean Perkins Task Force on National Security and Law Essay Series, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2250126; S. Kershnar, *Autonomous Weapons Pose No Moral Problem. Killing by Remote Control. The Ethics of an Unmanned Military*, (eds.) B. Strawser, J. McMahan, *Oxford*, Oxford University Press 2013, pp. 229-245; P. Lin, G. Bekey, K. Abney, *Autonomous Military Robotics: Risk, Ethics, and Design*, „Philosophy" 2008; G. Lucas Jr., *Engineering, Ethics and Industry: The Moral Challenges of Lethal Autonomy. Killing by Remote Control. The Ethics of an Unmanned Military*, (eds.) B. Strawser, J. McMahan, *Oxford*, Oxford University Press 2013, pp. 211-228.

[17] The discourse on autonomous weapons distinguishes three levels of human control: *human-in-the-loop* (with a human supposed to pull the trigger), *human-on-the-loop* (able to interrupt at any moment the fire taken up by a robot's autonomous decision), and *human-out-of-the-loop* (unable to cease the fire, e.g. by lack of contact with the robot for the duration of the fight). Especially the last two solutions – with particular regard to *the out-of-the-loop options – seem to arouse greatest ethical controversies*. Nonetheless, all authors of alarmist editorials tend to forget that the army seeks to control any actions of their agents as closely as it is possible, thus not needing robots as a tool of blind and *indiscriminate* violence as militaries have disposed of a similar instrument in the form of *dumb* munitions (artillery or aviation) for hundred years, actively seeking to get rid of its remnants.

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US. MARCH 13, 2004. THE AUTONOMOUS ROBOTIC GROUND VEHICLE OF TEAM CAJUNBOT BEFORE THE START OF THE DARPA GRAND CHALLANGE FIELD TEST, FROM BARSTOW, CALIFORNIA, TO PRIMM, NEVADA.

Such imagination constitutes only a rhetorical tool while experts, including Professor Doherty, are perfectly aware of the realities of modern war as well as its numerous deficiencies – which could be observed even in the case of present-day Western armies – whose ethical nature has considerably improved in the post-Vietnam period. According to the new principles, it is absolutely vital to limit the number of casualties while putting an end to the suffering and destruction; nonetheless, such strategy cannot be implemented by having troops empathize with their victims in real time. Similarly to any other institutions established to undertake essential steps in extreme situations, including the police or the healthcare system, the army seeks to put in action humanitarian principles, which is possible thanks to a system of ready-made procedures that do not allow for the expression of any short-lived emotions or for the perception of the loss of human life. Such significance is reflected in both the laws and regulations that soldiers are supposed to respect, and this observance is often achieved in a purely mechanistic manner. Military discipline aims to suppressing feelings – while replacing them with cold professionalism – for two ethical reasons: first of all, war evokes emotions that cannot be referred to as „brotherly love"; instead, as the sentiments of anger, animal fear, frustration, and hatred are much more common and natural on the battlefield. Secondly, „translating human lives into numerical values" is a necessary part of an ethical soldier's reflection and a basic tool for implementing the principle of proportionality fundamental to international humanitarian law. Instead of using emotions and falling prey to human cognitive errors, it is better to reflect on how common moral intuitions may translate into a transparent algorithm, which would be at the same time resistant to the user's partiality for the given moment.

Autonomous weapons share some features – perceived by their critics as unique– with traditional types of weaponry. Nowadays, the vulnerability to hacker attacks applies to all technological artifacts from a Toyota Yaris to most refrigerators. The same can

be said on the issue of criminal liability and actions for compensation. They do not substantially differ from any other issues linked to the responsibility for any operations carried out by self-steering missiles or military dogs, completely autonomous entities that have accompanied man in combat throughout history. Naturally, it is essential to establish specific legal and procedural solutions to define these matters in a clear way. The deployment of combat robots does not seek to distance man from war's reality; quite the opposite, thanks to military advancements, we are now able to bring humanity – replaced by artillery and *cruise* missiles – back into modern warfare. The old age notion that „you do not put a lawyer in every trench" ceases to be valid since teams composed of lawyers and ethicists are now able to monitor the real-time behavior of individual machines thanks to cameras that closely observe the behaviors of servicemen. Such innovations constitute the instance of strict controls that could not be imagined by thinkers and human rights activists even a generation ago.

Fighting battles with the use of remote-controlled machines – or robots programmed in comfortable air-conditioned offices prior to the launch of a conflict – deprive military officers of their traditional attitude, which states that „in the event of war, you had to choose between your life and other peoples' lives". The robot can be sacrificed to ensure greater security for civilians. This is of particular importance in some cases that tend to occur frequently in modern times, where the battle is equivalent to a huge-scale hostage situation, as exemplified by the liberation of the Iraqi city of Mosul from the Islamic State where fighters effectively used two million civilians as human shields. Robots are able to come closer, risk more and attack their targets with superhuman precision, thus avoiding civilian and military casualties. They are able to target an opponent's weaponry or cause injuries that will eliminate the enemy from the fight but will not kill him or permanently damage his body. In the long term, there might not even be any human casualties. When taking into consideration the helplessness of a human soldier, confronted with fully developed autonomous weapons, it may be concluded that wars would ultimately become a kind of technological match-up between armies of robots. Such a vision might correspond to the anachronistic dreams in which decision makers settle their military disputes by playing a game of chess.

Are all these fears expressed by the critics ungrounded? Quite the opposite; even though they are perfect tools for waging wars in the most just and humane way possible, combat robots will act accordingly to all methods, goals, and values of their human masters. Nevertheless, machines that seek to respect both moral issues and provisions of international law will be used by the state to maintain peace or to conduct effective humanitarian interventions so as to defend basic human rights while other entities may deploy the very same instruments in a radically different manner. This aspect was recalled in the famous open letter written by scientists and technologists (including Hawking, Musk, Wozniak, and Chomsky) who advocated for the introduction of a global ban, stating that, „in the hands of terrorists, dictators wishing to better control their populace, warlords wishing to perpetrate ethnic cleansing, etc. autonomous weapons are ideal for tasks such as assassinations, destabilizing nations, subduing populations and selectively killing a particular ethnic group"[18]. The popularization of such weaponry in the armed forces of rogue

[18] Future of Life Institute (2015), *Autonomous Weapons: An Open Letter from AI & Robotics Researchers*, https://futureoflife.org/open-letter-autonomous-weapons/, (accessed: September 8, 2018).

This type of strategy not only exists, but is actively being implemented by Poland's allies.

states and terrorist groups would potentially lead to a major catastrophe. In our joint article on *arms proliferation*, Dr. Wojciech Bober and I aim to show that the strategy of non-intervention in the world's distribution of and access to this unprecedented technology is equally bad and wrong, while efforts to draw up a treaty that would prohibit its further development is simply politically naïve[19]. So what are the correct actions that can be taken and how do they fit into the overall strategy of implementing both the rights and interests of Poland and allied countries of a similar geopolitical position?

COMBAT ROBOT AND THE POLISH ISSUE

This type of strategy not only exists, but is actively being implemented by Poland's allies. States such as Latvia, Finland and – most importantly – Estonia are conducting intensive work in order to robotize their armed forces; their efforts have already resulted in creation of the first machines that are able to fight *in the human-in-the-loop mode*[20]. Countries that face the same strategic opponent as Poland and are unable to compete with the enemy on the basis of population, consider robotization a development to compensate for such disparities as well as a way to keep up with Russia's military advancement. At the same time, these countries are pursuing a wise and prudent policy of promoting these solutions and recommending them to other European states. Officially, research work done by Estonia does not entail combat autonomy; instead, it seeks to focus on developing its independent and non-controversial perception and movement abilities that can be referred to as the major and most difficult step towards real combat autonomy. Such a balanced path would grant engineers, ethicists, and lawyers some extra time to introduce regulations, doctrines, and procedures allowing for either partial or full deployment of autonomous weapons in accordance with moral and legal principles.

All determinant factors behind the actions performed by the Baltic States seem valid also in the case of Poland, whose greater industrial capabilities and recognizable status in the international arena make the country a natural candidate to assume a leading position in the field of innovative military technologies. Warsaw should, therefore, get involved in all of the above-mentioned activities as soon as possible while aiming to become a leader in the field. Yet such initiatives may not be limited to the robotization of both Polish and allied forces. The Robotic Revolution in Military Affairs brings about a real chance to establish joint European armed forces increasing overall strength and efficiency. Forming fully robotized units from scratch so that all combat tasks are carried out by machines may remove a number of barriers preventing common European infrastructure from being established. Therefore, the natural reluctance of French, Spanish or Italian politicians to deploy their troops to other countries would no longer come into play, additionally accompanied by an increased

[19] W. Bober, M. Zając, *Autonomous Military Robots – critical topography of possible reactions to upcoming technological revolution*, „Zeszyty Naukowe Politechniki Śląskiej – Organizacja i Zarządzanie" [„Research Bulletins of the Silesian University of Technology– Organization and Management"], no. 110, pp. 201–216.

[20] Estonian Defence Ministry, *Estonia looking to develop unmanned land systems within the framework of European defense cooperation*, www.kaitseministeerium.ee/en/news/estonia-looking-develop-unmanned-land-systems-within-framework-european-defence-cooperation, (accessed: August 2, 2018).

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GEORGIA USA, JULY 17, 2013. CIGDEM CAKICI WITH THE TURKISH COMPANY ASELSAN, USES A COMMON GAMING CONTROLLER TO OPERATE A KAPLAN UNMANNED GROUND VEHICLE DURING A TRAINING DEMONSTRATION AT FORT BENNING.

certainty that allied forces would try their best to meet all commitments. A similar solution would provide wealthy Western and Southern allies with a possibility to back the eastern military flank with the use of financial resources and technical expertise only, thus making the considerable political changes of the project crucial for Poland's security. This is why this issue should become the object of both intense and long-term activities carried out by Polish diplomacy.

The Robot Revolution in Military is happening before our very eyes. Russia is taking some decisive steps in order to gain an advantage in the sphere of conventional warfare and to ensure the possibility to perform military operations that will not be burdened with casualties. Efforts aimed at banning autonomous weapons, which was doomed to fail from the very beginning, suffered a definitive defeat in Geneva. Poland should understand and accept the emerging military reality and take steps to find itself in the forefront of countries whose armies continue developing safe and ethical robotic military technologies. Its potential to change the image of war and to increase the security on NATO's eastern flanks makes the robotization of our armed forces both a moral and political duty, as well as providing an opportunity to establish a politically acceptable and truly effective common European defense force. This defense force would be expected to combine the best human and machine acumen constituting a new moral and military precept on the battlefields. In addition, this would help enable Europe to face both the existing and emerging challenges in the upcoming era of rapid technological progress.

On September 12, after the filing of this article, the EU parliament passed a resolution calling on a universal ban on autonomous weapons with 82% voting in favor. This clearly demonstrates the potential danger of Europe freely electing to damage its own strategic standing with self-imposed and ultimately ineffective restrictions, which leaves the most vulnerable member countries even more vulnerable. Poland needs to swiftly move against this troubling wave of well-meant political naivety[21].

Maciej Zając
September 24, 2018

[21] *European Parliament Passes Resolution Supporting a Ban on Killer Robots*, September 14, 2018, https://futureoflife.org/2018/09/14/european-parliament-passes-resolution-supporting-a-ban-on-killer-robots/, Future of Life Institute, (accessed: September 24, 2018).

RECENT TRENDS IN INTERNATIONAL TAXATION: A STRATEGIC EVALUATION

Łukasz P. Stankiewicz, Professor

Sovereignty, statehood and taxing power are strategically inseparable since Antiquity. Taxes are the only sensible and relatively liberal way to finance public services that cannot be sold at a price, such as the army or the police.

They also permit the financing of otherwise marketable public services, such as education or healthcare, allowing for universal access to them. Historically, the alternative to taxes was pillage, outright State ownership of the economy or the absence of meaningful, universally accessible, public services, inducing economic inefficiencies and/or significant social inequalities.

The actual structure of a national tax system reflects the structures of the economy and the society. During the second part of the 20th century, the developed western economies witnessed a general rise in the levels of mandatory levies[1] in proportion to the GDP while the levies on income became the dominant

[1] Mandatory levies refer to taxes and social security contributions.

source of public revenue. On aggregate, this allowed for the development of the welfare state and, through progressive income taxation, had the effect of shifting the financial burden relatively more on the well-to-do. As a reminder, in the seventies and eighties it was still common for corporate income to be taxed at 50%.

This picture has dramatically changed since then, especially as of the 1990s, due to economic globalization and a number of tax and regulatory reforms inspired by neoliberal economic doctrines. In particular, the US Reagan tax reform of 1986 sent shockwaves which set a global trend.

GLOBALIZATION AND THE EROSION OF SOVEREIGN TAXING POWER

Globalization in particular, which abolished obstacles to free trade, has placed post-WW2 western patterns of taxation under pressure. On one hand, technology removed several *physical* obstacles to trade. Two possible examples illustrate this phenomenon. The first example is the spectacular decrease in transportation costs that allowed truly global supply chains within multinational enterprises (MNEs). The second is the rapid progress of communication technologies and digitalization which allow for the realization of significant sales in a jurisdiction where a business has no physical presence. On the other hand, many of the *legal* obstacles to trade have been removed or alleviated. The WTO framework led to a global decrease or outright removal of customs duties. The successful dissemination of bilateral double tax treaties permitted to attenuate double taxation of income but also created opportunities to achieve a zero-tax result. Within the European Union (EU), the achievement of the single market as of 1993 created a zone of free movement not only of goods but also of persons, capital and services.

In addition, jurisdictions unwilling to play the beggar-thy-neighbour game were frequently hindered from taking defensive measures because of legal constraints resulting from the double tax treaty non-discrimination clauses.

The new business mobility exacerbated the phenomenon of tax competition between jurisdictions, whether it be sovereign states or tax autonomous territories. Jurisdictions engaged in a race-towards-the-bottom in order to attract genuine business activity or merely the MNEs' taxable bases without any meaningful shift in the location of underlying activities. As a tangible result of this trend, it is worth mentioning that the OECD average corporate tax rate dropped from 32.5% in 2000 to 23.9% in 2018[2].

In addition, jurisdictions unwilling to play the beggar-thy-neighbour game were frequently hindered from taking defensive measures because of legal constraints resulting from the double tax treaty non-discrimination clauses and, for the EU member states, the EU treaty free movement provisions. At the same time, since tax is a major cost item, businesses not exploiting planning opportunities were placing themselves at a competitive

[2] OECD, *Tax Policy Reforms*, 2018.

disadvantage even if only a single competitor decided to go in that direction.

Globalization and tax competition have particularly affected taxes with mobile bases such as the corporate income tax, while shifting the tax burden to less mobile bases: taxes on wages or consumption taxes such as VAT or excise duties, characterized by their regressive effects on income distribution[3]. During this time, Central European economies were transitioning after the collapse of communism and had to rebuild their tax systems. They also, however, urgently required foreign direct investment. Given this situation, it is unsurprising that they heavily relied on consumption taxes.

The economic recession of 2008, and the explosion of fiscal deficits that followed, forced all states to find new sources of revenue. Many countries responded with unpopular hikes in personal income taxation and indirect taxes, while trying to preserve their competitive position on the corporate tax plane. A seminal change came, however, when the press reported on a variety of scandals (HSBC files, LuxLeaks, Panama Papers…), involving income tax avoidance or evasion by big corporations or high-worth individuals. For the first time, perhaps, technical income tax issues started to make media headlines and became a priority for the world's top leaders. This paper focuses on those issues as they have the potential to shape the playing field of international taxation in the first part of the 21th century.

In a transversal perspective, the questions raised in current international tax discussions can be analysed tentatively through the triple lenses of tax evasion, tax avoidance and broader jurisdictional questions. *Tax evasion* or tax fraud, which corresponds to violations of existing rules, is a major theme in international efforts towards greater transparency through exchange of information between administrations as well as in the field of VAT. *Tax avoidance*, which broadly corresponds to an abusive circumvention of existing rules by means of apparently regular transactions, is of particular focus in the field of corporate income taxation where tracing the limits between legitimate tax planning and illegitimate tax avoidance has arisen as a political question. Finally, *broader jurisdictional issues* are at stake when the appropriateness of existing rules assigning the right to tax between jurisdictions is discussed, in the absence of any fraud or abuse. The digitalization of the economy has now triggered such debate, particularly with respect to corporate income taxation but also, to a more limited extent, to VAT.

One of the common threads between the three is that they all focus on cross-border issues, i.e. on what is technically referred to as international taxation. If tax evasion or tax avoidance have always existed in a purely domestic context, they have been exacerbated by globalization and the opportunities offered by cross-border transactions. An easy illustration of what is now perceived as a political problem that stirs anger in voters is the fact that MNEs pay a lesser effective corporate tax rate than purely domestic, generally small, businesses. It is clear that going global offers tax opportunities not available to taxpayers operating in a purely domestic context.

One of the great challenges facing countries is finding a balance between their abilities to retain sovereignty over taxation and the need for international cooperation in the field of international taxation. Notwithstanding the importance of double tax treaties and EU law, what

[3] R. Avi–Yonah, *Globalization, Tax Competition, and the Fiscal Crises of the Welfare State*, „Harvard Law Review" 113, May 2000, p. 1573.

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RASOS CEMETERY, VILNIUS, LITHUANIA, FEBRUARY 17, 2018. PRESIDENT OF THE REPUBLIC OF POLAND ANDRZEJ DUDA AND HIS WIFE AGATA KORNHAUSER DUDA DURING A WREATH-LAYING CEREMONY AT THE MAUSOLEUM OF THE MOTHER AND THE SON'S HEART, WHERE THE HEART OF MARSHAL JÓZEF PIŁSUDSKI'S IS ENSHRINED.

we call international tax law is still based mostly on domestic rules of each jurisdiction governing cross-border transactions. In the end, it is the sovereign decision of each jurisdiction to tax or not to tax a particular transaction or to establish a non-transparent financial center that creates opportunities for evasion, avoidance or aggressive planning. In such settings, state sovereignty can be played against the states, not infrequently with the sovereign complicity of some of their peers.

For states serious about defending their tax revenue, the responses can be unilateral and/or collective. While the opportunity of a unilateral response depends on the political and economic power of a state as well as on legal constraints (tax treaties, EU law, WTO agreements etc.), a collective response presents the advantage both for the governments and taxpayers in terms of greater international acceptability of the measures and of their internal coherence. The two approaches are not mutually exclusive. In particular,

One of the great challenges facing countries is finding a balance between their abilities to retain sovereignty over taxation and the need for international cooperation in the field of international taxation.

a timely unilateral pressure from a big player can facilitate the collective action. For example, the unilateral US FATCA (Foreign Account Tax Compliance Act) statute paved the way for the development of an international framework for automatic exchanges of financial information. However, although quite

Secondly, because the G20 is purely a political and informal structure.

unexpected, it was rather the collective action which characterized the last decade in international taxation. We are perhaps witnessing the emergence of a truly global model of tax governance.

A NEW INTERNATIONAL TAX GOVERNANCE

In the first place, this new emerging framework relies on the G20 summits which endorse by consensus the key decisions. Even if they are not legally binding, they create a momentum, difficult to reverse. The G20 came into existence in the midst of the financial crises by enlarging the then G8 formula, which was „too western" (even with Russia) and ignored the „emerging" economies, such as China, India or Brazil. It is disappointing that Central Europe is not directly represented in this body embodying global economic governance.

Secondly, because the G20 is purely a political and informal structure, it relies on the expertise of the Organisation for Economic Co-operation and Development (OECD) to carry out the technical work in tax matters. While regrouping the most developed countries in the world, the OECD, and not the United Nations, emerged as a global forum for tax debate and decision-making, akin to some sort of a proto world tax organization. In order to strengthen its impact, the two most important tax initiatives of the OECD, the BEPS project and the Global Forum for Tax Transparency are managed in a global format where all willing jurisdictions are invited to participate. In this way, the Inclusive Framework for BEPS regroups 124 jurisdictions, this number being 154 in the Global Forum[4]. While the commitments taken by jurisdictions are mostly in the nature of soft law, they seem, to date, surprisingly effective. It is partly thanks to innovative soft compliance techniques, such as the peer review and the „blame and shame approach" of black or grey lists of uncooperative jurisdictions.

Thirdly, we could cite the EU, which is partly, but to a lesser extent, a player in the international tax game and a forum where member states discuss and decide tax issues. Given that the EU can take legally binding measures such as directives and even if the decision-taking in tax matters is conditioned on member states' unanimity, it has proven particularly precious as a channel for the implementation of several OECD/G20 agreed upon measures simultaneously in all EU member states[5].

Thus, a new tax diplomacy[6] has indubitably came into existence, which should be neither ignored nor underestimated by countries[7]. The point is that we are currently standing at a turning point where longstanding tax principles are being redefined, sometimes for the first time since the 1930s. Once the window for change closes, the ideas which will be endorsed now will probably stay for decades to come.

The most spectacular and controversial tension points lie, in the author's view,

[4] *Global Forum on Transparency and Exchange of Information for Tax Purposes*, http://www.oecd.org/tax/transparency/#d.en.341894, (accessed: December 17, 2018).

[5] See in particular the Directive 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market.

[6] I. Grinberg, *The New International Tax Diplomacy*, „Georgetown Law Journal", 104, 2016, p. 1137.

[7] As an illustration, a recent French parliamentary report on business tax avoidance (*Assemblée Nationale*, *Report* no. 1236, September 12, 2018) urged that France use all possible means to influence the discussions and the decision-making in the different International and European tax fora.

in the field of transparency and in that of corporate income taxation. Some important VAT issues could also be addressed but they will be left aside given the short format of this paper.

CHALLENGES OF TAX TRANSPARENCY

One of the most spectacular achievements of the last decade is the revolution in the scope and intensity of administrative cooperation. The enforceability of a tax system relies on administrative capacity to access information in order to establish legally relevant facts. The information exchange is therefore, first and foremost, a tool aimed at fighting tax evasion where the realization of a tax event is deliberately hidden from the eyes of the administration. It permits the abatement of information bias which results from the fact that taxpayers operate globally while the range of action of a national administration is necessarily territorial.

The idea is not new and since the 1920s bilateral tax treaties have provided a legal framework for the exchange of information. It was, however, limited in scope. Firstly, it was necessarily bilateral and bound to the issue of avoidance of double taxation. Since high-tax countries were not entering into double tax treaties with low-tax jurisdictions, there was no exchange of information between those countries either. Secondly, the requested jurisdiction could refuse to transmit information on the ground of domestic bank secrecy. Thirdly, it was generally limited to the exchange of information *on request* (EIOR) only. Under an EIOR framework, the requested jurisdiction is not bound to provide information unless a sufficiently precise question is raised by the requesting jurisdiction. The number of handled requests is, therefore, limited by the resources of the administrations and there must already exist a documented suspicion of the tax law violation[8]. The post-2008 events brought decisive changes to all of these three facets.

The post-2008 events brought decisive changes to all of these three facets.

In 2010, a forgotten and up to then unsuccessful 1988 Council of Europe Convention on Mutual Administrative Assistance in Tax Matters (CMAATM) had been amended and opened to be signed by all states. Today, the number of jurisdictions participating in the convention stands at 126. Since then, the participation in the convention became a condition of state respectability as evidenced by the communiqué of the G20 summit in Buenos Aires in 2018 which states that all jurisdictions should sign and ratify the CMAATM. Importantly, the 2010 amending protocol forbids the parties to the CMAATM from invoking bank secrecy in order to turn down a request for information. As a result, there now exists a comprehensive worldwide multilateral framework for information exchanges on request which includes low-tax jurisdictions, such as Bermuda or the Cayman Islands, independent from double taxation treaties and unhindered by bank secrecy. Within the European Union, the Directive 2011/16/UE issued on February 15, 2011 pushed the cooperation even further and sounded the death knell for tax-effective bank secrecy in Luxemburg, Belgium and Austria.

In addition, as of 2013, the OECD/G20, emboldened by unilateral action from the US, endorsed a revolutionary concept of

[8] The OECD peer review reports show that over a three-year period (2013–2016) France made 8 117 EOI requests and received 2 381. Over a comparable period (2011–2013) Poland received 1 445 requests.

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THE HEADQUARTERS OF THE WORLD TRADE ORGANIZATION IN GENEVA.

a worldwide multilateral standard for the *automatic* exchange of financial account information. Under an automatic exchange scheme, an administration receives each year, without any prior request, a number of predefined data related to financial accounts (in particular, bank or savings accounts), held abroad by its resident taxpayers. It is again the OECD that assumed the leading role by establishing the Common Reporting Standard (CRS), enforced under the legal umbrella of the CMAATM, as well as the technical infrastructure for actual data transfers. Currently, 104 jurisdictions committed to exchanging information with each other under the CRS. The effective exchanges commenced in 2017, for the first group of jurisdictions, and 2018, for the remaining part. In France, the simple announcement of the imminent entry of Switzerland in the automatic exchange scheme resulted in an unparalleled action of spontaneous regularization by taxpayers holding undisclosed bank accounts (51,000 between 2014 and 2017)[9].

The enforcement of the reinforced transparency standard led to the emergence of a new model of multilateral governance based on mutual surveillance and a name-and-shame approach, which have, up to now, proven unexpectedly successful. For that reason, the Global Forum on Transparency and Exchange of Information for Tax Purposes, in which all committed jurisdictions participate on an equal basis, was set up alongside the OECD. The Global Forum conducts peer-reviews that are released to the public[10].

As a result of these worldwide transparency efforts, tax administrations will be exchanging a large amount of data. While it might raise privacy issues, if properly employed it can provide for an open space for virtuous use outside of tax law enforcement. In particular, under the CMAATM, if some conditions are met, tax information received from a foreign administration may be used domestically, for example, in the fight against corruption.

[9] Cour des comptes [Court of Auditors], *les régularisations d'avoirs à l'étranger gérées par le service de traitement des déclarations rectificatives* (*STDR*) *Report*, October 2017, available at: https://www.ccomptes.fr/sites/default/files/2017-11/20171106-rapport-STDR.pdf, (accessed: December 17, 2018).

[10] *Global Forum on Transparency and Exchange of Information for Tax Purposes. Peer Reviews*, https://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews_2219469x, (accessed: December 17, 2018).

The tax transparency process was enabled by a rare unanimity of leading states, which had a shared interest in enforcing their own tax systems in the wake of the 2008 recession. The US push against Switzerland and the enactment of the FATCA had proven decisive in this respect setting new dynamics in motion. Such shared common interest was not necessarily present with respect to the revamping of corporation tax rules and yet we are witnessing a major reform in that field as well.

CHALLENGES OF CORPORATE INCOME TAXATION

In 2012, encouraged by the progress in the field of tax transparency, the G20 invited the OECD to study the topic of „base erosion and profit shifting" (BEPS) affecting the nations' corporate income taxes and in 2013 gave it a mandate to submit a coherent action plan. This was the beginning of the „BEPS project" which through its 15 actions and 2000 pages of 13 final reports issued in 2015 profoundly impacted the international tax landscape.

The implicit objective of the BEPS project was to save corporate income taxation, heavily eroded by tax competition between jurisdictions and the associated corporate tax planning. Corporate income taxation may be viewed as an important part of a viable tax system in that it constitutes an essential tool permitting effective taxation of shareholders' return on capital. To put it bluntly, corporate taxation, especially when applied to MNEs, as opposed to purely local SMEs, is ultimately a tax on the rich. Foregoing it means that nations are left to rely on wage taxation or on regressive consumption taxes to finance public services. The French 2018 "yellow vest" tax revolt illustrates, to some extent, the risk of such policy.

The stated objective of the BEPS project was to align taxation with "value creation" to set aside situations where a significant part of a MNE's consolidated income is reported in a low-tax jurisdiction, where it has no significant economic presence and where no meaningful value has been created. It was, therefore, meant to deal with „abusive" situations and not to shake the underlying rules for division of taxing power between the state of „residence" and the state where income is "sourced", which is the cornerstone of the international taxing scheme since the 1930s.

The French 2018 "yellow vest" tax revolt illustrates, to some extent, the risk of such policy.

It must be understood that an income tax is different from a consumption tax which is to be paid in the consumer's state, in other words where the market (demand) is. An income tax is meant to be levied on the ability-to-pay of a person, shifting attention to the supply side of the economic chain. The original assumption is that the state of residence of a person, i.e. a state to which it owes economic allegiance and with which it has logically the stronger nexus, is the best placed to assess that ability and should, therefore, tax the taxpayer's worldwide income. In contrast, the „source" state can tax a non-resident taxpayer only if it has some meaningful physical connection to that state and not merely because its clients are in that state; this requisite nexus being labelled as "permanent establishment" in tax parlance. To give a simple example, a corporation residing in Poland is not liable to the German corporation tax on profits derived from the sale of an industrial

To give a simple example, a corporation residing in Poland is not liable to the German corporation tax on profits derived from the sale of an industrial equipment to a German client, if it merely ships it from Poland without having a permanent establishment in Germany.

equipment to a German client, if it merely ships it from Poland without having a permanent establishment in Germany.

When dealing with MNEs, organized as a network of distinct legal persons (group), the same rules apply but under the subsequent assumptions:

- each entity in a group is respected for tax purposes, which means that other group members, including the ultimate parent company are, as a rule, not taxed on another entity's income,
- transactions between related entities are also respected for tax purposes, but must follow the transfer pricing rules, i.e. must be carried out at arm's length; in other terms, related entities must deal with each other as if they were independent (which they are not economically, since they are controlled by the same interest).

In the long run, while assuring sufficient legal security, the system turned out to encourage aggressive tax planning. Through an appropriate set up of intragroup transactions, instead of being taxed in the state of the „market" (source) or the state of the „mind" (residence) a group's income may end up being taxed in a low-tax jurisdiction subsidiary at a rate close to zero. What became a classic „stateless income" tax planning would consist of extending sales to clients in high-tax market jurisdictions while avoiding the permanent establishment threshold there, from a single subsidiary resident, say, in Ireland or Luxemburg and then strip its base by means of deductible payments of interest and/or royalties to the benefit of a low-tax jurisdiction subsidiary (e.g. in Bermuda), which would conveniently hold the income-generating debt-claim and/or the intellectual property right[11]. An alternative variant of the scheme would consist of doing business in the „market" jurisdiction through a locally resident subsidiary while burdening it with high base eroding expenses. In both cases, the scheme would be successful provided no anti-abuse rule would apply in the state of the ultimate parent (where allegedly the „mind" of the group is) to currently tax the undistributed income of the low-tax jurisdiction subsidiary.

Such planning strategies lead to a full divorce between recognition of income for tax purposes and what might be considered as creation of value. It is this divorce that the BEPS project was meant to cure. To that effect, three particular aspects of the BEPS project outcome stand out.

Firstly, identification of the said divorce will be easier through a new „country-by-country" reporting (CbCR) obligation put on big MNEs. All interested tax administrations will now have access to the aggregate tax and financial data of a MNE,

[11] E. Kleinbard, *Stateless income*, „Florida Tax Review" 11, 2011, p. 699.

featuring both the consolidated figures and their breakdown per jurisdiction. For example, an administration might now easily spot that a MNE reports 20% of its consolidated income in a zero-tax jurisdiction where it has neither employees nor tangible assets, which might constitute an indicator of abuse.

Secondly, the OECD transfer pricing guidelines were amended so as to limit the possibility to contractually assign risks, and associated high returns, to an entity unable to control it for lack of sufficient substance in terms of e.g. human staff or equipment (which will be generally the case for a low-tax jurisdiction cash-box entity).

Thirdly, anti-abuse rules in tax treaties were revamped through a multilateral convention amending existing tax treaties (commonly referred to as MLI), signed on June 7, 2017, which should, to a larger extent, prevent the routing of a base eroding payment from a high-tax entity to a low-tax subsidiary within a group. As a rule, it is impossible to make a direct payment, e.g. of a royalty, to a low-tax jurisdiction without attracting a high withholding tax in the high-tax source jurisdiction, given the absence of a tax treaty between the two states. Against this backdrop, a common tax planning strategy is to route the payment through another subsidiary (conduit) set in a high-tax transit country whose domestic law provides for no withholding tax on outbound payments of interest or royalties independently of their destination (the Netherlands were frequently used for that purpose). To achieve this goal, it is, however, necessary that the transit jurisdiction have a double tax treaty with the high-tax source state so as to set aside the withholding tax there. Now, if the conduit company was artificially introduced in the transaction, it can be reasonably assumed that this tax treaty was abused. With the MLI, this pattern, commonly referred to as treaty shopping, shall be more easily tackled by tax administrations. Poland has manifested great interest in the MLI since it was among the first five jurisdictions to have completed the ratification process[12].

With the MLI, this pattern, commonly referred to as treaty shopping, shall be more easily tackled by tax administrations. Poland has manifested great interest in the MLI since it was among the first five jurisdictions to have completed the ratification process.

Again, the stated objective of the BEPS project was to tackle tax avoidance and not to change the fundamental distributional rules of international taxation, especially those concerning the balance of taxing rights between the state of source and the (real) state of residence, once the tax incidence of recourse to artificial subsidiaries in low-tax jurisdictions has been eliminated. Its overall effect was, nevertheless, to favour source jurisdictions, the first victims in the process. Doing that, it contributed to relaunch a vigorous debate as to

[12] *Signatories And Parties To The Multilateral Convention To Implement Tax Treaty Related Measures To Prevent Base Erosion And Profit Shifting*, http://www.oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf, (accessed: December 17, 2018).

Its main battlefield is in the tax consequences of the digitalization of the economy.

the appropriateness of the current jurisdictional rules, which the BEPS project was precisely not meant to impact.

It is fair to say that, focusing on tax avoidance, the BEPS project advocated for the single tax principle: the income should be taxed once, not less, no more. However, inevitably, several questions popped up: taxed once, but where? Where value is created, but what is really meant by „value creation"? This is where the BEPS project laid ground for a brand-new struggle. Its main battlefield is in the tax consequences of the digitalization of the economy[13].

It is now well understood that the digitalization of the economy has enabled business models allowing for a concentration of functions in a limited number of highly mobile entities while permitting them to derive important income from markets without establishing any physical presence there. Such models were technologically impossible a few decades ago when international tax rules where established. In addition, digital business sectors have a tendency of rapidly turning into a monopoly or oligopoly. The ultimate tax risk is, therefore, to have only one meaningful global player per sector, taxable exclusively in its state of residence, which at the same time manages to supress all local competition on the market. In such a world, one jurisdiction will reap all the tax revenue and the others will be left with nothing.

If one were to transpose this logic to the well-known Google example, the question would be whether the essential part of Google's European income should be taxed in Bermuda (which would be difficult to sustain in the light of the BEPS and the 2017 US Tax Reform), in Ireland (jurisdiction of the operating subsidiary which enters into contracts with clients worldwide), in the United States (ultimate parent company), in France, Germany or Poland (where the market is but no permanent establishment under current rules) or perhaps, to some extent, in all of them (except Bermuda?)[14].

This example, therefore, explains the current hot debates surrounding the possible introduction of „significant digital presence" as a new permanent establishment criterion or of some alternative means of taxation, such as the proposed EU Directive on a Digital Services Tax as well as surrounding the theories which consider that data provided by users from market jurisdictions is essential to the value creation of digital businesses. It also sheds light on the tensions around the discussions of the all-important proposal of the Directive for the Common Consolidated Corporate Tax Base (CCCTB) at the European level.

In the field of taxation, we are definitely living in interesting times and it is important that states do not miss the opportunity to influence the ongoing debates which might shape the outlook of international taxation in the 21th century.

Łukasz P. Stankiewicz
December 18, 2018

[13] See in particular J. Hey, *Taxation Where Value is Created* and the *OECD/G20 Base Erosion and Profit Shifting Initiative*, „Bulletin for International Taxation" 72, 4/5 2018; W. Schön, *Ten Questions about Why and How to Tax the Digitalized Economy*, „Bulletin for International Taxation" 72, 4/5 2018.

[14] E. Kleinbard, op. cit., pp. 701-715.

ARTWORK PLUNDERING IN OCCUPIED WARSAW

Mariusz Klarecki, PhD

After the siege of Warsaw in September 1939, the city changed profoundly. Many Polish soldiers remained in captivity while their families had no means of subsistence.

Those who had fought, returned injured or seriously ill. The financial situation of the residents worsened considerably. Many Varsovians opened their doors to relatives and friends who had lost their homes. As the bombs fell, many were forced to sell off the remainder of their belongings in order to afford a temporary place of stay.

The first months of the occupation saw a boost in trade especially in more valuable goods like jewelry or artwork[1]. This is how Hanna Mortkowicz–Olczakowa, daughter of one of the most popular editors of the pre-war Warsaw, reminisces about the trade fever in the capital city: „Warsaw pushed its produce out of broken-glass shop windows and burnt houses right onto the streets. Passages between ruins and tenement houses promptly filled with traders… (…) Each object seemed to be the last of its type and a miracle saved from perdition. So people bought a lot, not very selectively, rather for later or for further trade. Tables with books occupied spaces in front of Warsaw's finest and oldest bookshops. Sellout baskets, held in disdain before the war, were now elevated to the status of carts where jobless intelligentsia

[1] Z. Potocka, *Antykwariat 'Miniatura'. Wspomnienia*, Rocznik Muzeum Narodowego, vol. XI, Warsaw 1967, p. 210.

Taking advantage of the general turmoil during the initial days of the occupation, private properties were increasingly looted by for easy plunder by German soldiers and officials.

and civil servants-turned-*bouquinistes* stood guard."[2].

Taking advantage of the general turmoil during the initial days of the occupation, private properties were increasingly looted by for easy plunder by German soldiers and officials. Quite often, the burglars knew exactly what they had come for and where to find it. They proceeded by taking families by surprise and making threats. The task was considerably easier as many men were away from their homes, usually held in captivity in POW camps.

Second lieutenant Stefan Gierowski was called to the front. He lived with his wife in a flat, located at Madalińskiego Street. While he was away, in October 1939, "(…) the Gestapo confiscated all valuable goods from my flat, leaving aside only furniture". Gierowski was in possession of some precious collections, including the old collection of Polonica, comprised of 1,000 volumes, around 100 bookplated books and old porcelain. Gierowski also mentions a 50–piece collection of old Polish arms including *karabelas*, traditional helmets, bracers, as well as other types of arms from both Eastern and Western Europe. Especially valuable was his collection of 20 royal autographs[3].

Especially in the first months of the occupation, some German residents of city, who happened to live there before the war broke out, also participated in looting. They were usually assisted by Whermacht soldiers or SS officers[4]. The approach towards the residents of Jewish origin was different as the perpetrators did not even look for any pretext. Pillaging incidents occurred openly, both during the day and night. Even furniture was taken[5].

In late September 1939, Aleksander Enholc's house located on Słowackiego Street was burglarized by Nazi soldiers. Among the stolen objects was a Polish Bible dating from 1577, known as *Leopolitska*. It was then worth some 10.000 PLN (nearly £15.000) today. Additionally, a few English books were stolen, too. According to the owner they were „invaluably rare"[6].

The case of Zbigniew Karpiński, a resident of Baciarellego Street was very similar. He was robbed of a portrait by Franciszek Ksawery Lampi depicting *Szymon Malewski – Rector of the Vilnius University*, painted in 1910. According to Karpiński, it was "taken away, unframed, in September 1939"[7].

[2] H. Mortkowicz–Olczakowa, *Pod znakiem kłoska*, Warsaw 1962, p. 325.

[3] State Archive of the Capital City of Warsaw, Municipal Executive, the War Damage Department (hereinafter referred to as APW ZM WSW), sign. 164, nr kw. 11104, p. 235.

[4] C. Łuczak, *Polityka ludnościowa i ekonomiczna hitlerowskich Niemiec w okupowanej Polsce*, Poznań 1979, p. 250.

[5] J. P. Majewski, *Śródmieście i jego mieszkańcy w latach niemieckiej okupacji: październik 1939–1 sierpnia 1944. Dzień powszedni*, [in:] W. Fałkowski, *Straty Warszawy 1939–1945. Raport*, The Capital City of Warsaw, Warsaw 2005, p. 71.

[6] APW, ZM WSW, sign. 159, nr kw. 9992, p. 978.

[7] APW, ZM WSW, sign. 159, nr kw. 9856, p. 444.

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GERMAN SOLDIERS AT AN EXHIBITION OF PAINTINGS IN THE NATIONAL MUSEUM IN CRACOW.

The occupiers were equally interested in breaking into bank safes. Duchess Małgorzata Radziwiłł had her daughter-in-law, Jadwiga Potocka, went to Warsaw to collect the ancestral jewelry deposited in a bank. The aristocrats were unaware of the fact that the Nazis had already raided all of the deposits, stealing money and more valuable goods. Luckily, their jewelry had been saved by the bank's director. When the Nazis were searching through the deposits of the Radziwiłłs, he laughed out loud, saying "if only they were genuine!" as he pointed to the jewelry collection. The Nazis did not question his statement and hurried along to loot other deposits[8].

Within the first months of the occupation, the German began mass incarcerations and persecution of Polish political, economic and cultural elites. This is how Adam Rose, Undersecretary of State in the Ministry of Industry and Administration, describes what happened to him in November 1939: „my flat was taken over and looted by the Gestapo. They took furniture, paintings, porcelain. Then they

Within the first months of the occupation, the German began mass incarcerations and persecution of Polish political, economic and cultural elites.

burnt the place down. I reported it in writing to the Vatican in winter 1939/1940 attaching detailed descriptions of how my entire flat was pillaged, which was a blatant example of wanton vandalism". Altogether, the Nazis stole paintings by Leon Wyczółkowski, Jan Erazm Kotowski, Włodzimierz Tetmajer, Teodor Ziomek as well as 11 engravings and fine examples of artisanal handicraft[9].

Medical doctor Helena Tarnowicz–Barlicka lived with her husband, Norbert Barlicki, at Litewska Street. Barlicki,

[8] L. H. Nicholas, *The Rape of Europa: The Fate of Europe's Treasures in the Third Reich and World War II*, referenced in Polish translation, Cracow 1997, p. 64.

[9] APW, ZM WSW, sign. 74, nr kw. 10938, p. 842.

Reconstruction of the city after its destruction in September 1939 was officially banned by the occupying forces. Only absolutely necessary reconstruction works were allowed on certain streets.

a former Polish MP, was arrested and later transported to Auschwitz–Birkenau, where he was murdered in September 1941. The couple owned a 7–room flat, abounding in art pieces. Their collection included paintings of old masters from the Netherlands, France and Italy. Tarnowicz–Barlicka, who miraculously survived the Wola massacre, remembers: „on October 9, 1943, I was displaced within a few hours and forced to return to my second, considerably smaller, flat". Her main flat was located at Litewska street, that is, nearby Szucha Avenue, where the Gestapo headquarters was located. Therefore, it was most probably taken over to satisfy the housing needs of the German officials working there[10].

Many residents of the outskirts of Warsaw brought their more valuable goods to the capital. They did so based on their experience from the World War I, when most battles were fought outside the city. Therefore, many goods from suburban villas, manors and palaces were transferred into Warsaw. For instance, as a result of the war damage incurred in 1939, construction entrepreneur Karol Martens was forced to move to Warsaw from Kawęczyn, where he had lived before the war broke out. As he explains he was „first harmed when the Germans entered and looted his property, accompanied by local people, whom the Germans made participate in it and later filmed them do so". But Martens lost the majority of his property in 1944, when he resided in a flat on Opoczyńska street. At that time, several paintings and sculptures by Polish and foreign artists were stolen from him[11].

Migration in the opposite direction was present, too, especially among the intelligentsia, who fled persecution from the Nazis. In 1939, Maria Srokowska moved to her cottage house in the village of Bukowice, located in the commune of Jabłonna where a Nazi artillery unit stationed nearby. As Srokowska reminisces: „some of my paintings and carpets were confiscated in December 1939 and January 1940. It was done upon 'an order made by the commune and for the benefit of the German army'". In 1944, when a German artillery unit stationed in Bukowice, „the commander of that artillery unit, Walter Becker" confiscated for his personal use several artisanal carpets as well as paintings from the woman's house, including *Odalisque* by Jan Styka[12].

Reconstruction of the city after its destruction in September 1939 was officially banned by the occupying forces. Only absolutely necessary reconstruction works were allowed on certain streets. Post-war testimonies of Varsovians, stored in archives, often mention reconstruction of houses or work establishments with specified sums spent for that cause. From the very moment he took office, governor Hans Frank made it clear that Warsaw was

[10] APW, ZM WSW, sign. 166, nr kw. 11749, no pagination.

[11] APW, ZM WSW, sign. 73, nr kw. 10637, p. 582.

[12] APW, ZM WSW, sign. 78, nr kw. 11906, p. 758.

not to be rebuilt. On the contrary, he made efforts to reduce reconstruction works to a bare minimum. The symbols of Polish rule were particularly targeted. The Royal Castle, for instance, destroyed and burned during the bombings of 1939, was set to be blown up as early as November 9, 1939. The decision was finally abandoned as plans were made to loot it thoroughly[13].

The German eagerly proceeded with the looting of Polish artwork in museums as well as private collections. Regulations passed on December 16, 1939 required privately-owned art pieces to be reported to the Special Delegate for Listing and Securing Art Work and Objects of Cultural Value with specified number, type and state of the possessed goods. Failure to comply with the regulation was punishable by imprisonment or a trial before the Special Courts. All art pieces and antiques were to be reported until February 15, 1940. Already in the first days of occupation looting was common. In 1943, Hans Frank himself described the early days of occupation in the General Government as „the period of plunder"[14].

As Bohdan Marconi notes in his diary, the regulation on the seizure of private and museum collection caused „panic among the collectors, who rather hid their precious artefacts than decided to proceed with their official registration. All collections belonging to the non-Aryan owners were actually confiscated. Later, I saw many paintings that I knew had belonged to such collectors in the district administration, Abteilung Kultur in the Brühl Palace. Or they were sent for renovation to the museum atelier [the National Museum in Warsaw – M.K.] I was once there with my colleague Pawłowski. We were studying a painting by Bellotto, it was *View of Pirno*, owned by

The German eagerly proceeded with the looting of Polish artwork in museums as well as private collections.

Stefan Dobrzyński. Then entered the museum's supervisor dr. Alfred Schellenberg. He immediately commented on what the painting depicted but did not mention the artist. It was impossible that an art historian would not have recognized the artist in such a typical painting. It would seem that Schellenberg refused to identify the painting to avoid its confiscation. Or perhaps he thought it belonged to the museum."[15].

Alongside Nazi soldiers or military officers, administration officials did not hesitate to loot private flats if given such chance. On October 1, 1939, Helmut Otto was appointed the Commissar of the Third Reich for Warsaw. Already a few weeks later, he was replaced by Oskar Dengel who was particularly hostile towards the residents. Initially appointed president of Warsaw, later the city's prefect, he eventually left Warsaw in March 1940. Upon departing, he took a substantial number of artworks stolen from their owners. District Governor Ludwig Fischer, who stayed in the capital, decorated his offices in the Brühl Palace with plundered art pieces[16].

Warsaw's private properties were plundered by employees of the Nazi administration, police officers, NSDAP units, as well as members of a number

[13] J. Ślaski, *Polska walcząca*, Warsaw 1999, p. 455.

[14] C. Łuczak, op. cit., p. 22, 233-234.

[15] B. Marconi, *O sztuce konserwacji*, Warsaw 1982, p. 282-284.

[16] M. Getter, *Władze niemieckie okupowanej Warszawy*, [in:] W. Fałkowski, op. cit., p. 213-214, 218.

© Stefan Bałuk „Kubuś" „Starba" (The Warsaw Rising Museum)

A PHOTO FROM THE PERIOD OF GERMAN OCCUPATION IN WARSAW. THE NORTHERN PART OF ŚRÓDMIEŚCIE DISTRICT. THE LOADING OF WORKS OF ART ON A TRUCK AND TRAILERS IN FRONT OF THE ZACHĘTA ART GALLERY BUILDING AT MAŁACHOWSKIEGO SQUARE 3.

of institutions, organizations and even cooperative enterprises.

Fully fitted and furnished flats with carpets and artwork were assigned to the employees of the district head offices as well as to those working in German offices in the city's prefect. It was not unusual for German officials to carry out attacks on private properties without proper permits from the occupying forces administration, merely abusing their high position. We know of cases when many parties competed for one particularly valuable object. This was the case of the collection of Polish and foreign paintings owned by Rafał Lemkin and stored in his flat at Kredytowa street. It was plundered first by the Gestapo, then his neighbors and finally looted by *Volksdeutschers* and German officials[17].

Heinrich Himmler's special envoys were the first to find interest in artworks from the occupied Warsaw. They operated under the name of Science and Research Association „Our Ancestors Heritage" (*Das Ahnenerbe*). It was led by Peter Paulsen from the University of Berlin and Ernst Petersen from Rostock. It operated under the patronage of the SS. Independent of Paulsen's group, Kajetan Mühlmann, art historian, was in charge of organized artwork-looting in the GG. Appointed the Special Delegate, acting on behalf of Göring, he selected a team of art historians, antiquarians and museum professionals from Berlin, Vienna and Breslau (today's Wrocław). It was officially convened to „secure cultural and artistic goods", which, in practice, meant confiscations of antiques and art pieces for the benefit of museum collections in the Third Reich as well as for German high-ranking officials' own needs[18].

The finest art pieces plundered across Europe were to be included in the collections in Hitler's museum (*Führermuseum*) in Linz. These were the masterpieces labelled as „priorities." The works that were labelled as "second choice", which were to be exhibited in German museums, were stored temporarily. Artworks with a "third

[17] A. Trepiński, *Jak ratowano dobra kulturalne w domach prywatnych*, [in:] P. Lorentz, *Walka o dobra kultury Warsaw 1939–1945*, Warsaw 1970, vol. 2, p. 109.

[18] L. H. Nicholas, op. cit., p. 67-77.

choice" label were used to decorate and furnish offices and homes of the Nazi officials[19].

Reproductions and descriptions of the artworks labelled "priority" were edited in a catalogue entitled *Sichergestellte Kunstwerke im Generalgouvernement*, prepared by a task force at the Special Delegate Office. In 1940, Hans Frank offered the catalog and a photographic album as a gift to Hitler. The album featured 521 of the most valued plundered art pieces (according to the Germans), ranging from paintings to artisanal handicraft. Such cataloged pieces were meant to be displayed in the planned *Führermuseum*.

Two task forces were established by Kajetan Mühlmann in order to proceed with a thorough search and seizure of valuable objects in the General Government. The first one, led by Joseph Mühlmann, art historian from Salzburg and Kajetan's brother, took over the northern part of the GG, which included Warsaw. The second task force, with Gustav Barthel in charge, focused on plundering in the southern parts[20].

The northern group's Warsaw mission consisting of the expropriation of artworks was completed by June 1940. The plundered works were stored in the National Museum in Warsaw. In order to facilitate the proceedings, all stages of the operation were organized in minute detail. It started with stocktaking. Afterwards, the works were renovated, packed into chests and transported. In 1943, Mühlmann was replaced by Wilhelm Ernst Palezieux. One of the main tasks of the new Special Delegate was to help Frank transfer some of the pillaged pieces to his villa, located not far from Munich[21].

Erwin Axer brings an interesting perspective in his short stories. Long after the war, the author happened to visit the house of one of the former non-commissioned SS officers, serving in Frank's personal team. What he spotted there was "a small Kossak"[22], as he puts it.

Under the occupation, the civilians often made efforts to save valuable book collections before they were destroyed by the Nazis. One common way to do so was selling one's collection for the price of paper waste, either to a familiar public institution or to a private owner. This is what Eliasz Czajkowski decided to do. The transaction with this former supervisor of the Ministry of Communication's library was later described by the buyer, Czesław Gutry. He located the acquired collection in his private flat in Warsaw's Old Town. Sadly, the collection burned down during the Warsaw Uprising[23].

During the Siege of Warsaw in 1939, Wanda and Jan Rybiński lost most volumes belonging to their book collection. They perished in a fire at their flat on Hoża Street. Therefore, benefiting from unusually low book prices, they acquired nearly 250 volumes from Gebethner & Wolf bookshop. It was mostly memoirs, history books as well as *belles*-lettres. This recreated bibliotheca perished again when it ws consumed by the flames dominating the city when it was being razed after the uprising[24].

[19] Hans Posse, director of Dresden gallery of art, was put in charge of gathering the newly acquired pieces and preparing the museum in Linz. He was one of the people behind artwork-looting in Warsaw, – cf. K. Ajewski, T. Zadrożny, *Straty muzeów i kolekcji artystycznych Warszawy w latach 1939–1945*, [in:] W. Fałkowski, op. cit., p. 569.

[20] K. Ajewski, T. Zadrożny, op. cit., p. 573-574.

[21] L. H. Nicholas, op. cit., p. 79.

[22] E. Axer, *Ćwiczenia pamięci*, series 3, Cracow 1998, p. 10-13.

[23] C. Gutry, *Pamiętnik*, [in:] P. Lorentz, *Walka o dobra kultury...*, p. 7-8.

[24] APW, ZM WSW, sign. 52, nr kw. 5286, p. 161.

Upon being arrested by the German Gestapo, a person's belongings were confiscated and relatives who were present were sent off to concentration camps.

Salesman Roman Kozakow was arrested on August 2, 1942 in his flat located on Ordynacka Street. He was arrested for his „refusal to cooperate with the German occupier in supplying the German army". When he was imprisoned, his flat and all his belongings were confiscated. Just his book collection featured over 2,000 volumes. In addition, Kozakow possessed engravings by Albrecht Dürer, paintings by Leon Wyczółkowski, Emil Lindeman, Juliusz and Wojciecha Kossak or Alfred Wierusz–Kowalski, Ignacy Zygmuntowicz, Antoni Adam Piotrowski to name only a few. As the aggrieved puts it himself, he kept in his flat „valuable collections compiled in a life's time". The last sentence from the questionnaire is particularly interesting: „Attention!!!, lost forever, didn't burn down, taken westwards!!! [sic]"[25].

Upon being arrested by the German Gestapo, a person's belongings were confiscated and relatives who were present were sent off to concentration camps. Between 1940 and 1944, Edward Assbury, National Library employee, participated in the seizures of collections belonging to the arrested, executed or those sent off to camps. Officially, home collections were taken by the Office of Confiscated Goods, often escorted by German police officers.

[25] APW, ZM WSW, sign. 119, nr kw. 22336, p. 415.

The librarian mentions the following plundered book collections: Zofia Garlicka's (from Niepodległości Avenue), Janina Peretiatkowiczowska's (from Grottgera Street), lieutenant Poniatowski's (from Wawelska Street), Mieczysław Treter's (from Przyjaciół Avenue), Zygmunt Muszla's[26].

We know of cases, however, when persecuted Varsovians managed to hide even top-secret documents or family souvenirs prior to the perquisition of their flats. Bohdan Korzeniowski reveals how a collection of herbaria, owned by assistant professor Zieliński, was used in this manner. A few hundred pages of thin paper fit an entire archive of the Directorate of Civil Resistance, squeezed in between preserved specimens. The documents revealed all personal data, lists of sabotage acts, secret codes, hiding locations and much more extraordinary information. When the professor was arrested and his flat carefully searched, the Gestapo did not find the documents[27].

In 1942, Janina Naumienko's husband hid family documents, including his commission, in a door lock. Despite extensive searches, the Gestapo did not find the secret compartment. After the couple returned to the half-burned flat, they found the door in another room and discovered that the documents were miraculously preserved.

In his diaries, Witold Bagniewski remembers a rich collection of Stanisław Patek, then resident of the Old Town: "the flat of attorney Patek at 8 Kanonii Street was a museum on its own. The walls were covered in firearm and other types of weapon, there were mannequins clad in entire uhlan uniforms, lances, rifles,

[26] E. Assbury, *Losy księgozbiorów warszawskich zabezpieczonych w BN w latach 1940–1944*, [in:] P. Lorentz, op. cit., vol. 1, p. 268.

[27] B. Korzeniowski, *Książki*, [in:] P. Lorentz, op. cit., p. 295.

flintlock rifles, and whatnot. Then, in the middle of the room, stood a table with a glassed cabinet, and inside of it one could marvel at a full set of Polish Freemasonry insignia and distinctions, starting from the Grand Master to an ordinary brother. There were also insignia of other rites such as the Scottish one. The bed of attorney Patek was truly spartan, covered with a military blanket. It stood as if under a tent, supported by uhlan lances with their pennants hanging down freely. Attorney Patek was a great enthusiast of old arms. He gladly collected all relics from the periods of Poland's golden age, two insurrections and Poland's glorious rebirth from ashes after the Great War".

Before the war, Stanisław Patek was Poland's foreign affairs minister, a delegate in Tokyo and Moscow, an ambassador to the United States, and then, between 1936–1939, a senator, appointed by the president of Poland. Later, he retired from politics due to an incurable disease manifesting itself by leg paresis. Under the occupation, unable to find means of subsistence, he relied on food supplied by his friends. He began to gradually sell off his collections. He assigned this task to Jan Czaja, his former long-time butler. On February 1, 1944, the Home Army assassinated Frantz Kutschera, the SS and Police commander for the Warsaw district within the General Government, generally known as *Hangman of Warsaw*. His ceremonial funeral was organized three days later. Fearing another assault, the Nazis ordered to empty all flats overlooking the streets of the cortege's planned passage, threatening anyone with death for noncompliance.

The cortege would march from the Royal Castle to stop near the Gdański Station. Attorney Patek, living on his own, was unable to comply with the regulation due to his leg paresis. As a result, three German officers paid him a visit. They „asked why I had not followed the orders of the gendarmes urging me to leave the flat. I responded that I suffered from leg paresis and could not ambulate. In the meantime, one of them saw the portrait of Roosevelt of natural size and asked where I had acquired it. I answered by saying that I was an ambassador in Washington and received the portrait with a dedication, still visible. He listened to my statement in silence and proceeded to another room to examine my collections. There, he saw a portrait of the Emperor Hirohito, in natural size, with dedication reading 'to Polish Ambassador Stanisław Patek from the Emperor of Japan'. The SS one called the remaining two and showed them the portrait. They saluted. Then they spoke to me, letting me stay and treating me with cigarettes that I refused. They saluted again and left."[28].

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STANISŁAW PATEK – POLISH LAWYER, ATTORNEY, DIPLOMAT, FOREIGN MINISTER, SENATOR.

[28] W. Bagniewski, *Wizyta Gestapo u Mec. Patka*, [in:]

Out of concern for the safety of German citizens, as well as their privilege and comfort, already in 1940, plans were made to establish a single German residential district. Therefore, the Germans were indicated to settle near the offices seating in proximity of Ujazdowskie Avenues and in the villa quarter of Mokotów. That meant the displacement of Poles living in these flats. In the first days of November, those living at Litewska Street were forced to pack and leave their flats within 12 hours[29].

The final borders of the German residential district were defined in 1943. It went along the Vistula river, starting from 3–go Maja Avenue and running through Bracka Street, Mokotowska Street up until the Mokotowskie Meadow and Kazimierzowska, Krasickiego and Malczewskiego streets. Then it included Tyniecka Street, Odyńca Street until it reached the river again. It was particularly important to concentrate a high number of German residents within the „police district," as it was called, located in proximity of Unii Lubelskiej Plaza, up until Piękna Street. This was where most offices were located, including that of the police administration. Such concentration of strategic state institutions facilitated the task of maintaining security. Usually provided by establishing checkpoints and deploying military and police patrols. Displacements of Polish residents from that part of the city continued until March 1944. Approximately 3.000 Poles were displaced during this period, while the district was barbed-wired[30].

Before the war, Elżbieta Mikulicz–Radecka lived at Ujazdowskie Avenues before moving to a flat located on Róż Avenue. Her husband, Wacław Mikulicz–Radecki, was in the convoy that set out to carry the most precious national treasures through Romania, France, and the UK to Canada in early September 1939. The popular and well-described collection by duchess Elżbieta Mikulicz–Radecka suffered partially in 1939. In 1942, the first floor of her house was taken over by Germans „upon the occupier's demand". The remaining part of the property was given to the Evangelical Church. The collection of the duchess featured painting masterpieces and artisanal handicrafts with a particular stress on artisanal ceramics, mostly from the early years of production from Polish manufactories such as Belweder, Korzec or Baranówka. This rich collection of decorative objects featured magnificent silverware or figurines for table decoration as well as candelabra, pateras, and other table centerpieces. In one of the duchess questionnaires is an affixed photograph depicting a set of decorative bronze table centerpieces in *empire* style. It was made of gold-plated bronze. The duchess packed her entire furnishings into parcels, chests and baskets and, through an entrusted intermediary, sent it off to several places. However, the entire collection owned by Elżbieta Radecka–Mikulicz „burned down at the Warsaw Uprising."[31].

The plundering and confiscation of goods, done equally by both military and German officials, continued throughout the occupation, including just days before the Warsaw Uprising began. Stanisława Sawicka, custodian at the Engravings Cabinet at Warsaw University Library, and her entire family were arrested by the Gestapo on May 13, 1944. After the family was taken away from their flat at

Wspomnienia 1892–45. Rynek Starego Miasta, the National Library, sign. 10540, p. 12-14. On Patek's collection: E. Chwalewik, *Zbiory polskie. Archiwa, biblioteki, gabinety, galerie, muzea i inne zbiory pamiątek przeszłości w ojczyźnie i na obczyźnie w porządku alfabetycznym według miejscowości ułożone*, Warsaw 1927, vol. 2, p. 411-413.

[29] J. P. Majewski, op. cit., p. 76-77.

[30] M. Getter, op. cit., p. 235.

[31] APW, ZM WSW, sign. 36, nr kw. 1422, p. 814; E. Chwalewik, op. cit., p. 419.

Ks. Skorupki Street, the Gestapo seized a collection of valuable scientific books comprised of roughly 3,000 volumes as well as paintings, drawings, graphics, old porcelain, fabrics and silverware. On June 25, 1944, Franciszek Lasocki was taken off guard in his flat by Geheime Staatspolizei, raiding his property. He was arrested while his belongings from the flat, located at Wspólna Street, were confiscated[32].

Maria Osikowska, living with her husband at Hoża Street, lost her property on June 28 and 29, 1944. All of the appurtenances of a 5–room flat were taken by the Gestapo shortly after the couple was arrested. A total of 26 paintings, including ones by Ivan Shishkin and Ivan Ajvazovsky, were plundered. Other major losses suffered by Osikowska included 2 sets of Chinese porcelain as well as 2 sets of 18th–century porcelain from Sèvres and Meissen[33].

In the aftermath of the Nazi attack on the Soviet Union, occupied Warsaw suffered several Soviet bombing raids. They usually occurred at night and targeted military infrastructure as well as communication hubs. The most intense attack was carried out on the night of May 12–13, 1943. The Okęcie airport and railroad lines were to be the main targets. However, the bombs were eventually dropped on Grójecka Street, Marszałkowska Street and Zbawiciela Plaza leaving 150 dead (including around a dozen German soldiers). Within two hours of the bombing, 800–1.000 people lost their homes with significant parts of Warsaw falling into ruin[34].

One of the bombs exploded in proximity of the house owned by the Strzałecki, located on Towiańskiego Street in Warsaw's Żoliborz district. Before the

[32] APW, ZM WSW, sign. 259, nr kw. 41/46, p. 169. *Geheime Staatspolizei – Secret State Police.*

[33] APW, ZM WSW, sign. 109, nr kw. 19903, p. 687.

[34] T. Szarota, *Naloty na Warszawę podczas II wojny światowej*, [in:] W. Falkowski, op. cit., p. 271-277.

The plundering and confiscation of goods, done equally by both military and German officials, continued throughout the occupation, including just days before the Warsaw Uprising began.

outbreak of the war, Antoni Jan Strzałecki was a famous decorator and collector. As we read in his grandson's memoir, fearing more raids, „on the next day, my mum packed all objects from my great-grandfather's collection that we had somehow managed to keep and hid it in the basement. Among them was an 18th–century chandelier made by the Radziwiłł glass manufactory from Urzecze". The chandelier was one of the few artefacts that survived the war. The collection of the Strzałeckis stood out once as it included the finest feats of age-old artisanry, paintings and militaria. Initially stored in the famous „House of Atlantes" at 24 Ujazdowskie Avenues, they were later moved to a house in Powiśle. The vast majority of artifacts were sold or donated to the National Museum in Warsaw. After Strzałecki died in 1934, the remainder of his collection was either sold or shared between numerous relatives. To make matters worse, the flat at Topiel Street, furnished with a fine taste, was bombed in September 1939. Therefore, the few remaining valuables were moved to a temporary flat in Żoliborz[35].

[35] Oral account by A. Strzałecki, March 2015, from the author's collection.

In 1944, as the front approached Warsaw, it revived fears among collectors and art enthusiasts, reminiscent of 1939. They were pondering the best way to hide their precious belongings. While they might have supposed that the extent of damage would be similar to that of 1939, no one presumed that such a grim scenario was about to unfold.

As the Warsaw Uprising was bound to begin, Józef Zembowicz and his friend, both great enthusiasts of Polish painters, were dwelling upon ways to secure their collections of paintings. Their opinions varied. Engineer Zembowicz was convinced that moving his collection to his house in Milanówek was a better option. So this was what he did. Judge Adamski, on the other hand, insisted on moving all valuables back into Warsaw. Eventually both barely managed to move their belongings to flats located at Niepodległości Avenue before the uprising broke out. Adamski came to Warsaw with the last parcel as late as the 1st of August. Sadly, he went missing on that day, together with his collection. In the questionnaire submitted after the war, Józef Zembowicz, who had finally decided to stay in a summer house in Milanówek with kids, declared having lost 41 paintings by Polish artists, including *Portrait of brother* by Władysław Czachórski, *Siberia* and *Portrait of son* by Jacek Malczewski, *Digging up* by Julian Fałat *Solec* by Aleksander Gierymski, *Uhlan* and *Windmill* by Wojciech Kossak, *Sieving* by Apoloniusz Kędzierski, *Restaurant* by Franciszek Kostrzewski as well as artworks by Leon Wyczółkowski, Stanisław Noakowski, Stefan Mrożewski, Kazimierz Lasocki. He equally declared loss of artisanal artefacts[36].

Monika Żeromska, daughter of Poland's famous writer Stefan Żeromski, describes in her diary, how, fearing the approaching front, she moved 4 boxes of her father's manuscripts from Konstancin to the Old Town in Warsaw. She supposed that the precious souvenirs would be safer in the city center of Warsaw. The transport of these materials was a risky enterprise itself because German gendarmes searched each car going that direction. "If they were to find it, they would without a doubt take it or destroy it immediately", she recalls[37].

Stefan Talikowski is his post-war *Chronicles* captured the collectors' spirits as of 1944: „In the last days preceding the Uprising, I spoke to Mr. Krzysztof [Tyszkiewicz – M. K.] regarding securing the collections. He told me then: "I am not not hiding anything, nor securing it. As long I live, I want to look at it and enjoy it. I very much liked this approach and was of similar opinion myself. So, together with Gienia [the wife – M. K.], we decided not to hide anything and enjoy ourselves"[38].

Just before the uprising, Warsaw was home to 950.000 residents. It is estimated that by the first days to the uprising between 370.000–400.000 Jews from Warsaw were either exterminated or sent off to concentration camps. According to Władysław Bartoszewski by August 1944, around 30,000 Poles were murdered and nearly 100.000 were sent off the Third Reich as forced laborer. Under the occupation, it was the Jewish population that suffered most losses of cultural objects. A stark majority of Warsaw's pre-war population was murdered in the ghetto or in concentration camps[39].

Mariusz Klarecki
August 25, 2018

[36] Account of K. Zembowicz's son from November 2013, from the author's collection; APW, ZM WSW, sign. 91, nr kw. 15438, p. 823

[37] M. Żeromska, *Wspomnień ciąg dalszy*, Warsaw 2007, p. 109.

[38] P. Talikowski, *Kronika rodziny Talikowskich–Talikowiczów*, the National Library, mikr. sign. akc. 11061, p. 366-367.

[39] K. Komorowski, *Bitwa o Warszawę '44. Militarne aspekty powstania warszawskiego*, Warsaw 2004, footnote 9, p. 95.

WARSAW – THE CITY THAT IS NO MORE

Katarzyna Utracka

„I wanted a great Warsaw. […] And Warsaw is great indeed".

(Warsaw, September 23, 1939. Excerpt from the last speech given by the President of Warsaw, Stefan Starzyński)

In 1918, after 123 years under partitions, Poland regained its independence with Warsaw reinstated as its capital, now also home to the highest state institutions. The following two decades saw a dynamic growth of the city with many buildings and public utility premises on the rise.

Undeniably, the city contained many neglected districts, neither beautiful nor big-city like. However, construction of new residential areas surged, and Warsaw boasted some highly modern districts. While the population of Warsaw was just under 800,000 residents in 1918, by 1939 it was already home to almost 1,300,000 people, ranking the seventh biggest city in Europe, ahead of Rome or Madrid. Despite being a very industrialized city, Warsaw was beautiful, diverse and truly European, often referred to as „the Paris of the North".

Stefan Starzyński, the President of Warsaw, had many ideas regarding the future development of the city. Those ideas included construction of a subway system, bus and train stations, an airport, and

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EUGENIUSZ HANEMAN
WARSAW, POLAND, POST-WAR PERIOD. DOCUMENTATION OF DAMAGES – ST. AUGUSTINE'S CHURCH AT 48/50 NOWOLIPKI STREET AMONG THE GHETTO RUINS.

even holding a world's fair. These amazing projects were abandoned, though, after WWII began; The war that would soon totally annihilate the city. Much of the remnants that survived the war were later demolished but Warsaw is a city of an untamed spirit. Like a phoenix, it has risen from the ashes.

COMMONPLACE TERROR

Warsaw was the first capital to resist the brutal totalitarian regime. After four weeks of heroic defense, the capital of Poland capitulated on September 28, 1939. A few days later, a victory parade was organized, with triumphing troops welcomed by Hitler himself. This began the occupation period that was to last for five deadly years.

From the early days of the occupation, the Nazis imposed ruthless terror aimed at the annihilation of the Polish population.

Warsaw was the first capital to resist the brutal totalitarian regime.

Warsaw, as not only the biggest but also the most vital Polish city, with vibrant social, political and cultural scenes, was particularly targeted.

The hostile approach of the oppressor towards Warsaw and its inhabitants is perhaps best exemplified by Hans Frank's own words. The governor of German-occupied Poland once said: „There is one place in this country which is [the] source of all calamity. It is Warsaw. If the General Government did not include Warsaw, we

would be facing 80% less of adversity right now. It is home to all disorder, which later spreads all over the country"[1].

The occupying forces immediately proceeded with establishing of administration and police structures. The brutal tactics employed by the latter were meant to deter any resistance or cultural and economic activity. Frequent document controls, revisions, arrests and executions quickly became commonplace in the streets of Warsaw. Even the president of Warsaw, aforementioned Stefan Starzyński, was among those arrested. Having been -the co-organizer of the defense of Warsaw under the siege in September 1939, he was murdered by the Gestapo in December 1939. The exact location of his execution remains unknown to this day. Day to day, passers-by were massively arrested in street round-ups. As a result, most of them were sent off to do forced labor in the Third Reich or were transported to concentration camps. Advertising pillars were plastered with subsequent execution announcements. German terror did not discriminate against anyone: everyone could become a victim.

German terror did not discriminate against anyone: everyone could become a victim.

WARSAW'S FUTURE UNDER THE THIRD REICH

According to the Nazi plan, the city was gradually stripped of its metropolitan attributes as its status lowered to that of a provincial town. The occupying forces made terrifying plans regarding Warsaw's future. At the outset, they issued a regulation preventing the removal or repair of the ruins so that the residents would be constantly reminded of Poland's defeat in 1939. Then Warsaw was to be reconstructed and germanized.

Hubert Gross and Otto Nurnberger, two German architects, arrived in Warsaw as early as December 1939. They were previously responsible for reconstructing Würzburg so that it would suit the needs of the NSDAP. In Warsaw, their tasks included preparing demolition plans as well as devising „Die Neue Deutsche Stadt Warschau" or the new German city. According to this deranged plan, the population of Warsaw was to be reduced to mere 130.000, concentrated within an area 10 times smaller than before. The area east of the river was to incorporate a camp for around 30.000 Poles. According to subsequent projects, after the city center was razed to the ground, it was to be replaced by monumental Nazi architecture. As a result, the Royal Castle, a symbol of Polish rule and the official seat of the president, would be replaced by a NSDAP Congress Hall. The Sigismund's Column would be turned into a giant statue of the Germanic goddess of victory. At the same time, due to growing war costs, the city was turned into a manufacturing center, producing equipment for the German army.

The Nazis put their villainous plans into action during the Warsaw Uprising as well as immediately after its collapse. The speech of Reichsführer SS Heinrich Himmler is particularly telling. He gave it before the German commanders of military districts and headmasters of military academies on September 21, 1944 while the Uprising was still ongoing: „Historically speaking, it is a blessing that Poles went for it. We will have dealt with it within five to six weeks and then Warsaw, the capital, the head, the brain of this 16 or

[1] *Okupacja i ruch oporu w Dzienniku Hansa Franka 1939–1945*, vol. 2: *1943–1945*, edited and compiled under the supervision of S. Płoski: L. Dobroszycki et al., Warsaw 1970, p. 327–328.

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WARSAW, POLAND, 1939 – 1944, SASKI PALACE – GENERAL VIEW, BEFORE THE WAR.

17–million nation will be destroyed. That nation stood in the way of our quest for the East for 700 years, ever since the first battle of Tannenberg. But then, historically, the Polish issue will no longer be big for our children or those who come after us, nay, it will not even be big for us"[2].

ANNIHILATION OF THE CITY AND ITS INHABITANTS

The annihilation of Warsaw was carefully planned and done in stages. The nearly one-month-long siege of Warsaw in September 1939 was its first instalment. Over 10% of the city structures were destroyed, leaving 6,000 soldiers and 10,000 civilians dead. Śródmieście, or Warsaw's city center, suffered the most, especially under the bombings. Heavy damage was sustained in the suburban areas of the city, where fierce battles were fought. Warsaw's prestigious buildings were damaged by bombs as well. This included the Royal Castle, numerous palaces, the National Theater, Warsaw philharmonics and the stock exchange.

Having seized the city, the Nazis immediately began looting valuable artwork, industrial machinery, luxury flats and estates of civilians considered to be of Jewish origin.

Following the German attack on the Soviet Union in June 1941, Nazi-occupied Warsaw was targeted by Soviet bombings. While the Soviets wanted to destroy strategic infrastructure, their bombs often landed on residential areas, damaging numerous tenement houses.

In 1939, Warsaw was home to the second largest Jewish population in the world, just behind New York. In autumn of 1940, the German authorities established an all-Jewish district, isolated from the city, thus creating the largest ghetto in occupied Europe. Approximately 400,000 people were concentrated within an area of less than 1 square mile. In 1941, the population rose to an unprecedented

[2] *Zbrodnie okupanta w czasie Powstania Warszawskiego w 1944 roku (w dokumentach)*, edited by S. Datner, K. Leszczyński, Warsaw 1969, p. 306.

460.000 people. The Jews, consigned to extermination, were used as cheap labor. Within a year and a half of ghetto's existence, over 100,000 people died of hunger or emaciation. In 1942, as part of a major liquidation operation, the Nazis sent over 300.000 Jews to the extermination camp in Treblinka. The following deportation attempts were met with resistance. In April 1943, the Jewish uprising in the ghetto began. As a result, 60.000 Jews were either killed or sent to camps. After the Uprising failed, the Nazis methodically razed the ghetto down to the ground. This meant that another 15% of Warsaw's architecture was destroyed and a substantial chunk of Warsaw's city center was turned into a wasteland.

August 1, 1944 saw the beginning of another uprising in Warsaw. This time, the soldiers of the Polish Underground State rose up against Nazi rule. Despite being largely outnumbered by the Germans, the Poles fiercely resisted the occupying forces for 63 days. It was one of the most brutal urban battles to date. Upon learning about the revolt in Warsaw, Hitler and Himmler issued the flagitious order to kill all the inhabitants and have the city totally flattened. This total eradication of the city was supposed to deter other nations of occupied Europe from resistance. The order was executed accordingly and started in the early days of the uprising. Captured insurgents and civilians were executed throughout the city. Each district regained by the Nazis was pacified which meant that murders, rapes, and arsons were widespread. The most appalling crimes were committed in the western parts of the city, in the Wola and Ochota districts, where approximately 50,000 men, women and children were murdered within a few days. Overall, it is estimated that 130.000–150.000 civilians were killed in Warsaw. The losses sustained by the insurgents were considerably smaller, with

In 1939, Warsaw was home to the second largest Jewish population in the world, just behind New York.

estimated 18.000 deaths. As a result of the heavy bombings and artillery shellings, nearly 25% of the city was destroyed.

The process of Warsaw's complete eradication was completed soon after the uprising failed. According to the cease-fire, the Home Army was to lay down weapons and surrender. The civilians were banned from Warsaw as well. Within the few days following the collapse of the uprising, columns of people marched down the suburban roads, carrying the remainder of their belongings, leaving the annihilated city behind. The city was about to go through one of the most dramatic periods in its history. In total, the Nazis displaced over 500,000 civilians, often confining them to death, hunger and aimless wander. 350.000 Varsovians deemed unfit for work were displaced within occupied Poland, the remaining 150.000 were sent to forced labor in the Third Reich and around 60.000 were deported to concentration camps. Warsaw was to be razed down to the ground and become a mere transfer point for Wehrmacht after it was carefully cleared of all material goods.

Following the displacement of Warsaw's inhabitants, special units looted whatever was left in the city. These tasks were divided between three independent departments: the military, the civil department and the SS joined by police forces. Each specialized in a specific area. The Wehrmacht was responsible

A famous picture depicting the St. Augustine church standing alone among a sea of ruins at Nowolipki Street depicts an overwhelming eeriness.

for disassembling and taking factory machinery, appliances, commodities, food, textiles, cables, electrical wires, etc. The SS plundered in search of textiles, furs, carpets, money and other valuables. Ludwig Fischer, the governor of the Warsaw district, and Artur Greiser, the governor of Wartheland, were even involved in a dispute over who was entitled to take furniture from Warsaw. One researcher, Marian Chlewski, estimates that during that period alone, the Nazis transported 45.000 train cars of looted goods from Warsaw.

After a given district was carefully searched for any valuable objects, it was taken over by Brandkommando fire-squads. Sticking to the plan, they set fire to every house, one after another, district by district. In addition to monuments and residential areas, the Brandkommando destroyed industrial plants, city amenities, tramlines, electrical grid and telephones lines. The fire-squads were backed by Technische Nothilfe special units, that is, sapper police forces. Their joint mission was completed on January 16, 1945. As a direct result of these operations, 30% of the city was annihilated – more than the damage incurred during the two-month long uprising. During this time, some of the most important monuments and buildings of vital importance to the Polish state were destroyed. It should be underscored, though, that the Royal Castle, among other objects, was already blown up during the Warsaw Uprising after it was bombed initially in 1939.

In October 1944, the Nazis burnt down the Krasiński Library, located at Okólnik Street, which was until then used as a storage space for manuscripts and old prints belonging to nearly all Warsaw's libraries. In late October and early November 1944, the Municipal Archives and the New Records Archives were burnt down as well. In December, the Saxon Palace was blown up, thus demolishing the pre-war seat of the General Staff of the Polish Armed, leaving only the Tomb of the Unknown Soldier untouched. In January 1945, the occupying forces managed to burn down the Public Library of the Capital City of Warsaw while numerous religious establishments were demolished, including the St. John's Archcathedral, located in the Old Town.

Only the buildings used by the Germans as storage or quarters survived. Some were left out, because the Nazis simply ran out of time. This was the case with many public utility buildings like the Copper-Roof Palace, the National Museum or the Belweder Palace. All of them survived even though they had already been prepared to be blown up. Similarly, the magnificent Palace on the Isle in the Łazienki Royal Park was set on fire with holes later drilled in it in preparation for detonation, which never materialized.

However, Warsaw's Old Town and the ghetto sustained the most damage. The Old Town was nearly wiped off the face of the Earth. In 1945, there was only one building fit for residential purposes. Looking towards the ghetto provided an equally grim experience as debris stretched beyond the horizon. A famous picture depicting the St. Augustine church standing alone among

© Tomasz Gzell (PAP)

WARSAW, POLAND. PHOTO OF SASKI SQUARE WITH ST. ALEXANDER NEVSKY CATHEDRAL FROM BEFORE NOVEMBER 1917. PHOTOS FROM THE EXHIBITION OF THE OLDEST AERIAL PHOTOGRAPHS OF WARSAW TAKEN BY GERMAN AVIATORS IN THE YEARS 1915–1918.

a sea of ruins at Nowolipki Street depicts an overwhelming eeriness. Under the occupation, the church was incorporated into the ghetto. The Germans used it as a storage space for furniture looted from Jewish flats. Afterwards, it was turned into a stable. It is one of the very few buildings located within the ghetto that survived the war. During the Warsaw Uprising, the church tower was used as a Nazi viewpoint and as a machine-gun nest. After the uprising came to an end, the Germans ignited only the church roof.

Warsaw sustained unimaginable damage. No other European city suffered as much. Around 80% of its buildings laid in ruins. The Germans destroyed every bridge and station in the city. 90% of monuments, 80% of hospitals, 75% of schools and industrial plants were non-existent. *City of Ruins*, a short film commissioned by the Warsaw Rising Museum and based on archival footage, can yield some understanding of the heinous crimes committed against Warsaw. The bird's eye view of the city as of spring 1945 reveals the unimaginable extent of the damage sustained.

In 2004, Lech Kaczyński, then the president of Warsaw, commissioned a report on war damage. It estimated that material losses sustained by the city itself as well as by its inhabitants amounted to 54 billion dollars. Figures, however, cannot account for the unquantifiable damages resulting from this period. How can we make a valuation of losses in archival and museum collections? What about privately-owned collections with objects passed down from generations? As a result of the war, Poles irretrievably lost countless objects that were crucial to their national identity. It is by nature, unquantifiable in dollar amounts.

A city does not exist without its people who contribute to it and shape it. Warsaw lost 700,000 of its inhabitants. It is an unimaginable and nearly uncountable

For a few months following the collapse of the Uprising Warsaw, this once big city, a state capital, basically laid waste.

number. It was not until 1956 that Warsaw regained its lost population.

FROM THE ASHES

For a few months following the collapse of the Uprising Warsaw, this once big city, a state capital, basically laid waste. The Soviets started their offensive as late as January 12, 1945. A few days later, troops from the Polish First Army marched into the eradicated and deserted city, and more specifically onto its westside riverbank. The army took control of it in just a few hours due to the Nazis pulling out a majority of the troops in the city out of fear of being surrounded by Polish troops. Two days later, the Polish First Army ceremoniously paraded on Jerozolimskie Avenues, Warsaw's main artery, which had been cleaned of debris for the occasion. The troops saw no cheering crowds though as Warsaw was then inhabited by only 22,000 residents, who settled mostly in remote parts of its western side of the river. Warsaw's central area was still deserted, with only several hundred 'Warsaw Robinsons', who chose to remain in hiding. The eastern side of the river looked more lively. It had been coming back to life for several months after the Red Army seized control over it in mid-September 1944 (it then halted its offensive waiting for the uprising to fall). In January 1945, it had nearly 140,000 inhabitants.

The returning inhabitants tried to build their lives anew amid omnipresent rubble. In March 1945, Warsaw was already home to 310,000 residents. Two months later the number soared to 377,000. Not everyone came back, though. Some of those who endured the war chose to disperse around Poland and throughout the world.

The decision on the capital's reconstruction was made on the January 12, 1945, even before the Polish First Army advanced into the eastern side of the capital. Some three weeks later, the Office for the Reconstruction of the Capital was convened but the main task was still to clear the city of mines and other explosives. Simultaneously, rubble was being removed from the streets, destroyed objects registered and bodies exhumed. Recreating the city's lost architecture quickly became a priority. Already in January 1945, the army built the first makeshift bridge. Soon several more were added.

Some among the employees of the office dreamed of creating a brand-new Warsaw through embracing social realism. In order to do so, they destroyed the remnants of the old and traditional 19th–century architecture thereby beginning the demolition of tenement houses which were actually suitable for reconstruction. It was an operation done on a massive scale. Within a few months a dozen streets were stripped of housing structures; but it did not end there. Monuments, also suitable for reconstruction, were readily torn down if they stood in the way of new communication routes. Erected in 1955 as 'a gift from the Soviet Union to the people of Poland,' the Palace of Culture and Science became the new symbol of Warsaw. Named after Stalin, the monumental structure was built at a breakneck pace with its construction completed within three years. In order for it to stand at the very heart of the

© Józef Jerzy Karpiński „Jerzy" (The Warsaw Rising Museum)

WARSAW, POLAND, PHOTOGRAPH TAKEN AFTER THE WAR. TOMB OF THE UNKNOWN SOLDIER AND THE RUINS OF THE SAXON PALACE.

city, a decision was made to destroy approximately 180 tenement houses, which could have otherwise been rebuilt.

For a long time, it was not clear what to do about Warsaw's historic center. Meanwhile, piles of debris often reached up to the second-floor level. Eventually, it was decided that the Old Town and the New Town (both being Warsaw's historic center) were to be rebuilt. The work was completed in the mid-1950s with historic tenement houses regaining their 18th-century appearance. It took much longer to decide on the fate of the Royal Castle. The debate around it had a clear political subtext. Eventually, the Castle was rebuilt between 1971–1984. The works were financed by social contributions. In 1980, both the reconstructed Royal Castle and Warsaw's historic center were listed as a UNESCO World Heritage Site.

But Warsaw's cityscape had lost many buildings of importance for Polish culture and statehood. One of the greatest losses was undoubtedly the Saxon Palace, located at one of the most important plazas in Warsaw. Its history spanned four centuries. It changed its owners, its status and functions and before the war, it was home to the General Staff of the Polish Army. After the collapse of the Warsaw Uprising, it was blown up by German troops. Solely pieces of the central arcade survived the explosion, which continues to house the Tomb of the Unknown Soldier today. On the November 11, 2018, as Poles were celebrating the centenary of Poland regaining independence, the president of Poland, Andrzej Duda, announced plans to reconstruct the palace. The reconstruction of Warsaw, therefore, continues to this day.

In order to be able to understand modern Warsaw, one must first know its history. Its painful, yet glorious experiences make it a truly special place.

MODERN WARSAW

In 1989, the political breakthrough brought a new era in Warsaw's history. The city gradually built its position as an important financial center, luring both national and foreign investors. Today's Warsaw has a population of 1.7 million people and this dynamic growth is expected to continue. The city does not cease to renew itself, becoming ever more beautiful, modern and functional. Warsaw is also home to an ever-growing labor market with a growing number of foreign investors settling here. New luxurious housing and office complexes designed by foreign architects are added to the landscape on a frequent basis.

In order to be able to understand modern Warsaw, one must first know its history. Its painful, yet glorious experiences make it a truly special place. Countless memorials and monuments scattered around the city are a constant reminder of its difficult and tumultuous past. A few buildings still carry shelling marks but gradually disappear from the cityscape. They evoke the interbellum Warsaw, gone forever, its heroic defenders, and the tragedy of this untamed city.

Katarzyna Utracka
January 2, 2019

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VISEGRAD GROUP AND PREVENTION OF MASS IRREGULAR IMMIGRATION TO EUROPE

Radko Hokovský, PhD

The Visegrad Group's approach to migration is often described by West European journalists, intellectuals and politicians as nationalistic, populistic and xenophobic. This narrative contributes to the view that the post-communist societies of Central and Eastern Europe are somehow uncivilized, backward and underdeveloped.

In other words, free riders hungry for EU subsidies, but unwilling to provide any solidarity when asked. While we can accept that the V4 countries are still working towards some standards common in Western Europe and indeed many developments in the V4 are up for debate and criticism, the stance on migration is a whole different matter.

First of all, we have to distinguish between general approach to immigration and foreigners, and attitudes towards mass irregular immigration from the Middle East and Africa experienced during the 2015–2016 crisis. In terms of the overall attitude, we can detect lesser openness to migration in the V4 societies compared to those in Western Europe. This reluctance, however, should not be characterized as

The restrictive approach to mass irregular immigration to Europe is a result of a conscious thoughtful decision of the V4 societies.

being hostile towards migrants altogether. For example, consider the Czech Republic, which has an even higher number of foreigners from outside the EU living in the country than the Netherlands[1] does. On the other hand, when it comes to the recent experience of a sudden uncontrolled influx, there is an overwhelming consensus in the V4 societies and across their political representations that this is unacceptable and must be prevented. Therefore, it is possible to say that in contrast to other points of criticism directed against the V4 countries, the restrictive approach to mass irregular immigration to Europe is a result of a conscious thoughtful decision of the V4 societies, and certainly not a mere populist impulse of one self-serving party or leader.

Prevention of mass irregular immigration to Europe should be a top responsibility of EU policy makers. It is not enough to note that „the number of detected illegal border crossings has been brought down to pre-crisis levels, and that the overall downward trend is continuing" as the European Council comprised of presidents and prime ministers of EU member states stated in December 2018. Although we are not experiencing the kind of influx experienced in the 2015–2016 period, the momentary situation should not distract our attention from the long-term trends and overall migration potential – especially from Africa. In fact, the EU has not yet built a robust system for the prevention of the next potential influx of migrants and it lacks the political consensus to do so. While most of the West European politicians have gradually adopted the position that the key to the migration crisis lies in the regions of origin of the migrants – from the beginning articulated by the Visegrad Group leaders – this notion has not yet fully taken root in the European policy debate, let alone policy implementation. As a consequence, the European Union, almost three years after the crisis, is still terribly vulnerable to migration shocks in its immediate neighborhood.

When EU leaders ordered the Council of Ministers and the European Commission to swiftly explore the concept of „regional disembarkation platforms" in June 2018, it gave a promising signal that migration management is finally moving closer to the regions of origin. The idea of regional disembarkation platforms is to search and rescue migrants close to the African coast of the Mediterranean to more effectively protect their lives and prevent them from irregularly traveling to the European coast. Along with the concept of Return Centers, situated outside the EU, where illegal migrants would be effectively removed from the European territory, the disembarkation platforms are the key to discourage irregular immigration and effectively preventing mounting numbers of illegal residents in EU member states[2].

[1] In 2017 the Czech Republic had 2.9% of foreign population, whereas the Netherland had 2.4%; comp. *Non-national population by group citizenship*, Source: Eurostat, January 1, 2017, https://ec.europa.eu/eurostat/statistics-explained/images/3/3c/Non-national_population_by_group_of_citizenship%2C_1_January_2017_.png, (accessed: January 8, 2019).

[2] In more detail the disembarkation platforms and Return Centres are introduced in the context of further measures in the regions of origin in the discussion paper by Radko Hokovský (ed.),

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SERBIA, SEPTEMBER 16, 2015. MIGRANTS DEMONSTRATE AT THE BORDER CROSSING INTO HUNGARY, NEAR HORGOS.

Unfortunately, the European Commission failed to deliver on the political direction given by the EU summit. The Austrian EU Council Presidency also was not successful in advancing the concept of disembarkation platforms and in the end, the 2018 December European Council, which should have evaluated the progress of implementing the EU policy on migration, did not even mention disembarkation in its conclusions. It is a clear sign that building an effective preventive infrastructure already along the migratory routes in Africa does not receive enough political support among EU leaders, without which it simply cannot progress. However, lobbying for it should be a top priority for the V4 and a coalition of other like-minded countries, because as long as this preventive infrastructure is not built, mass irregular immigration to Europe will continue in uneven waves and the idea of mandatory quotas will keep resurfacing.

The use of V4 diplomacy or strategic communication when communicating with West European policy makers and opinion leaders is not sufficient to advocate for „externalization". It is also indispensable to patiently and constructively keep explaining why other alleged „solutions" or „right" approaches are in fact illusory, naïve or inadequate. Let us take a closer look at some of the most common cases.

Prevention of mass irregular immigration to Europe, European Values Think–Tank, Prague 2018, http://www.homeaffairs.cz/wp-content/uploads/2018/11/PREVENTION-OF-MASS-IRREGULAR-IMMIGRATION-TO-EUROPE.pdf, (accessed: January 8, 2019).

The most prominent and dangerous claim we often hear in the European debate about migration by both experts as well as politicians is a statement that, in fact, there is no solution to mass irregular immigration to Europe.

The most prominent and dangerous claim we often hear in the European debate about migration by both experts as well as politicians is a statement that, in fact, there is **no solution** to mass irregular immigration to Europe. According to this view, EU member states should simply accept the rising inflow of irregular migrants and focus on their redistribution and integration into European societies. Moreover, this approach argues that irregular immigration should be legalized as it provides a desired supply of labor and enriches the diversity of ageing European societies. Even though proponents of this approach are increasingly more careful with their public articulation of this view, having awareness of the overall shift in the public and political mood in Europe since the migration crisis, we still see very explicit examples of it.

Most notably the EU Commissioner for Migration and Home Affairs Dimitris Avramopoulos assured us that immigration is „not a problem to solve or a challenge to address", but rather a phenomenon that cannot be stopped, but only managed[3]. In his article he fails to clearly distinguish between legal and illegal, regulated and mass immigration, but calls upon Europeans to accept migration, mobility and diversity, and to encourage everyone to think accordingly. Such statements not only stand in contradiction to EU basic treaties which state that „the Union shall develop a common immigration policy aimed at ensuring … prevention of, and enhanced measures to combat, illegal immigration …"[4], but even serve as a declaration of surrender to smugglers and an open invitation to any potential illegal migrants.

Another claim we hear implicitly or explicitly from opponents of robust preventive measures against irregular immigration is that it is not necessary, because there will be **no more mass influx**. This view does not advocate for the legalization of irregular immigration, but rather advocates to reach deals with third countries which will allow for effective returns of irregular immigrants in exchange for resettlements of legal immigrants, e.g. the one-for-one model applied in the statement between the EU and Turkey. However, this approach could only work under two preconditions: (a) if the number of arriving irregular migrants would remain within acceptable figures (i.e. up to tens of thousands), and (b) if the respective third country would have enough potential migrants who would qualify for legal resettlement. Both conditions are very unlikely to hold simultaneously and continuously. Reliance on the prediction that future

[3] D. Avramopoulos, *Europe's migrants are here to stay*, „Politico.eu", December 18, 2017, https://www.politico.eu/article/europe-migration-migrants-are-here-to-stay-refugee-crisis/, (accessed: January 8, 2019).

[4] Treaty on the Functioning of the European Union, art. 79, point 1, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT, (accessed: January 9, 2019).

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HUNGARY, OCTOBER 7, 2015. MIGRANTS WALK IN A STREET AFTER THEY ARRIVED BY TRAIN IN HEGYESHALOM, 169 KILOMETRES WEST OF BUDAPEST, AT THE AUSTRIAN BORDER, HUNGARY.

mass influxes of migration are unlikely is rather irresponsible given the trends and migration potential, especially in Africa.

The population of Africa itself is expected to grow rapidly in the coming decades. The UN estimates that more than half of the anticipated growth in global population between now and 2050 is to occur in Africa. Between 2017 and 2050, its population is set to increase by 1.3 billion (!). Additionally, the UN predicts that after 2050, Africa will be the only region still experiencing substantial population growth[5]. The working age population in Africa will grow significantly and the number of people attempting to reach Europe to pursue higher living standards will increase in correlation. The trend of increased migration to advanced economies is, therefore, expected to continue and increase in intensity[6].

The working age population in Africa will grow significantly and the number of people attempting to reach Europe to pursue higher living standards will increase in correlation.

Various surveys show that approximately one third of the African population would like to leave the continent, with Europe being the primary destination of choice[7].

[5] United Nations, Department of Economic and Social Affairs, Population Division, *World Population Prospects: The 2017 Revision, Key Findings and Advance Tables*, Working Paper No. ESA/P/WP/248, United Nations: New York 2003, p. 3.

[6] J. Gonzales-Garcia et al., *Sub-Saharan African Migration: patterns and spillovers*, International Monetary Fund. Spillover Task Force, 2016, p. 9.

[7] G. Carbone (ed) *Out of Africa. Why People Migrate*, ISPI. Ledizioni LediPublishing, Milano 2017, https://www.ispionline.it/sites/default/files/pubblicazioni/out_of_africa_web.pdf, (accessed: January 8, 2019); N. Esipova, J. Ray and A. Pugliese, *Number*

They are not only false, but dangerous as they are diverging the attention of EU experts and policy makers away from working intensively on creating a robust preventive infrastructure for the prevention of irregular mass immigration to Europe.

Therefore, dismissing the likelihood that a major influx of immigration will occur is very irresponsible a naïve.

Finally, we can constantly hear the mantra regarding „legal channels". Their proponents present introduction of various new legal pathways for migrants as a silver bullet which will eradicate irregular and illegal immigration. While legal channels for economic migrants with appropriate permission and for „invited refugees" through resettlement programs are an important complementary measure, they cannot by any stretch of the imagination replace irregular channels. Just consider mere arithmetic: the EU member states made 973,800 asylum application decisions in 2017 and 54.5% of the applications were rejected[8], which makes 530,000 illegal immigrants who should be returned. According to the logic of „legal channels instead of illegal routes", an equivalent of 530,000 legal economic immigrants should be received by the EU member states.

The problem here is twofold. First, there is no indication to expect that an equivalent number of qualified migrants fulfilling all necessary conditions would be available in the illegal migrants' home countries such as Nigeria, Guinea or Mali. Second, it is highly unlikely that the EU labor market will be in demand for legal economic migrants from just these countries at this specific moment. This does not rule legal channels entirely out. They are, and will continue to be, an important part of the policy mix, but can by no means be considered a solution to irregular immigration as these are two overlapping but mostly parallel phenomena.

As we have demonstrated these three frequent claims – *'there is no solution'*, *'there will be no more mass influx'*, and *'legal channels will solve it'* – are illusory. They are not only false, but dangerous as they are diverging the attention of EU experts and policy makers away from working intensively on creating a robust preventive infrastructure for the prevention of irregular mass immigration to Europe. The core stones of this system should be the regional disembarkation platforms and Return Centers outside EU territory. Should the Visegrad Group and other like-mined EU member states be successful in avoiding the resurfacing of the idea of mandatory quotas, they need to be able to constructively advocate for the preventive system as well as patiently explaining pitfalls of the aforementioned illusory claims.

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January 8, 2019

of Potential Migrants Worldwide Tops 700 Million, „Gallup", June 8, 2018, https://news.gallup.com/poll/211883/number-potential-migrants-worldwide-tops-700-million.aspx, (accessed: January 8, 2019).

[8] First instance decisions, https://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics#First_instance_decisions_on_asylum_applications, (accessed: January 8, 2019).

COOPERATION BETWEEN THE VISEGRAD COUNTRIES REGARDING COUNTER-EXTREMISM OPERATIONS

Jan Stehlík

With Western European states falling victim to jihadist terrorist attacks every few months, the extremist scene in the Czech Republic, Hungary, Poland, and Slovakia (the V4 states) appears to be comparably calm. Despite this, the V4 states are not immune to the threat of extremism and terrorism and must possess well-developed counter-measures. At a time when all four V4 states are threatened by similar forms of extremism and cannot easily find common ground with other states in the EU, they should expand counter-extremism cooperation at the V4 level.

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FLAGS OF THE V4 GROUP: POLAND, THE CZECH REPUBLIC, SLOVAKIA, HUNGARY, AND THE FLAG OF THE EUROPEAN UNION.

JOINT THREATS

Joint V4 cooperation in countering extremism is becoming increasingly useful as the four countries face joint extremist threats.

First, expanded travel and communication possibilities brought new challenges in the form of cross-border extremism within the V4. This particularly applies to far-right extremist groups, which maintain strong ties across the V4 and generally support one another's efforts.

As a result, the V4 states must maintain joint operational coordination between national law enforcement and intelligence agencies.

There are also cases of cross-border Islamic extremism, in part because the freedom of movement across the EU's internal borders enables extremists to cross into the V4 from neighboring states. In recent years, the V4 region has been used by numerous Islamic extremists as a transit zone between the Middle East or Central Asia and Western Europe. As a result, the V4 states must maintain joint operational coordination between national law enforcement and intelligence agencies.

Second, international extremist movements took steps to expand into the V4 or influence local groups. On the far-right scene, this not only includes traditional movements like Blood and Honor, Combat 18 and Hammerskins, but also more youth-oriented groups like Generation Identity.

As for Islamic extremist groups, while these are less active in the V4 compared to Western Europe, there were numerous attempts to spread Islamic extremism in the region. At the same time, there were cases of V4 citizens radicalizing online, sending money to jihadist groups or even

joining joining foreign fighters Dozens of prosecutions were conducted in recent years or are still in progress against Islamic extremists or their sympathizers in the V4.

The ability of extremist movements to grow irrespective of national borders has intensified the necessity for strategic coordination between V4 ministries of the interior and other internal security bodies.

JOINT OPPORTUNITIES

Although the region faces joint threats, it also has opportunities to jointly counter them. First, perceptions of extremism are largely similar across the V4. National differences will always exist, but on the whole, there is a common non-tolerance for ideas aimed at the removal of fundamental principles of the democratic rule of law and the suppression of basic human rights. At the same time, the V4 states are largely in agreement over which groups clearly cross the line into extremism, creating an opportunity for further cooperation in this area.

Second, the V4 states are reasonably similar in their policy and legislative architectures to counter extremism and terrorism. Counterterrorism practice is particularly similar as a result of the V4 states fulfilling joint commitments as part of the EU, the United Nations (UN) and the Financial Action Task Force (FATF). This integration can be expanded further, particularly in counter-extremism which is less clearly addressed internationally than counterterrorism.

Third, the V4 states have the political will and time window to halt nascent attempts to proliferate Islamic extremism before it grows into unmanageable proportions like in Western Europe. The Western European states are home to multiple Islamic extremist groups, struggle with integrating their Muslim populations and have been subjected to numerous jihadist attacks in recent years. The V4 states have a joint opportunity to learn from the mistakes of their Western European counterparts and prevent Islamic extremism from spreading in their territories.

The above threats and opportunities should incentivize the V4 states into expanding counter-extremism cooperation.

A COMPLEMENTARY APPROACH

The above threats and opportunities should incentivize the V4 states into expanding counter-extremism cooperation. But where should cooperation be expanded? After all, the V4 states already cooperate in this area on multiple levels.

Apart from bilateral exchanges of information and operational activities, the V4 states can make use of the V4+Austria working groups on counterterrorism and on combating extremism (on paper, at least; the practical use of these two groups is uncertain). The V4 states can also cooperate via other regional initiatives, such as the Salzburg Forum.

At the same time, any further cooperation should reflect existing cooperation at the EU level, where Europol provides space for cooperation in the area of law enforcement; expert knowledge and practice can be shared through the EU Radicalization Awareness Network; information exchange systems are being driven to a common EU-wide standard; the European Counterterrorism

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SLOVAKIA, OCTOBER 12, 2018. VISEGRAD PRESIDENTS: ANDREJ KISKA (SLOVAKIA), ANDRZEJ DUDA (POLAND), JANOS ADER (HUNGARY), AND MILOS ZEMAN (THE CZECH REPUBLIC) DURING A PRESS CONFERENCE AFTER THE MEETING OF HEADS OF STATE OF THE VISEGRAD GROUP.

Coordinator oversees the overall preparedness against terrorist threats; and political decisions in the field can follow the standard EU decision-making procedure.

The V4 states are also bound by their commitments to various international bodies with a counter-extremism and counterterrorism agenda, including the UN, the FATF, the North-Atlantic Treaty Organization (NATO), the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe.

Duplicating these efforts at the V4 level would be counter-productive. Instead, V4 counter-extremism cooperation should be expanded in those areas in which the V4 can find common ground but are stagnant or neglected at the European and international levels.

This applies most strongly to the area of **political coordination and strategic communication**.

EXPANDED POLITICAL COORDINATION

Finding a common voice on counter-extremism is both possible and desirable. The V4 states already share reasonably similar views and interests in this field.

The same cannot be said of the EU as a whole, let alone any broader international institution. Integrating even a portion of counterterrorism efforts across the EU was a major achievement, one that is not likely to be repeated for the broader problem of countering extremism. The views and interests of the 28 EU states are simply too divergent in this field. Under such conditions, it makes sense to look for regional solutions before seeking EU-wide agreements.

A coordinated political and strategic communication approach would contribute to asserting joint V4 counter-extremism positions in the wider EU decision-making procedures. At the same time, it would help explain, highlight and popularize these

positions in the wider policy debate. This would in turn make the EU less likely to adopt initiatives at odds with views and interests held by the V4 as a whole.

Eventually, the V4 states could become the leading actors in EU-wide counter-extremism and counterterrorism policy and legislative discussions. Such a position will not be reached overnight, but with sufficient political will it can be reached relatively quickly. Several initial steps may be implemented in a matter of months.

First, the V4 states can organize **national equivalents to the EU RAN** (the Czech Republic already has such an instrument). These would bring together key counter-extremism stakeholders from the ranks of experts, officials, practitioners and political representatives. Once a year, the national chapters would meet at a V4-wide conference to exchange key views and form common positions.

Second, building on the joint meetings of V4 experts and officials, the V4 states can agree on **a common definition of extremism.** This definition would not be legally binding but would instead serve to unify any subsequent joint policy discussion, political coordination and strategic communication.

Third, again building on the joint meetings of V4 experts and officials, the V4 states can sign a **joint declaration**, spelling out in one voice their views of contemporary extremism in the EU and which counter-measures should be adopted at the EU level. Other states can be invited to sign the declaration to expand its political weight.

Fourth, the V4 states can agree to **prioritize counter-extremism** in policy agendas, including in programs for the presidency of the EU and other bodies. Counter-extremism projects would also be prioritized in the International Visegrad Fund (IVF) and other joint initiatives. The responsible officials would then refocus on counter-extremism as part of their broader work.

Fifth, each V4 state can delegate a **national counter-extremism coordinator**. The coordinator would oversee national counter-extremism efforts and communicate with their counterparts in the rest of the V4, as well as in other states. The coordinator would also be responsible for external strategic communication of the national counter-extremism policy, vis-à-vis the EU and other bodies. Joint appearances of the four V4 coordinators can be organized to promulgate the common V4 position. The position of the national coordinator does not need to be created from scratch and can be added to the portfolio of existing relevant institutions.

The implementation of specific political and communication initiatives can remain largely informal, allowing for greater flexibility and national opt-outs. Austria, Germany, and other EU states can be invited to also take part in specific activities.

CONCLUSION

The above is not an invitation for an institutional change, but for a shift in perception about what the V4 is for and how it can be used in current circumstances. If the V4 states can overcome their mutual differences in approaching extremism, arrive at joint positions and agree on a common strategy for pushing those positions forward, they will possess the capacity to further their views and interests at the EU level and elsewhere. At a time of joint extremism threats and opportunities to counter them, this is a capacity worth developing.

Jan Stehlík
January 8, 2019

HOW CENTRAL EUROPEAN COUNTRIES COUNTER THE KREMLIN'S HOSTILE ACTIONS: THE CZECH REPUBLIC'S AND POLAND'S UNFULFILLED POTENTIAL

Veronika Víchová

The Visegrad countries cannot find common ground in their attitude towards Russia, which is still disrupting international order and interfering in the domestic affairs of European countries. Poland and the Czech Republic are not achieving the full potential that could be achieved by acting together on the international arena and exchanging information on both strategic and technical levels. It would be much easier to use their common interest in protecting their national sovereignties from the hostile influence of foreign authoritarian regimes if the Czech Republic made an effort to remember the both countries are currently facing an insurmountable aggressor.

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A RUSSIAN SOLDIER AIMS HIS MACHINE GUN AT A CONVOY OF GEORGIAN SOLDIERS TO BLOCK THE WAY TO THE GEORGIAN TOWN OF GORI, AUGUST 14, 2008.

After the Russian Federation invaded Georgia in 2008 and recognized the self-proclaimed republics of South Ossetia and Abkhazia as independent, the international response was rather disappointing. Only several countries – Lithuania, Estonia, and Poland – realized the severity of the situation and initiated, mostly diplomatic actions, to support Georgia's territorial integrity. Most of Europe remained silent.

Unsurprisingly, six years later the Kremlin felt confident enough to annex the Crimean Peninsula from Ukraine. Additionally, it sent troops to the eastern regions of Ukraine to support separatist groups, which later self-proclaimed their independence as the Donetsk People's Republic and the Luhansk People's Republic. This time, EU member states unanimously expressed their concern regarding the breach of international law by the Russian Federation and responded by introducing economic sanctions, which are still in place today.

Both of these instances of Russian aggression were not exclusively conducted with the use of physical force. They were clear examples of the combined use of hybrid warfare and large-scale propaganda. Since then, it has become ever more obvious that the Kremlin has intentions and capabilities to use unconventional and hostile tools, which include disinformation campaigns, political corruption or economic pursuits against adversarial countries without the necessity of engaging in a direct conflict.

Thanks to the disciplined work of many academics, non-governmental organizations, journalists and activists, a growing amount of evidence regarding the Kremlin's interference into the domestic affairs of EU member states has been brought to light. However, only a handful of European countries are acknowledging the threat to their internal security, while even less are taking visible steps to defend themselves, their democratic processes and societal stability.

The Polish Annual address on foreign policy goals from 2016 states that Russia seeks to expand its sphere of influence and inhibit the democratic transition of Eastern Europe by means of hybrid activities, including propaganda.

VISEGRAD STANDS DIVIDED

In the context of the Visegrad Four, the threat of Kremlin's hostile actions did not become much more than another issue on which its members can agree to disagree. Hungary sealed its warm relationship with Russia and legitimized its activities by entering into the inter-governmental agreement to build the Paks Nuclear Power Plant. The members, on the other hand, are too pre-occupied by their internal disputes and corruption to properly address the problem of Slovak paramilitary groups conducting exercises with former members of Russian Spetsnaz or the Night Wolves, which are establishing a military base on Slovak soil.

On the other hand, the Czech Republic and Poland have shown showed at least some level of consensus in understanding the threat faced not only by Ukrainians and Georgians, but also by their own people. The Polish Annual address on foreign policy goals from 2016 states that Russia seeks to expand its sphere of influence and inhibit the democratic transition of Eastern Europe by means of hybrid activities, including propaganda. The latest updates of this concept in the Czech Republic's Foreign Policy and other strategic documents also address disinformation, hybrid threats and aggressive Russian expansive behaviour in way or another.

Even though it is still on a limited scale, both countries took steps to counter this threat, yet there still are areas with potential for improvement. It is surprising that so far there has not been much visible effort from either side to further cooperate even though both neighbors have a lot to share and could benefit from each other's experiences while forging a united front on a global level.

STEP ONE: STRATEGIC COMMUNICATION

The most feasible option seems to be the establishment of a platform where civil servants, security and strategic communications experts could meet and exchange their experiences and best practices in monitoring and analyzing disinformation campaigns and their potential impact. In Poland, two strategic communication departments are operational at the Ministry of National Defence and at the Ministry of Interior, while the Czech Republic established the Center against Terrorism and Hybrid Threats in the beginning of 2017 to monitor the media for disinformation that has the potential to threaten internal security.

The Czech unit might have more strategic relevance because it is designed by the National Security Audit, a governmental review of the strengths and weaknesses in defending against new security challenges, including the influence of foreign powers. All the aforementioned institutions, however, lack structured coordination which would otherwise ensure their potentials are fully utilized and are further integrated with different levels and public

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YALTA, CRIMEA, UKRAINE, AUGUST 14, 2014. RUSSIAN PRIME MINISTER DMITRY MEDVEDEV AND RUSSIAN PRESIDENT VLADIMIR PUTIN SPEAK DURING A MEETING WITH MEMBERS OF STATE DUMA PARLIAMENTARY PARTIES.

sectors. Knowledge and skills exchange on the civil service level might be extremely helpful for both sides in developing capacities in best way possible.

NOT SO STRATEGIC ENERGY PROJECTS

Such an exchange might be useful to enhance the technical aspects of countering information operations as an integral part of internal security, where Czech specialists could contribute thanks to their experience with establishing and running the Centre Against Terrorism and Hybrid Threats. Furthermore, it might widen the perception and understanding of various tools used by the Kremlin to spread its influence.

Poland is one of the few countries understanding that energy security is crucial to national sovereignty. This is why Warsaw is cautious about any strategic deals with Russia and why it has been vocal in its opposition to the Nord Stream project – which has the potential to harm Central and Eastern Europe economically and geopolitically. In this context, the Czech Republic still seems to be considering its position.

Poland has been defending its position on the European level, while the Czech

The most feasible option seems to be the establishment of a platform where civil servants, security and strategic communications experts could meet and exchange their experiences and best practices in monitoring and analyzing disinformation campaigns and their potential impact.

Republic has been one of the EU frontrunners in fighting disinformation. Unlike the Czech Republic, Poland has not supported its national expert to the EEAS East StratCom Task Force, the most important unit authorized by EU member states to monitor and counter disinformation in Europe. It does, however, support the NATO Centre of Excellence for Strategic Communication in Riga as well as the Centre of Excellence on Countering Hybrid Threats in Helsinki. Furthermore, MEP Anna Fotyga from the Law and Justice Party was a rapporteur for the *Report on EU strategic communication to counteract propaganda against it by third parties* in October 2016.

POLAND AND THE CZECH REPUBLIC ARE NOT THE ONLY NEEDLES IN A HAYSTACK

Combined with the signals coming from both countries about their alertness when it comes to the emerging threat of Chinese influence, Poland and the Czech Republic might create a united front and help each other protect and uphold their interests not only with other member states and EU decision-makers but also with our common ally across the ocean – the United States. USA seems to be responsive towards the responsible approach of both neighbouring countries.

Both Poland and the Czech Republic are certainly not the only countries in Europe with such an attitude. Latvia, Lithuania, and Estonia have been leading the discussion about hybrid threats and hostile influence operations originating in the Russian Federation long before the "awakening" following the annexation of Crimea and the start of the war in Ukraine. Before that, however, their concerns were not taken as seriously as they are today.

Perhaps the Baltic region is where we should look towards for an understanding as well as support and mutual exchange of information. For the Czech Republic especially, this would be a less expected, but very welcome, alignment; And if united, this group of countries might be better equipped to explain its concerns and threat perception to the western part of Europe, which lacks the same type of historical experience with Russia.

DO NOT LET THE OPPORTUNITY BE WASTED

All of that is a long-term process that will take years to develop. Once the decision to start working together is made, however, quick initial progress could be made relatively easily. The first step would be to establish a platform where the relevant policy-makers and civil servants from the Czech Republic and Poland could meet regularly, communicate their common problems and challenges and exchange their experiences with best practices as well as potential setbacks in the area of countering foreign influence. Such a platform might not only help balance the differences between the countries, but also strengthen their approach and eventually their international positions.

The high-level political meetings within the Visegrad Four are far from efficient, as are any conferences or discussions forums with less specified goals and vague themes. The proposed platform would have to be narrowly focused and potentially open to relevant experts from the non-governmental sector, academia or even private companies. The scope of the debate could be highly technical but also more strategy-based and, therefore, include participants from various levels of the civil service and government. Right now, such an opportunity to stand together remains widely ignored and wasted, which is unfortunate and keeps two moderately strong players standing alone in this area.

Veronika Víchová
February 16, 2019

THE CRIMEAN FACTOR: HOW THE EUROPEAN UNION REACTED TO RUSSIA'S ANNEXATION OF CRIMEA

Katya Kruk

The Visegrad Group's approach to migration is often described by West European journalists, intellectuals and politicians as nationalistic, populistic and xenophobic. This narrative contributes to the view that the post-communist societies of Central and Eastern Europe are somehow uncivilized, backward and underdeveloped.

The current level of rather distanced relations between the European Union and Russia started to take shape five years ago. Russia's continuing disregard for international law, aggression against Ukraine, and hostile activities against Western countries have resulted in policies of sanctions and other restrictions. It has also induced the discussion about the need to revise cooperation strategies with Russia, moving from the strategic partnership paradigm to treating Russia as one of the main sources of instability both in the neighborhood and among member states. The first event that inaugurated this new era in EU-Russia relations was the illegal annexation of Crimea. This paper aims to analyze how the

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KIEV, UKRAINE, 23 MAY 2014. A MAN TOUCHES PICTURES OF DEAD PEOPLE ON THE MAIDAN SQUARE, IN DOWNTOWN KIEV, UKRAINE.

EU reacted to this major breach of international law and how the Crimean factor has influenced the relations between the European Union and Russia over the past five years.

The annexation of Crimea by Russia is considered to be the most serious breach of European borders since the Second World War[1]. The events that led to the occupation and the following annexation of the peninsula started in late February 2014 when the bloody shootings of the protesters on Kyiv's Maidan Square changed the odds for the Ukrainian revolution. In the days following the shootings, President Viktor Yanukovych left Kyiv, which was interpreted as a withdrawal from presidential duties in an unconstitutional manner. On February 22, the *Verkhovna Rada* of Ukraine, Ukraine's parliament, removed Yanukovych from office and scheduled early presidential elections in late May[2]. The Rada appointed a new speaker and a new government in subsequent days, since the closest allies of Yanukovych from the parliament and government fled the country with him. Starting from February 20 to February 27 when the new government was approved by the Rada, Ukraine faced both a vacuum of power and a severe political crisis.

Russia has perfectly exploited the situation in Ukraine. The first periods of unrest began right after the Maidan shootings that shook Kyiv. In the days that followed, the protesters questioned the legitimacy of the new Kyiv authorities and referendums on succession from Ukraine in favor of Russia began taking place on different parts of Crimea. Beginning on February 25, administrative buildings were seized by pro-Russian protesters and Russian special forces[3], which led to the

[1] Mike Blanchfield, "Freeland's view of global clash of ideologies has Putin, Russia at its heart", *CTV News*, April 20, 2018 https://www.ctvnews.ca/politics/freeland-s-view-of-global-clash-of-ideologies-has-putin-russia-at-its-heart-1.3894893

[2] Rada removes Yanukovych from office, schedules new elections for May 25, Interfax, February 22, 2014 https://en.interfax.com.ua/news/general/192030.html

[3] Live Blog: Ukraine In Crisis (ARCHIVE), Radio Free Europe/ Radio Liberty, July 16, 2015 https://

replacement of PM Mohyliov (who was loyal to Kyiv) with PM Aksyonov (who was openly pro-Russian). In the following days "little green men" who were really Russian military men without insignia began the full-fledged military take-over operation of the peninsula authorised by the Federation Council of Russia[4]. Although back in 2014 Russia has strongly denied the involvement of its military and special forces in the annexation of Crimea and repeated that it was all the will of the local people, later Putin himself confirmed that the intervention took place. Putin stated, "*However, in my conversations with my foreign colleagues I did not hide the fact that our goal was to ensure proper conditions for the people of Crimea to be able to freely express their will. And so, we had to take the necessary measures in order to prevent the situation in Crimea unfolding the way it is now unfolding in southeastern Ukraine. We didn't want any tanks, any nationalist combat units or people with extreme views armed with automatic weapons. Of course, the Russian servicemen did back the Crimean self-defence forces. They acted in a civil but a decisive and professional manner, as I've already said*"[5].

That means that the referendum on Crimea's status was executed under Russian military occupation and, therefore, cannot be viewed as legal and binding. Nevertheless, Russia is using it to legitimize the annexation which was finalized on March 18 when the Treaty on Accession of the Republic of Crimea to Russia was signed in the Kremlin by Aksyonov and Putin. This was the final act in the swift military takeover operation of Crimea by Russia.

Russians have strongly dominated the information space creating a very blurred and mixed image of the Crimean events.

Before analyzing the EU's reaction to the annexation of Crimea, it is very much worth reminding the special element of the takeover operation, i.e. information operation[6]. Alongside physical presence, Russians have strongly dominated the information space creating a very blurred and mixed image of the Crimean events. Also, although evidence of Russian involvement was clear from the very beginning, only in later years the full picture and nature of Russian actions were fully understood, with Russians themselves no longer hiding the army's leading role in the annexation. Yet as the takeover was unfolding, the Russian media tried to hide its true nature behind the "little green men", local movements, referendum, the protection of the rights of Russian speakers etc. This can partly explain why the first international reaction was rather restrained despite the fact that, by annexing Crimea, Russia has violated the following international treaties:

- Non-intervention provisions in the United Nations Charter;

www.rferl.org/a/26805126/lbl1lbi55555.html

[4] Постановление Совета Федерации Федерального Совета Российской Федерации, March 1, 2014 https://web.archive.org/web/20140915180534/http://council.gov.ru/media/documents/pdf/41d4c5222e07062d3f21.pdf

[5] Direct Line with Vladimir Putin, The Kremlin, April 17, 2014 http://en.kremlin.ru/events/president/news/20796

[6] Jolanta Darczewska, "The anatomy of Russian information warfare. The Crimean operation, a case study", OSW, May 22, 2014 https://www.osw.waw.pl/en/publikacje/point-view/2014-05-22/anatomy-russian-information-warfare-crimean-operation-a-case-study

- Helsinki Final Act of 1975;
- 1990 Paris Charter;
- 1997 Treaty of Friendship, Cooperation and Partnership between Russia and Ukraine;
- 1994 Budapest Memorandum on Security Assurances.

The situation in Crimea was first addressed by the EU during the extraordinary meeting of EU Heads of State on March 6, 2014. In the joint statement, the EU leaders condemned Russia's unprovoked violation of Ukrainian sovereignty and territorial integrity and called on Russia to immediately withdraw its armed forces and allow immediate access for international monitors[7]. They have also criticized the decision to hold a referendum in Crimea. Although recognizing Russia's responsibility in unrests in Crimea, EU leaders still called for negotiations between Ukraine and Russia and for a peaceful resolution of the crisis. No restrictive measures were announced, the only response pertained to the suspension of bilateral talks on visa matters.

The next meeting that discussed developments in Crimea took place on March 20, already after the referendum and the signing of the Accession treaty in the Kremlin. „*Our goal is to stop Russian action against Ukraine, to restore Ukraine's sovereignty - and to achieve this we need a negotiated solution*", said Herman Van Rompuy, the then President of the European Council[8]. EU leaders announced new personal sanctions, bans and asset freezes, adding 12 new names Russian and Crimean officials to the list of 21 officials

[7] Extraordinary meeting of EU Heads of State or Government on Ukraine, *European Council,* March 3, 2014 https://www.consilium.europa.eu/en/meetings/european-council/2014/03/06/

[8] European Council focuses on Ukraine crisis and further sanctions, European Council, March 20-21, 2014 https://www.consilium.europa.eu/en/meetings/european-council/2014/03/20-21/

The sanctions policy used by the EU towards Russia did not bring any of the desired results.

already targeted by the decision of EU ministers. In addition to the new names, the European Council cancelled a planned EU-Russia summit and noted that member states will not hold any bilateral regular summits with Russia.

In late June 2014, the EU has introduced restrictions on economic relations with Crimea. The measures apply to EU persons and EU based companies. These measures include:

- an import ban on goods from Crimea and Sevastopol;
- restrictions on trade and investment related to certain economic sectors and infrastructure projects;
- a prohibition to supply tourism services in Crimea or Sevastopol;
- an export ban for certain goods and technologies[9].

With further escalation of military conflict in Eastern Ukraine, EU's attention shifted from Crimea to Donbas. Although all official statements included the Crimean case, the main attention was directed after MH17 was shot down over Eastern Ukraine, the invasion of the Russian army in Eastern Ukraine, and violations of the Minsk Agreement. With regards to Crimea, the EU later included more names of Crimean politicians to sanction list, introduced sanctions

[9] EU restrictive measures in response to the crisis in Ukraine, *European Council, Council of the European Union* https://www.consilium.europa.eu/en/policies/sanctions/ukraine-crisis/

against 3 Russian companies that transferred gas turbines to Crimea and 6 entities involved in the construction of Kerch bridge[10].

In late November 2018, a new Crimean crisis challenged the international community. Russian coast guard ships opened fire on a group of vessels of the Ukrainian Navy in international waters as they were leaving the Kerch Strait[11]. As a result, 24 Ukrainian sailors were detained and transferred to Moscow and commercial shipping through the Kerch Strait was blocked for a few days. However serious the incident was, only in mid February, almost three months after the event, EU diplomats agreed to sanction Russian individuals involved in the detention of those Ukrainian sailors. This belated and soft reaction has renewed old discussions regarding the adequacy of steps taken by the EU in the face of the Russian annexation of Crimea.

Five years after the annexation, it is clear that the sanctions policy used by the EU towards Russia did not bring any of the desired results. Neither has it stopped the annexation nor restrained Russia from takingfurther aggressive steps. The EU has not reviewed its initial sanctions policy even after Russian officials have publicly confirmed that Crimea was taken over after the military operation. Sanctions that were introduced against Russia after the downing of MH17 and violations of Minsk Agreement are significantly broader and tougher. Again, one could argue that, back in 2014, the situation in both Crimea and Kyiv was very chaotic and the nature of events remained unclear while they were unfolding. However, this wasn't the case with the attack on the Ukrainian vessels in 2018. This time Russian aggressive actions were open and obvious. Still, the EU did not recognize it as an open act of aggression and waited for almost three months to announce sanctions against those responsible for this event.

The EU's sanctions policy against Russia for the illegal annexation of Crimea remains soft. EU has not introduced broad economic sanctions against Russia after the annexation and has not sanctioned top officials and businessmen in Russia.

The EU's sanctions policy against Russia for the illegal annexation of Crimea remains soft. EU has not introduced broad economic sanctions against Russia after the annexation and has not sanctioned top officials and businessmen in Russia. It is also clear that Crimea itself did not become a game-changer in the relations between the EU and Russia. It was rather the inciting event in a series of sequential gross violations on behalf of Russia.

Katya Kruk

[10] Timeline - EU restrictive measures in response to the crisis in Ukraine, *European Council, Council of the European Union* https://www.consilium.europa.eu/en/policies/sanctions/ukraine-crisis/history-ukraine-crisis/

[11] Ukraine urges EU to impose new sanctions on Russia over attack near Kerch Strait, *UNIAN*, November 26, 2018 https://www.unian.info/politics/10351809-ukraine-urges-eu-to-impose-new-sanctions-on-russia-over-attack-near-kerch-strait.html

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