

Small states within the European Union

Challenges – dilemmas – strategies

ed. Piotr Bajda



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Foreword

The publication presented to the reader is not simply a collection of papers by various scholars, but constitutes the result of a project, the purposes of which was to fill a certain gap in existing research. When examining the issue of international relations, one thing is striking, as most authors focus on describing and analysing the politics of the great powers, leaving other smaller players on the sidelines. This is not only true of the hegemonic position of the United States and the fact that the majority of the most influential scholars of international affairs originate from American centres, but even in considerations concerning Europe, the focus is on the politics of the big capitals like Berlin, London and Paris. Medium and small countries remain on the periphery of these studies. Especially the second category referred to above appears to be a neglected topic. Following the processes of breakdown of the great monarchies after the First World War, the post-war decolonisation trends, the more or less politically turbulent events leading to the disintegration of federations (Soviet Union, Yugoslavia or Czechoslovakia), the number of small states that began to loot for their place on the international stage, their role in the region and in the world, grew dynamically.

Of course, the book does not claim to capture the full body of knowledge on the contemporary place and role of small states in international relations, but at least partially, fill this gap. It was the intention of the research team to concentrate on small states in the European Union, a peculiar community whose motto is 'united in diversity', which might suggest that the interests of all capitals, regardless of their size and power, would be taken into account in the same manner. There is no need to carry out any in-depth European studies to prove that is proposition is a false one; the division between the strong and the weak, between those who impose their will and those who accept the dictates of the more

powerful is reflected in the practical operation of the European Union. This is particularly true after the entry into force of the Lisbon Treaty which significantly expanded the scope of decisions made by qualified majority voting. In practice, the new regulations make it impossible for the leaders of small EU states to build a bicameral minority. This situation, as pointed out by the authors of papers in this volume, has sparked debates in some capitals on the need to adopt effective strategies that would allow to defend fundamental national interests as well as constitutional, legal or national identity. It seems that the specific historical experience of the Central Europe, which for years remained on the more disadvantaged side of the Iron Curtain, make it exercise more caution when transferring further competences to Community bodies. On the one hand, accession to the European Union in 2004 was a civilisational choice, permitting to catch up after the communist, being a kind of escape from the grey zone of security against resurgent Moscow imperialism, while on the other hand, at the present time they are forced to define the boundaries of integration, the areas of transferred competences, and find appropriate roles for themselves, so that their presence in the EU is not limited to a few regional products and their own symbols on the reverse side of euro coins.

Four introductory articles attempt to answer these fundamental questions. The first by Prof. Wojciech Roszkowski of the Institute of Political Studies of the Polish Academy of Sciences, focused on the Central Europe in the European Union, in which the author defines the basic dilemma of what is more important – a chance for development or the preservation of identity. These considerations are continued by dr hab. Przemysław Żurawski vel Grajewski, Professor at the University of Łódź, who presents the small states in the EU system; he starts with providing the reasons why the smaller capitals of Belgium, the Netherlands and Luxembourg decided to enter this asymmetric supranational arrangement of cooperation together with the large states (Germany, France and Italy). He also takes a look at the steps taken by small states that joined the EU in successive waves of enlargement and is able to accurately capture the ever-changing circumstances and positions of the various international actors concerned and the necessity to address

the new challenges (terrorism, migration, Covid-19, the war in Ukraine), which leads to further disputes over the “distribution of power and sovereignty in EU decision-making structures.” The article by dr hab. Piotr Bajda, Professor at the Cardinal Stefan Wyszyński University in Warsaw, takes a closer look at the functioning of small Central European states in the community, particularly focusing on the strategies adopted by individual capitals to be active and thus important actors on the international arena from the perspective of the entire European Union. One of such measures, which is described in more detail, is the search for a niche, a task which, while important for the EU as a whole, is not the most pressing challenge and thus remains outside the area of interest of the strongest capitals or the European Commission, such as the process of supporting and stabilising the Western Balkans or campaigns aiding the Belarusian opposition. The first part of the volume is concluded and, in a way, summarised by the legal analysis conducted by dr hab. Konrad Walczuk, Professor at the War Studies University in Warsaw, which focuses on the formal dimension of state sovereignty in public international law.

The second part of the presented monograph is comprised of four texts which describe in more detail the various forms of small states’ responses to new challenges and the changing conditions of functioning in the European Union. These deliberations are opened with a paper by Piotr Bajda, who was already mentioned above, where an attempt was made to diagnose the scale of challenges for small states after the entry into force of the Lisbon Treaty. Dr hab. Agnieszka Orzelska-Stączek, Professor at the Institute of Political Studies of the Polish Academy of Sciences, showed that one of the responses of Central European countries to the identified needs to build a stronger cohesion in the region, as a kind of unfulfilled task of the European Union, was the establishment of the Three Seas Initiative in 2016. This part of the publication is complemented by two legal papers, an article by prof. Konrad Walczuk about the relationship between national and EU law, with a particular focus on the discussions taking place in the Czech Republic and Slovakia. The second text is by Gábor Hulkó, associate professor at Széchenyi István University in Hungary, and is devoted to the dilemmas of how to

reconcile the constitutional values of sovereign states with the processes taking place in the European Union.

The final, largest part of the volume consists of case studies, papers aiming to study the EU policies of selected Central European countries, with two exceptions. This section of the book opens with a chapter by dr hab. Magdalena Bainczyk, Professor at the Andrzej Frycz Modrzewski Academy in Krakow and at the same time Chief Analyst at the Institute of Western Affairs, on the policy of the Federal Republic of Germany towards the countries of the region. This text is all the more significant as it makes it possible to better understand the articles to follow, considering Berlin is the most important point of reference for most Central European countries, being the key political and economic partner. The subsequent texts were authored by local scholars, starting with dr Vít Dostál, the Executive Director of the most important Czech think tank, the Association for International Affairs, whose article strived to present Prague's pragmatic yet ambitious foreign policy as a minor actor in international relations. Meanwhile, in his paper Tomáš Orbán of the Danube Institute in Budapest attempted to provide a Hungarian perspective on the processes occurring in the European Union. He drew particular attention to the challenges related to the significance of sovereignty for a small state in an integrating international community. Noteworthy are his reflections on the role of regional cooperation as a tool making it possible to force through own national interests. The following text by two Slovak scholars, dr Juraj Marušiak from the Institute of Political Science, Slovak Academy of Sciences and dr Matej Navrátil from the Faculty of Social and Economic Sciences, Comenius University in Bratislava notes note of the strengthened role of national parliaments in European policy-making processes enshrined in the Lisbon Treaty. The authors emphasise that, especially from the perspective of a small state, this offers new opportunities for co-determining processes within the European Union.

The next two texts are by researchers originating from the Central Europe, but from two different edges thereof, and thus from countries which are faced with different challenges. It should not come as a surprise, therefore, that dr Alicja Malewska, who comes from Lithuania,

concentrated on examining the danger generated by the Russian Federation, which is trying to rebuild its position of power. Under these circumstances, integration with European and transatlantic institutions took on an additional dimension of building a national security architecture. In turn, the paper by dr Jelena Juvan of the University of Ljubljana shows the approach taken the Western Balkans from the perspective of one of the smallest states in the region, which at the same time is the most developed and stable of the capitals that emerged from the ruins of Yugoslavia. However, as the author aptly observes, Slovenia, aware of its own limitations, has not yet managed to find any specific role to play in the European Union. This can be seen in the example of the Slovenian Presidency of the EU. The closing text of the volume is an article by dr Jean Claude Cachia of the University of Malta being a case study of a small state from outside the Central European region. Malta is an interesting case in the context of an analysis devoted to small actors in international relations for two reasons. On the one hand, it is the smallest member of the European Union, and on the other hand, one Maltese university – the Islands and Small States Institute of the University of Malta – is the only one that features a specialised centre devoted to the topic of small states. Dr Cachia noted that even such a small state, considering the quality of its political elite, has to face with accusations alleging the lack of rule of law, and its geographical location is conducive to the massive influx of migrants.

In the light of the foregoing, we invite readers to read on and hope that the research undertaken on the topic of small states will continue and that the papers found in this volume will go on to become a part of a broader debate.

WOJCIECH ROSZKOWSKI

The states of Central Europe in the European Union – between the opportunity for development and a threat to identity

The reality of recent years

A dispute on how to name the states situated between Russia and Germany has been around for a very long time and is usually revived by major political changes in Europe. In this paper, Central Europe shall be construed as the states of the Three Seas Initiative, while Central and Eastern Europe as the abovementioned states together with Belarus, Ukraine and Moldova.¹

Two issues are often raised by sceptics questioning the feasibility of the Three Seas Initiative. Firstly, they consider the great geographical, historical and cultural diversity of the region as a major challenge in the security policy of the EU and NATO member states of Central Europe.² From the perspective of the region's states, their own identity constitutes an important aspect of their policies, especially in view of federalist tendencies within the European Union, the advocates of which often act to the detriment of the local identity. However, the issue of identity of the region's states is, in the context of the present day circumstances, much more complex, a matter which will be discussed further in this paper. Secondly, sceptics notice that the region's states are not only diverse in

¹ Wojciech Roszkowski, *Orzeł, lew i krzyż. Historia i kultura krajów Trójmorza*, (Kraków: Biały Kruk, 2022), vol. I, pp. 11–21.

² Wojciech Roszkowski, „Dwanaście państw Trójmorza”, in: Paweł Kowal, Agnieszka Orzelska-Stączek, *Inicjatywa Trójmorza: geneza, cele, funkcjonowanie*, (Warsaw: ISP PAN, 2019), pp. 97–123.

terms of their size, but they boast little economic and population potential as compared to the Western superpowers.

The indicator that illustrates a country's economic potential is gross domestic product (GDP). The GDP rate can be calculated based on the purchasing power of the country's currency or at current prices measured by some external currency, such as dollars. In the former case, GDP represents the volume that can be used domestically, in the latter case, internationally. In 2020, the GDP measured by the purchasing power of the currency of the biggest state in the region, Poland, accounted for 29% of Germany's GDP and 32% of Russia's GDP. The second-largest country in the region, Romania, had a GDP nearly half the size of Poland's, and the remaining countries even less so. The combined GDP of the Central European countries in the same year amounted to 87.7% of Germany's GDP and 95.8% of Russia's GDP.³ Consequently, it is only the combined GDP of all Central European states that constitutes a size comparable to that of the two large neighbours. The dynamics of these figures obviously constitutes an important factor. The economies of the Central European states are growing at a faster rate than those of Germany and Russia: in the 2010–2019 period, Germany's GDP grew by 14.3% and Russia's economy grew only by 3.8%, while the GDP of the Central European Countries grew by 23.4%.⁴ In terms of population potential, the position of the region's countries is only seemingly better. Their combined populations comprise 25% of the EU's population, but their combined GDP is only 17% of the EU's total GDP.⁵ To make matters worse, the populations of the Central European countries exhibit signs of stagnation and, in some cases, the populations decline.

³ According to national data compiled in https://en.wikipedia.org/wiki/List_of_countries_by_GDP_%28PPP%29 (11.10.2022).

⁴ Own calculations based on: [https://en.wikipedia.org/wiki/List_of_countries_by_past_and_projected_GDP_\(nominal\)#IMF_estimates_between_2010_and_2019](https://en.wikipedia.org/wiki/List_of_countries_by_past_and_projected_GDP_(nominal)#IMF_estimates_between_2010_and_2019) (11.10.2022).

⁵ Own calculations based on: <https://www.macrotrends.net/countries/ranking/gnp-gross-national-product> (14.02.2023); Joanna Stańczak, Dorota Szaltys, Janusz Witkowski, „Potencjał ludnościowy Unii Europejskiej”, https://stat.gov.pl/files/gfx/portalinformacyjny/pl/defaultaktualnosci/5468/29/1/1/potencjal_ludnosciowy_ue.pdf (10.12.2022).

Notwithstanding these figures and their dynamics, many problems remain that could hinder economic growth of the Central European states, such as poor infrastructure, corruption, labour emigration to the West, staff shortages and dependence on foreign capital. The utilisation of relatively cheap local workforce by international corporations may inhibit the innovativeness of these economies and solidify their role as cheap assembly facilities for foreign equipment. The abovementioned challenges will have to be dealt with by the governments of Central European states, as they face a historic opportunity to overcome their economic backwardness and bolster their security within the European Union and NATO.

The Russian threat has never brought the Central and Eastern European states together. Given their location, the threat was and still is evident among the Baltic States, Poland and Romania, much less so to Hungary, and to a much lesser extent to Slovakia, Czechia, Slovenia or Croatia. Recently, following the Russian invasion of Ukraine, this threat resurfaced almost everywhere, as the memory of the soviet domination in the half-century after the Second World War is still vivid. Hungary proved to be an exception here, where more profound memories of the Treaty of Trianon and the Hungarian-speaking population living abroad had become apparent.⁶

Another concern for the free development of the Central European states is the policy of the most powerful members of the European Union – Germany and France. In particular, the strategy of the former contradicted their aspirations. It involved the growing cooperation with Russia since the beginning of the 21st century. The point for Germany was to exploit cheap Russian sources of energy – natural gas and crude oil – not just so that the German industry could gain the competitive advantage, but also to make Central and Eastern European states dependent on Russian supplies either directly or indirectly, through re-exports from Germany. These aims were to be achieved by the construction of the Nordstream 1 and Nordstream 2 gas pipelines. Given the strong

⁶ Jonathan Sunley, *Hungary. The Triumph of Compromise*, (Institute for European Defence and Startegic Studies, 1993), pp. 27 nn.

dependence of the region's states on trade with Germany and on German capital, Berlin's policy encountered little resistance from these states, save for Poland, which commenced its efforts to become independent of Russian supplies as early as 2005. However, in the face of German-French domination of the European Union and the American 'reset' in its relations with Russia, Poland stood alone in its attempts. These attempts were abandoned in the years 2007–2015, because Poland signed a highly unfavourable gas contract with Russia and the construction of the Świnoujście LNG terminal has been delayed for a long time.⁷

After 2015, the Polish government of the United Right (*Zjednoczona Prawica*) coalition accelerated its efforts to become less dependent on Russian imports, and issued louder and louder warnings to the European Union and the United States about how Russia threatens the peace. Indeed, this policy was based on facts, notably after Russia's annexation of the Crimean Peninsula and Moscow's support provided for separatists in Donbas in 2014. Despite these efforts, Polish warnings generally failed to find a breeding ground. However, after Russia violated the Budapest Memorandum of 1994, which guaranteed the territorial integrity of Ukraine, and the United States modified its 'reset' strategy in favour of more assertive approach towards Russia in 2014, the European Union continued to follow a pro-Russian policy, actively in Germany and more passively in France. Moreover, Berlin and Paris also set a similar tone for the NATO operations.⁸ The Russian invasion of Ukraine, launched on 24 February 2022, made a huge difference, exacerbating past discrepancies in the individual states' approach to Russia and Germany.

⁷ “The backstory behind the execution of gas contracts during the PO-PSL coalition term of office. What was it that Tusk and Pawlak negotiated?” <https://polskieradio24.pl/5/1222/artykul/2892052,kulisy-zawarcia-umow-gazowych-w-okresie-rzadow-popsl-co-wynegociowali-tusk-z-pawlakiem> (16.02.2023).

⁸ ‘What is the Crimean mistake? Agnieszka Orzelska-Stączek interviewed by Jakub Maciejewski’, *Arkana*, 2015, no. 5, pp. 84–89.

The issue of identity

The protection of identity remains one of the main objectives of small states and nations whose identity may be at risk. This is the case with most Central European states. The concept of identity represents the very essence of a person's or social group's identification. In the latter case, the matter is more complicated. While citizens have a legally regulated status, residents not necessarily do, and society is a more general concept, albeit the one closest to residents. What is a nation in this context? It is a concept that has been recently ostracised and criticised due to the abusive nature of 20th century nationalism. It is a matter worth reflecting upon at a time when, despite this, academics more and more often refer to the concept of identity.⁹

When analysing this concept, Francis Fukuyama recently referred to the Greek concept of *thymos*, understood by Plato as the part of the soul that craves recognition of dignity, and the concepts of *isothymia*, or the desire to be acknowledged on a par with others, and *megalothymia*, or the desire to be elevated above others. "The demand for recognition of identity is the core idea that connects much of what is happening in the world politics today", said Fukuyama, drawing a distinction between opinions about those manifestations of identity politics that he liked and those that he disapproved of.¹⁰

The national identity is a fairly complex phenomenon that is based not only on the properties of the soul described by Plato, but also on the fundamental human desire to belong to a group and to be secure, as well as on a sense of allegiance to certain places, people or beliefs. The national

⁹ Cf. e.g. relatively moderate analyses: Peter Alter, *Nationalism*, (Edward Arnold, 1991); Alexander J. Motyl, "The Modernity of Nationalism", *Journal of International Affairs*, 1992, vol. 45, no. 2; Jan Kofman, *Nacjonalizm gospodarczy – szansa czy bariera rozwoju*, (Warsaw: Polish Scientific Publishers PWN, 1992), as well as analyses more critical of the concept of nationalism, often identifying national sentiment with 'neofascism': Walter Lacquer, *Faszyzm. Wczoraj, dziś, jutro*, (Warsaw: Da Capo, 1996); Roger Eatwell, *Faszyzm. Historia*, (Poznań: Rebis, 1999); Timothy Snyder, *Droga do niewolności. Rosja-Europa-Ameryka*, (Kraków: Znak Horyzont, 2019).

¹⁰ Francis Fukuyama, *Tożsamość. Współczesna polityka tożsamościowa i walka o uznanie*, (Poznań: Rebis, 2018), pp. 14, 16 and 99.

identity is usually something different than the civic identity. In the case of most states, the national identity is based on the shared language, religion, history and ethnicity. However, there are some instances where the nation produces only some of these determinants. Americans are unified not by religion, but by the English language, history and statehood derived from the provisions of the Constitution. The Swiss are also united by history and statehood, not by religion or even by a shared language. Many countries formed following the decolonisation of Africa, Asia and Latin America exhibit distinctive problems regarding national awareness. However, in majority of European states, nationality defined by language, religion and history is still of considerable importance and this is not only manifested during football games.

This also concerns Central and Eastern European states, where the prevailing nationality was suppressed, for as long as centuries, for political or social reasons by external power. However, problems of the region include tensions between the dominant nationality and the minorities that once dominated, and also between the neighbouring states. The remembrance of a difficult past may slowly fade, but in the case of more recent events, it may still be very much alive. In the former case, we have Germans, no longer present in Estonia and Latvia, with their traditional role gradually diminishing, and Russians, whose role in the Sovietisation of these states is still embedded deeply in the memories of Estonians and Latvians. In the case of Poles in Lithuania or Hungarians in Slovakia and Transylvania, historical challenges are still quite vivid due to their presence in these countries.

When contemplating the issue of the Central European nations' identity, one should also mention 'self-colonisation'. The term was recently used by the Bulgarian historian Alexander Kiossev, who used it to describe the state of consciousness in those countries that have been recently integrated into Western economic and security structures, acknowledging, as it were, their civilisational superiority.¹¹ Kiossev claimed that in the

¹¹ Alexander Kiossev, "Notes on Self-colonising Cultures", in: *Cultural Aspects of the Modernization Process*, (Oslo 1995); Alexander Kiossev, „The Self-Colonizing Metaphor”, *Atlas of Transformation*, <http://monumenttotransformation.org/atlas-of-transformation/html/s/self%20colonization/the-self-colonizing-metaphor-alexander-kiossev>.

societies of Central Europe, the Western ‘modernity’ is neither based on domestic cultural traditions nor forcefully instituted by the colonisers, but it does constitute a model, embraced in a large part of society as a type of object of faith. The concept of ‘self-colonisation’ has its semantic constraints, yet it can be useful in describing the state of culture of Central European countries. ‘Self-colonisation’ of their cultures is, in fact, not only the result of their accession to the European Union or NATO, but also a reaction to decades of Soviet colonisation, which deprived traditional cultures of their important values, leaving nothing but a superficial staffage.

The concept of ‘self-colonisation’ evokes the idea of many different, often contradictory, components of cultures of states and nations in question. On the one hand we have memory and tradition, spanning in many cases over a thousand years, on the other the legacy of two or three generations of Sovietisation, and finally, there are challenges of ‘modernity’ associated with the pursuit of contemporary Western standards. However, we should avoid politicising these events in the context of popular accusations of having ‘far right’ or ‘far left’ beliefs.¹² and accept these three components as objective facts.

When considering the role of tradition and modernity in the awareness of nations in Central Europe, the Sovietisation has played and still plays a big role. It has left a feeling of a relative backwardness inherited from the ‘capitalist’ era in these societies, a belief in the efficiency of ‘catching up’ and even ‘overtaking’ the West by employing the tools of ‘socialism’, and a breakdown of this belief in the wake of the communist economic modernisation fiasco. It has left a conviction about the great importance of the material components of culture, where ‘socialism’ has failed and the West has triumphed. Thus, the experience

html (11.01.2022); Paweł Marczewski, „Paradoksy samokolonizacji Europy Wschodniej”, *Przegląd Humanistyczny*, 2014, 5 (446), pp. 73–82; Grażyna Szat-Gyłybowa, „Aleksandra Kiosewa koncepcja samo kolonizacji i efekt symmorfozy”, *Poznańskie Studia Słowistyczne*, 2017, No. 13.

¹² E.g. Joanna Fomina, „Integracja europejska jako samokolonizacja? Zawłaszczenie teorii postkolonialnej przez polskich eurosceptyków”, *Czas Kultury*, 2016, no. 4, pp. 100–106.

of communism has effectively deepened backwardness complexes and spoiled the memory of past traditions. The population of the region faced the opening to the West with the sense of inferiority and disregard for their former identity under their belts. This situation can be illustrated by the fact that a relatively well-educated citizen of Poland, Hungary or Romania was, and often still is, admitted to work in the West below their qualifications and their income and wealth is considerably lower as compared to the average citizen of Western countries. To be like a Westerner had become a psychological imperative, yet this goal was notoriously difficult to achieve. This gave rise to painful frustrations, but also sometimes to a sense of self-dignity, leading to an accentuation of one's identity, if only for personal use. This factor can be identified as part of the 'identity revolution' referred to by Fukuyama,¹³ and more recently, in relation to France, by Éric Zemmour.¹⁴

The renaissance of identity is also a reaction to the more and more obvious crisis in the West, arising from questioning its own roots, ignoring Islamic threats and political correctness clouding sound judgement. The phenomena that plague the West are sometimes referred to as a *woke* culture. Bizarre social customs, unequal treatment of some states in the region on the pretext of protecting the rule of law, or projects aimed at the de-urbanisation of major cities proposed by the 40 Cities¹⁶ organisation, mean that the West, the culture of which represented an ideology that 'spiritually colonised' the Trimarum, is losing its aura of sanctity here, and the 'power of the powerless' nations of the Trimarum, as Vaclav Havel¹⁷ once said, may yet prove to be quite strong. Suffice it to recall that the economic growth of the new Member States of the European Union has been noticeably faster in the last decade as

¹³ Fukuyama, *Tożsamość*, op.cit.

¹⁴ Éric Zemmour, *Francja nie powiedziała jeszcze ostatniego słowa*, (Warsaw: New Media Institute, 2021).

¹⁵ Katarzyna Szumlewicz, „Woke – kultura przesady i cynicznych ofiar”, <https://wei.org.pl/2022/aktualnosci/katarzynaszumlewicz/woke-kultura-przesady-i-cynicznych-ofiar> (22 II 2023).

¹⁶ Adrian Siwek, „Bez mięsa, bez auta i trzy ubrania na rok”, *Gazeta Polska Codziennie*, 17–19 II 2023.

¹⁷ Vaclav Havel, *Siła bezsilnych i inne eseje* (Warsaw: Agora S.A., 2011).

compared to that of the 'old' EU. Still, the societies of the Trimarum are not fully aware of this strength, and their political elites often operate below their capacity and connect their states to the decelerating EU train, with Germany acting as a 'railway engine'.

Therefore, in the public awareness of the Three Seas states, there are mixed memories of past traditions, questioned by 'self-colonisation', but refreshed, often in a new or slightly distorted shape, by a revival of identity. Which of these factors will foster the development of a common interest in the states of the Three Seas Initiative? We have to remember that these countries are already firmly connected due to their participation in both NATO and the European Union. The memory of the past is not always safe here. It has to be 'disarmed' with care. 'Self-colonisation' can help through the universalisation of concepts and objectives of the action, but it makes us excessively self-critical in times that call for a self-confidence and cooperation. The renaissance of identity can help, should it manage to combine a self-esteem and strength, a healthy approach to the material and spiritual components of culture and an awareness of the universality of the problems of contemporary civilisations. In the modern world, the nations of the Three States Initiative are not condemned to imitate the Western identity crisis, they still have vast resources of energy and values which, once awakened, will not only allow them to survive but, to some extent, can save the West.

Security

The protection of identity is largely a safety function. For one can protect their own identity, but when a direct threat to life emerges, security takes precedence.

Russia's barbaric invasion of Ukraine, launched on 24 February 2022, has brought the West to its senses. The heroic resistance of the Ukrainians surprised Berlin and Paris, where they expected a swift defeat of Ukraine and a return to the *status quo ante*, and prompted the United States to revise its strategy. The German government has been reluctant to help Ukraine, fearing that it would both undermine German

companies' interests in Russia and promote pro-Russian public sentiment. The French authorities reacted in a similar way, with Henri Guaino, the former advisor to President Nicolas Sarkozy, making a characteristic statement.¹⁸ The author has tried to downplay the fact that there is an actual war in Ukraine, that people are dying and that the Russian aggressor is committing war crimes. He also failed to notice Vladimir Putin's racist speech of 21 February 2022, in which he denied Ukrainians the right to exist as a separate nation.¹⁹ Guaino's analogy to 1914 indicates his poor knowledge of history. For in 1914, the European superpowers were preparing to be at each other's throats, and eventually they have done so. Nowadays we experience an invasion orchestrated by a great power against a neighbour, which that power denies its right to exist. A consecutive invasion, as it was launched in 2014, when mass protests by Ukrainians in defence of their right of self-determination prompted Russia to annex Ukrainian territory in violation of international guarantees dating back to 1994. The analogy to the year 1939, when Hitler assumed, as a consequence of the *appeasement* policy, that he could get away with anything and, with the help of Stalin, set the world on fire, is more relevant to the present-day situation. *Appeasement* can be compared to the German plan to subjugate Eastern Europe by means of Russian gas supplies, resulting in a massive financial boost to the Russian economy, or to the French supply of military equipment to Russia, which strengthened the Russian army. Putin is currently following the path of Hitler in the 1938–1939 period.

In Washington, meanwhile, the reset in relations with Russia, ordered in 2009 by President Barack Obama, has been abandoned. In the context of the conflict with China, it was probably concluded that Russia, as an ally of China, should be made as weak as possible and that there was an opportunity to use Putin's madness to this end with the help of

¹⁸ Henri Guaino, „Zmierzamy ku wojnie niczym lunatycy”, *Wszystko Co Najważniejsze*, no. 43, p. 4.

¹⁹ “Putin manipulates history in his speech. A dream of a great Russia and a lie about Ukraine's socialist origins”, <https://www.polskieradio.pl/39/1240/artykul/2906826,putin-manipuluje-historia-w-swoim-wystapieniu-marzenia-o-wielkiej-rosji-i-klamstwo-o-sowieckich-początkach-ukrainy> (21 II 2023).

Ukraine.²⁰ It has once again become clear that the real guarantor of security for Europe, including Central Europe this time, is the United States. Their current global game offers new prospects for Poland and its closest neighbours to the east. Assuming Russia's defeat, the US-supported NATO's east flank, together with a liberated and rebuilt Ukraine and, eventually, a free Belarus, has the potential to form a bloc of states across the European continent to counterbalance Germany's imperial ambitions and a declining France. However, such a vision requires continued American support, but also the awareness of this opportunity on the part of the Polish authorities, the governments of the states in the region, as well as the Belarusian opposition and the Ukrainian government in Kiev. Berlin and Paris will not be happy with such a turn of events anyway – they are already making ironic remarks on how the centre of gravity of European policy is shifting to the East.

Historical and cultural identity has a large impact on the present security policy of the region's states, even more so in the context of Russian invasion of Ukraine, although current political decisions also bear a considerable impact.²¹

For Poles, the matter is quite clear: as Russia has represented a deadly threat to the independence of Poland and the cultural identity of Poles for over three hundred years, they generally believe that all measures should be taken to counter this threat. Meanwhile, as the Ukrainians have so bravely resisted Russia, and the United States is aiding them in this endeavour, it is imperative to help them, regardless of the troubled past relations between Poland and Ukraine.²² The Baltic States, which are actively involved in helping Ukraine and for whom weakening Russia comes as good news, adopted a similar approach.

²⁰ Rafał Ziemkiewicz, *Wielka Polska*, (Lublin: Fabryka Słów, 2022), pp. 161–167; Robert Spalding, *Wojna bez zasad. Chiński plan dominacji nad światem*, (Warsaw: Zona Zero sp. z o.o., 2022).

²¹ Agnieszka Orzelska-Stączek, Paweł Ukielski, *Inicjatywa Trójmorza z perspektywy jej uczestników*, (Warsaw: ISP PAN, 2020).

²² Cf. e.g. Andrzej Nowak, *Polska i Rosja. Sąsiedztwo wolności i despotyzmu X-XXI w.* (Kraków: Biały Kruk, 2022).

Czechia gave shelter to some half a million Ukrainian refugees in 2022, and Ukrainians are the second favourite nationality in the country after Slovaks. Due to the Czechia's traditional relations with German-speaking countries, disappointment with German policy is less evident in Czechia than in Poland or Romania, but a breach between the policy of Berlin and Washington raises concern. Pragmatic approach suggests that the Czechs should count on the American support for Ukraine. Therefore, it comes as no surprise that the new Czech Prime Minister Petr Fiala joined the Polish and Slovenian leaders on a trip to Kiev in the middle of March 2022 and signed a joint declaration with President Zelensky, endorsing Ukraine's bid for NATO membership in November of that year. Slovakia has also recently tackled previous identity problems regarding its relations with neighbours.²³

Hungary's policy is more difficult to understand. In a bid to become independent from European Union's pressure, Prime Minister Victor Orban has made his country dependent on Russian energy supplies, and his relations with Ukraine are driven by resentments over the Hungarian minority in the province of Transcarpathia. Although historically it is difficult to identify a positive Russian influence on Hungary's strategic position, Prime Minister Orban has taken a course that is much different from Poland in both energy security and relations with Ukraine. Eventually, he did not oppose sanctions imposed by the European Union on Russia, but argues that these sanctions are a source of more trouble for the Hungarian economy than the war itself.²⁴

Romania's approach is complicated. On the one hand, the Russian aggression has prompted many reactions of sympathy and support for Ukrainian refugees and disapproval of Germany's pro-Russian policy (in Poland, the approval rate for the Germany policy is 27%, in Romania

²³ Jan Hrdlička, „Solidarita po česku”, *Týdeník Echo*, 2022, no. 49, p. 74; <https://www.ukrinform.pl/rubric-polytics/3605247-zeenski-i-fiala-podpisali-wspolna-deklaracje-o-czonkostwie-ukrainy-w-nato.html> (16.02.2023); Piotr Bajda, *Małe państwo europejskie na arenie międzynarodowej*, (Warsaw: The UKSW Publishing House, 2018), pp. 231 nn.

²⁴ Łukasz Warzecha, „Inna droga Orbana”, *Do Rzeczy*, 30 1–5 February 2023.; Piotr Semka, „Szlak Viktora Orbana – droga czy bezdroża”, *Do Rzeczy*, 6–12 February 2023

this figure has recently dropped to as low as 19%), but on the other hand, the pro-EU policy continues to enjoy a very high level of support, and Poland's position is not very popular in Romania, as it is not well known due to the Western media's tendency to criticise Poland harshly. Slovenia, Croatia and Bulgaria, and especially Austria, have taken a more reserved stance towards the war in Ukraine, although it is worth noting that Slovenian Prime Minister Janez Janša joined the Polish-Czech mission to Kiev in March 2022.²⁵

The prospects for cooperation in the region

The history of the Central European nations reveals not only the great wealth of their heritage, but also the identity problems and conflicts that afflicted the region, conflicts that the region managed overcome, for better or worse. From the geopolitical perspective of the region's states and their external challenges, it is clear that some of them had to deal mostly with German pressure, while others had to deal with Russian or Turkish pressure. From the standpoint of the potential tensions within the Three Seas Initiative, two main problems remain: the heritage of the erstwhile Kingdom of Hungary and the heritage of the erstwhile Polish-Lithuanian Commonwealth.

The Kingdom of Hungary historically encompassed the present-day territories of Slovakia, Romania, Croatia and to some extent Ukraine, and these territories still harbour a large Hungarian-speaking population. The Hungarian authorities, stripped of these lands by the Treaty of Trianon in 1920, have always referred to the Treaty of Trianon as a national tragedy and still often mobilise domestic public opinion with the Great Hungary sentiment. This gives rise to some distrust among Hungary's neighbours, even more so as the Hungarian government has recently become overly reliant on Russian energy supplies and is pursuing its

²⁵ Anca Maria Cernea, „Nein, danke”, *Rzeczy Wspólne*, 2022, no. 3, pp. 84–91; Marzena Czernicka, *Polityka bezpieczeństwa współczesnej Bułgarii*, (Warsaw: ISP PAN, 2019), pp. 111–220.

own policy towards Russia. For the future of the Three Seas Initiative, the memory of the Kingdom of Hungary imposes the need for greater flexibility on both sides. Hungarians should accept the existing borders and the neighbouring states' governments should safeguard the rights and freedoms of the Hungarian minority on their territories.

The heritage of the Polish-Lithuanian Commonwealth has been destroyed to a greater extent by Russia and the Soviet Union, and the Polish minority in Lithuania, Belarus and Ukraine is relatively sparse. This doesn't imply that these states don't have an obligation look after the Polish minority's rights. A progress of Polish-Lithuanian and Polish-Ukrainian relations has been recently observed in this regard. In many ways, Polish President Andrzej Duda and Lithuanian President Gitanas Nausėda are now working hand in hand, and President Volodymyr Zelenski recently laid flowers at the Cemetery of Eaglets in Lviv (Cmentarz Orłąt we Lwowie), a gesture that was unthinkable until recently. A similar improvement in Polish-Belarusian relations will only be possible after the fall of the Lukashenko's regime in Minsk.

The Trimarum's eastern neighbourhood can play a decisive role in the future of this project. However, this requires a good understanding of the heritage of the Polish-Lithuanian Commonwealth of the years 1386–1795. The state established by the Jagiellonian dynasty represented something extraordinary for its era, yet it was not a utopia. Poles tend to idealise it because it was deeply rooted in Polish culture, of which Poles are very proud. There is no need to let go of this pride, but the idealisation of Commonwealth (*Rzeczpospolita*) and particularly a desire to rebuild it under Polish tutelage serves neither present-day Poles nor the nations native to these lands. The Polish-Lithuanian Commonwealth, a remarkable example of a multinational and multi-religious state founded on the notion of freedom, ultimately perished not only due to the hostile actions of its neighbours, but also due to the fact that the idea of a separate Ruthenian part of the state was abandoned and the political culture of the nobility was undergoing a crisis.

A correct interpretation of history can lay the foundations for a better future for the nations of the Three Seas Initiative, but also for the nations living on the present-day territories of the Polish-Lithuanian Republic.

As the Ukrainian composer and virtuoso Taras Kompanichenko, rightly observed, “Idealisation does not build a community. Truth and trust do. Today, the Crimean Tatars belong to our nation. There is a narrative that for a thousand years Tatars and Ukrainians fought enemies together and have always been friends, never enemies. We know this is not true [...] Likewise, this is not true in terms of relations with the Polish people. Deciding not to speak about painful moments from our history will not make them disappear from our memory. On the contrary, we must discuss it and announce to the world with our heads held high that we have succeeded, against all odds, in creating a future together”.²⁶

Does history unite or divide us? This dilemma is often explored in the face of difficult and often tragic event, ingrained in the memories of contemporary generations of Central Europeans. Whether and how can we overcome feelings and opinions based on these memories? The answer to the first question is right in front of us: if we cannot overcome destructive feelings and opinions about the past, we will be doomed to repeat conflicts.

The second part of the question is more difficult to answer. Namely, to what extent the memory of ill experiences disturbs contemporary relations between the region’s nations and on what foundations the community should be built. The memory of problems with Russia, Germany or Turkey may strengthen the bonds in question, less so the memory of past grievances experienced by the region’s nations. What should be brought to the forefront here is the memory of the Slovaks, Croats or Romanians about the policy of Magyarisation in the late 19th century and the memory of the Hungarians about the Treaty of Trianon. Its status very much depends on the historical policy of the Slovaks, Croats, Romanians and Hungarians, and therefore on what they believe to be the priority of their historical policy, whether it is the revival of historical resentments to strengthen their own identity, or the implementation of the broader Trimarum project aimed at bolstering security in the long term. Therefore, while the historical policy of Slovakia, Croatia

²⁶ „Rzeczpospolita wielu wolnych narodów”, *Wszystko Co Najważniejsze*, no. 44, p. 11.

and Romania raises no objections in this respect, Hungary's policy sometimes raises concern.

Another issue is the historical policy of Poland, Lithuania, Ukraine or Belarus concerning the heritage of the Polish-Lithuanian Commonwealth. The multicultural and multi-religious Polish-Lithuanian Commonwealth – the Jagiellonian Dynasty's creation – had stood for 400 years and deserves to be remembered fondly by all of its nations – Poles, Lithuanians and Ruthenians. The latter gave rise to present-day Ukrainian and Belarusian nations. History has brutally 'depolonised' this political project, as Rafał Ziemkiewicz²⁷ once said. The nobility-governed nation failed to keep the Commonwealth on the map; it was destroyed by its neighbours and gave rise to the modern nations of Lithuanians, Belarussians and Ukrainians on the Eastern Borderlands. The final act of the Polish tragedy in the east had been orchestrated by Hitler and Stalin, resulting in the displacement of most Poles from the territories of Ukraine and Belarus. The Poles who remained there are now Polish speaking citizens of both countries. They deserve the minority rights, but we all know where the borders lie. Fuelling historical emotions can only serve Russian imperialism.

Past few years have brought hope for reducing resentments in the territory of the historical Polish-Lithuanian Commonwealth. What can bring Poles, Lithuanians, Belarusians and Ukrainians together after the collapse of the Polish-Lithuanian Commonwealth, the emancipation of the peasantry of the Eastern Borderlands (Kresy Wschodnie), following several decades of often bloody Polish-Ukrainian conflicts, after the collapse of Soviet Union and the resurgence of Russian imperialism in the form of Lukashenko's colonisation of Belarus and the most repulsive, bloody form of Putinism?²⁸ It is the spirit of freedom. The same spirit that inspired the Commonwealth for 600 years ago, that disappeared during its final hours, that guided the Poles who fought to regain their independence in the national uprisings, in 1918 and 1989. This is the same voice of freedom that resounded in millions of Belarusians

²⁷ Rafał Ziemkiewicz, *Wielka Polska*, (Lublin: Fabryka Słów, 2022), p. 258.

²⁸ Jakub Maciejewski, *Wojna. Reportaż z Ukrainy*, (Kraków: Biały Kruk, 2022).

after Lukashenko's rigged 2020 election and was also manifested in the unprecedented heroism of Ukrainian soldiers in 2022. The same spirit of freedom and solidarity has been demonstrated when the Poles supported political Belarusian emigration and welcomed millions of Ukrainian war refugees regardless of the bad past memories two nations share. It also makes Belarusians and Ukrainians re-evaluate their own historical judgments. This is already evident in the improvement of Polish-Lithuanian and Polish-Ukrainian relations. Belarusians are still waiting for a new opportunity to challenge Lukashenko's dictatorship.

Conclusion

The outcome of the Russian-Ukrainian conflict and the United States' strategy in connection with this war will be crucial for the future of the Three Seas Initiative. The outcome of the war at present, i.e. as of May 2023, is by no means assured. A Russian triumph may kill the project, if the Americans would abandon their optimistic plans to weaken the country and revert to a form of Realpolitik. Similarly, the prolonged conflict in Ukraine, the attrition warfare, may also undermine the American commitment to their plans related to the Trimarum. The determination to continue support for Ukraine is therefore important, as is the determination of the Ukrainians themselves.

The image of Ukrainian society at the time of the war is complex. Alongside the incredible heroism of ordinary people who are willing to sacrifice their health and lives for the freedom of Ukraine, and in many cases to simply not allow hated barbarians into their households, there are thousands of frightened, helpless confused people, who simply want to escape this hell on earth created by the Russians. Hundreds of thousands of Ukrainians have put all their eggs in one basket and heed the call to arms, to provide medical, logistical and psychological assistance. Pride mingles with contempt for the enemy and the ultimate sacrifice. However, there are 'separatists' – those people who remained in the Russian-occupied Donbas territory after conscious Ukrainians fled or were deported, and to whom it doesn't matter who is in charge, as long

as nobody tries to kill them. ‘Separatists’ listen to Russian propaganda, want the Kremlin’s ‘special military operation’ to end, but often blame the Kiev government for the calamity. However, the influence of this group of eastern Ukrainians appears to be waning as Russian atrocities escalate and increasingly more people of the region perish – they are either killed or deported deep into Russia.

So Poles can think about the shared fate of Poland and Ukraine and the rebirth of the spirits of Cossack Atamans. One can only hope that it will be the spirit of Piotr Konaszewycz-Sahajdaczny rather than of Bohdan Khmelnytsky, and, what is particularly important for the Poles, that the Ukrainians completely renounce the spirit of the Massacres in Volhynia. Ukrainians opted to choose different allies at different times, but things usually turned out badly for them. These alliances proved to be traps for the Ukrainians, but they also damaged Poland. Hence the reflection on the shared tragic fate of both nations is badly needed. The heroic defence of Ukrainians against Putin’s ‘Ruscism’ also serves as a reminder of how important national identity is. “Nation, identity, culture, religion, tradition, language, literature, history. So simple, so obvious, and in the West they try to replace this many-layered gift with the fight against global warming or bedtime frolics. However, when the community is put to the test, everything finds its place yet again”.²⁹ Poles are more lucky than Belarusians and Ukrainians, despite the fact that they are constantly subject to Berlin-controlled pressure within the European Union and are also politically torn. The Russian invasion of Ukraine exposed the failure of the German-Russian alliance to divide the spheres of influence in Central and Eastern Europe: Poland was to be a German satellite in the European Union and Belarus and Ukraine were to be Russia’s vassal states. However, the Kremlin rushed its agenda, destroying the plan intricately prepared in concert with Berlin, and set the stage for the new opening in the history of the region.

²⁹ Ibid., p. 259.

All will therefore depend on the outcome of the Ukrainian-Russian conflict and the American determination for Ukraine to prevail.³⁰ The prospects are looking good so far. During his visit to Kiev and Warsaw on 20–22 February 2023, President Joe Biden made it clear that the United States is determined to defend Ukraine. He announced additional military aid packages, declared that ‘Ukraine will never be a victory for Russia’ and appealed to the highest American values expressed in the cry for freedom. A similar message was formulated at the Bucharest Nine summit in Warsaw, i.e. NATO’s Eastern Flank – Estonia, Latvia, Lithuania, Poland, Czechia, Slovakia, Hungary, Romania and Bulgaria.³¹ For the Central European countries, the window of opportunity is open a little wider, but nothing certain can still be said about the future.

³⁰ Various predictions on this matter have been made in the papers: Piotr Grochmalski, „Rok klęsk Rosji – jak Putin wzmocnił potęgę Polski i NATO”; Maciej Kożuszek, „Doktryna Bidena”, *Gazeta Polska*, 22.02.2023.; Piotr Semka, „Przykre przebudzenie z milego snu”; Rafał Ziemkiewicz, „Główny błąd Zachodu”; Łukasz Warzecha, „Pokój musi nadejść”; Wojciech Golonka, „We mgle wojny na wyniszczenie”, *Do Rzeczy*, 20–26.02.2023, pp. 16–27.

³¹ Adrian Siwek, „Prezydent Biden: Polska i Ameryka na straży wolności”, *Gazeta Polska Codziennie*, 22 II 2023 r.; Paweł Kryszczak, „Biden do krajów B9: to wy wzmocniliście NATO, jesteście liderami”, *Gazeta Polska Codziennie*, 23.02.2023.

Small states in the political system of the European Union

The process of European integration was initiated by six states, including three large ones (Germany, France and Italy) and three small (Belgium, the Netherlands and Luxembourg). From the very beginning of the history of the Communities, and subsequently the European Union, the structure which was being established needed to take this fact into account and ensure that legal declarations of equality between Member States take a real and not merely verbal political form. First of all it had to be acceptable to small states which meant it would not deprive them of their legal capacity, ensure they can have real influence on decisions taken within the Communities/Union, and would not reduce their role to ritualistic and ornamental involvement in the political theater of the official decision-making process, while depriving them of real influence on strategic Community decisions, which would be made by the larger countries. This requirement did not follow solely from the fact that the righteous “Founding Fathers”¹ had noble hearts, but also from their prudence, which allowed them to see the simple fact that disregarding the small states would lead to the obvious result that they would refuse to enter the system, or, should they be initially deceived by appearances, once the practice of how the Communities’ operate became clearer, they would leave. For this reason, ensuring a prominent place for small states

¹ For more about the figures of the “founding fathers” of the European Communities, albeit in a highly hagiographic manner, see: B. Spurgiasz (ed.), *Ojcowie współczesnej Europy*, Warszawa 1993, pp. 15–48.

in the system of European integration was a *conditio sine qua non* that permitted it to occur in the first place.

This paper attempts to show the role of small states in the process of European integration. We will be interested in the evolution of their position in the Communities and then in the European Union focusing on the latter, i.e. the period after 1993, and in the comparative dimension of the role of small states in the EU – in the period after 2004, when the “great enlargement” with 10 Central European countries, and only one large state – Poland, changed the proportions between large and small EU Member States definitely in favor of the latter. In preparation for that enlargement, the voting system in the EU Council was also changed exactly in order to accommodate the large number of small new states joining the Union. We will search for an answer to the question of what conditions specific to this category of states determined their political positions on the major systemic issues of the EU – its political system, decision-making process, institutional shape, as well as whether, and if so, to what extent, we can identify the characteristic features of small states as to the nature and kinds of EU policies they promote – in particular, in the area of the Common Foreign and Security Policy. This area was chosen because the goals and ambitions of individual EU Member States in relation to other EU policies are not so obviously determined by the size of the state as an entity striving to enact them. Agricultural policy, regional policy, energy policy, climate policy, budgetary issues, matters related to financial discipline, transportation policy, etc. are only very loosely connected with whether the state in question is large or small. By contrast, it is obvious that Luxembourg, Malta, Slovenia, Slovakia, Estonia or Ireland, or even larger states like Hungary, the Czech Republic or Sweden will never strive to obtain military leadership positions in the EU, and therefore will not attempt to dominate the directions of EU’s foreign policy.

The very definition of small states² is relative. The size of EU Member States is measured by their population. This indicator, and not, for instance, the size of GDP, was adopted as a measure of a state's scale in the EU decision-making system. This is also in line with the common sentiment, since even the richest EU's small Member State – Luxembourg (645,397 inhabitants as of 1 January 2022³), despite its GDP at the level of 72,295.0 euros (data for 2022)⁴ – will always remain a small state even in relation to Slovakia (5,434,712 inhabitants as of 1 January 2022)⁵ with its GDP of 98,523.0 euros (data for 2022).⁶

The first three small states which became founding members of the European Communities decided to take this step precisely because they were aware of their relatively small size. The experience of World War I for Belgium and Luxembourg, and World War II for the Netherlands as well, convinced their political classes that there was no room for the peaceful existence of small states between Germany and France in a situation of rivalry between the two powers, which led to numerous major wars. The sine qua non condition of peaceful existence for the small states situated between the powerful countries is not their neutrality – which while legally declared, was impossible to defend by armed means – but such a transformation of the European political system which would serve to do away with the German-French rivalry, or at least deprive it of its military character. At the same time, the Benelux states formed a highly integrated group⁷ within the emerging Communities, compared

² For more about the definitions of small states, see: P. Bajda, *Małe państwo europejskie na arenie międzynarodowej. Polityka zagraniczna Republiki Słowackiej w latach 1993–2016*, Kraków-Warszawa 2018, pp. 31–38.

³ *Population on 1 January*, Eurostat Demo_Gind, <https://ec.europa.eu/eurostat/databrowser/view/tps00001/default/table?lang=en>.

⁴ *GDP and main components (output, expenditure and income)*, (online data code: NAMA_10_GDP) Source of data: Eurostat, https://ec.europa.eu/eurostat/databrowser/view/nama_10_gdp/default/table.

⁵ *Population on 1 January...*, <https://ec.europa.eu/eurostat/databrowser/view/tps00001/default/table?lang=en>.

⁶ *GDP and main components (output, expenditure and income)...*, https://ec.europa.eu/eurostat/databrowser/view/nama_10_gdp/default/table.

⁷ For more about integration within Benelux, see: A. Marszałek, *Z historii europejskiej idei integracji międzynarodowej*, Łódź 1996, pp. 168–172. Cf.: P. Kólek,

to how varied are the current small Member States within the European Union when it comes to their potential, position, tradition and political culture and experience. At the dawn of European integration – during the time when the European Coal and Steel Community was created – these political reasons went hand in hand with pragmatic economic interests. Belgium, for instance, was intent on using European taxpayers' money to solve the problem of Belgium's many unprofitable mines as well as to advance the Europeanization of Belgium's social system. Indeed, retaining the competitiveness of the Belgian economy, with its high – and therefore costly to maintain – welfare standards would only be possible by extending these standards to cover other states within the Communities.⁸

In the case of the Netherlands, initial fears of European integration were much more apparent than in Belgium and stemmed precisely from a sense of the difference in size as compared to the two great neighbors, Germany and France. In 1950, Pieter Liefstinck, the Dutch Minister of Finance, was so concerned about the dominance of Bonn and Paris that he voted against Dutch membership in the European Coal and Steel Community, considering trade cooperation as the optimal level of integration, and rejecting the idea of a customs union of countries whose disparity of potential was so great that it threatened the economic interests of the smaller partners. In this regard, he had the support of Prime Minister Willem Drees.⁹ We can thus see that alleviating the fears of smaller states against the domination of larger ones was a real political challenge from the very beginning of the European integration.

The area in which this problem was most prominent was the decision-making system in the Council of Ministers of the European Communities and, after 1993, the Council of the European Union, as well as the

Unia Beneluxu – nowa odsłona starej współpracy, “Rocznik Integracji Europejskiej” no. 5/2011, pp. 439–452.

⁸ E. Vanderschueren, J. Praet, H. Vos, *How Big Is Belgium's Love Still for Europe?*, “The Low Countries”, 29.05.2020, <https://www.the-low-countries.com/article/how-big-is-belgiums-love-still-for-europe>.

⁹ M. Segers, A. Brown, *The Netherlands and European Integration, 1950 to Present*, Amsterdam 2020, pp. 89–106.

“one country – one commissioner” principle which was adopted after the abolition of the second commissioner to which the largest EU member states were entitled until the Treaty of Nice came into force.

The system of distributing weighted votes among the individual Member States of the European Communities/European Union, from the beginning of the integration process, has been one of the central issues as far as maintaining the interest of smaller states in being involved in the entire organization is concerned. The answer given by the “Founding Fathers” to this political challenge was the principle of overestimation of the voting power of the small states in comparison to the large ones by distributing the votes so that the large states would realistically be forced to take the position of the smaller ones into account. As a consequence, it was decided to reject the proportional system, which is the basis of any democracy, i.e. the “one citizen – one vote” rule, and to provide the smaller states with the voting power that was disproportionately large in comparison to their population. This was the result of negotiations held in 1956 before the signing of the Treaties of Rome. The talks that took place settled for many years the disagreements over the number of votes of individual Member States and the size of the blocking minority, both of which were the factors which determined the real position of the small states vis-à-vis the gear powers in the system of European integration. The Netherlands was the first to become involved in this dispute, seeing the European Commission and not the Council of Ministers as the main decision-making body of the Communities in the future. The unanimity rule in the European Commission, combined with the “one country-one commissioner” principle, would guarantee that the smaller partners enjoyed absolutely equal participation in the Communities’ decision-making process. The dispute ended in a compromise, resulting in Article 148 of the EEC Treaty.¹⁰ The Netherlands achieved considerable success in forcing the adoption of a solution whereby a qualified majority of 70% of the weighted votes in the EEC Council of Ministers was sufficient to

¹⁰ Art. 148, *Traité instituant la Communauté Économique Européenne et documents annexes*, p. 122, <https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:11957E/TXT&from=PL>.

push through a decision only if the subject of the vote was a European Commission proposal. If, by contrast, the decision was initiated by the Council itself, it could be adopted only by a double majority – i.e., in addition to 70% of the weighted votes, also the minimum number of states (under the “one-state-one-vote” system) would be required to support a given solution. With six original Member States of the Communities, this meant the consent of four states, meaning at least one small state. Meanwhile, the small states themselves, with a total of five votes, could not block a decision pushed through by the three-power coalition. Thus, the principle of overestimating the voting power of the small states was created, while ensuring that this would not lead to the minority – i.e. the citizens of the Member States, who were represented by their overestimated small states – imposing its will on the majority represented by the large ones.

Table 1. Distribution of weighted votes in the first EEC Council of Ministers (six states)

State	Number of votes	Population in thousands in 1957
Germany	4	54 064
Italy	4	48 852
France	4	44 221
The Netherlands	2	10 996
Belgium	2	8 997
Luxembourg	1	308
Total votes in the Council	17	167 438
Passing majority – 12 weighted votes and four countries		
Blocking minority 6 weighted votes and three countries		

Source: Own study based on: L. Jesień, *Po Amsterdamzie przed poszerzeniem. Panorama polityczna Unii Europejskiej*, Warszawa 1998, p. 19 and: *Population in the former territories of the Federal Republic of Germany and the German Democratic Republic from 1950 to 2016*, Statista, <https://www.statista.com/statistics/1054199/population-of-east-and-west-germany/> and *Population Europe*, Worldometer, <https://www.worldometers.info/population/europe/>.

As successive enlargements took place, the number of small states – whose approval was necessary to push through a given decision – increased,

but in each case reaching 50% plus required the large states to co-op a certain number of small ones. After 1973 the large states included Germany, Britain, France and Italy, and after 1986 also Spain – at which time the European Communities were composed of nine countries, and after 1986 – of 12 – this required at least two small countries, after 1995 – five, after 2004 (when Poland joined the EU as the only large country, accompanied by nine small countries) – seven, and after 2007 (accession of Bulgaria and Romania to the EU) – eight or seven – (depending on whether Romania with its 21,034 thousand population as of 2007¹¹ will be considered a small or a large one). This ensured the interests of the large states would be respected – considering that each successive enlargement was increasingly dominated by smaller states, but care was given so that the extent to which the weight of the latter’s votes was overestimated did not allow them to wrest control over the real decision-making process. Thus, under the influence of the Netherlands, acting in the interests of small states, at the very beginning of the European integration process a system of balancing the positions of small and large states in the decision-making process of the Communities was created. No decision could be made against the will of at least two large states, which had the ability to build a blocking minority, but also without the participation of at least two small states. In this way, the system made it impossible to make decisions without taking into account the interests of smaller states. After later enlargements, the proportions between large and small states whose consent was necessary to push through a given decision changed, but the principle of balance between them remained the same.¹² It was only abolished with the Lisbon Treaty, as discussed below.

The first northern enlargement – the one from 1973, comprising the United Kingdom, Ireland and Denmark – did not significantly upset

¹¹ *Population Europe*, Worldometer, <https://www.worldometers.info/population/europe/>. Today, Romania has only 19,038 thousand residents, and so not many more than the Netherlands (17,590 thousand), which are counted among small states. *Population on 1 January...*, <https://ec.europa.eu/eurostat/databrowser/view/tps00001/default/table?lang=en>.

¹² L. Jesień, *Po Amsterdampie przed poszerzeniem. Panorama polityczna Unii Europejskiej*, Warszawa 1998, p. 18.

the balance between large and small states. Only one greatpower (the United Kingdom) entered the Communities, along with two small states. Population-wise, however, Denmark and Ireland were much smaller than Belgium and the Netherlands. For this reason, it was impossible to simply assign them the same number of votes previously held by the two larger Benelux countries. This led to the adoption of a new additional weighted vote threshold for the small states, which was three. The state's size was not the only consideration, however. In making this decision, the "old" members of the Communities, especially France, known for its worries about the future role of the United Kingdom in the process of European integration,¹³ wanted the "new" member states not to impede the progress of integration. Allocating three votes each to Denmark and Ireland, despite the fact that the UK was granted the number of votes akin to the greatpowers (10), did not allow (10+3+3=16) the "new" states to establish a coalition with a blocking minority, which required 18 votes.

Table 2. Distribution of weighted votes in the EEC Council of Ministers after 1973 (nine states)

State	Number of votes	Population in thousands in 1973
Germany	10	62 101
United Kingdom	10	56 006
Italy	10	54 619
France	10	51 979
The Netherlands	5	13 431
Belgium	5	9 720
Denmark	3	5 017
Ireland	3	3 034
Luxembourg	2	348
Total in the Council	58	256 255
Passing majority – 41 weighted votes and five countries		
Blocking minority 18 weighted votes and five countries		

¹³ For more about the anti-British French position during the accession negotiations of the United Kingdom, see: *Negocjacje akcesyjne. Wnioski z doświadczeń Austrii, Finlandii, Norwegii i Szwecji*, Natolin 1999, pp. 13–19.

Source: Own study based on: L. Jesień, *Po Amsterdamie przed poszerzeniem. Panorama polityczna Unii Europejskiej*, Warszawa 1998, p. 20 and: *Population in the former territories of the Federal Republic of Germany and the German Democratic Republic from 1950 to 2016*, Statista, <https://www.statista.com/statistics/1054199/population-of-east-and-west-germany/> and *Population Europe*, Worldometer, <https://www.worldometers.info/population/europe/>.

The enlargement of the communities with Greece (1982) and Spain and Portugal (1986) was so close in time that, from the point of view of negotiations on the decision-making mechanism, it was essentially a single process. Greece and Portugal, while having similar populations to Belgium and the Netherlands, easily fit into the already existing system, receiving five votes each. Meanwhile, Spain as it joined the Communities opened a new chapter in the categorization of the Member States, earning the distinction of a “medium-sized” country to distinguish it from the “truly large” four powers. After 2004, Poland was placed in the same category as Spain.

Despite the uniform nature of the southern enlargement process, it was during this period that the rule where at least two large countries were able to block decisions was abandoned. It was still maintained after Greece’s accession to the Communities. At that point, Denmark, the United Kingdom and France, i.e. one small state and two large states, endeavored to do away with it, which does not allow us to conclude that the position in this regard was determined by the demographic size of the country.

Table 3. Distribution of weighted votes in the EEC Council of Ministers in 1982–1986 (10 states)

State	Number of votes	Population in thousands in 1982
Germany	10	61 546
Italy	10	56 644
United Kingdom	10	56 241
France	10	54 391
The Netherlands	5	14 295
Belgium	5	9 889
Greece	5	9 796
Denmark	3	5 123
Ireland	3	3 453
Luxembourg	2	365
Total in the Council	63	271 743
Passing majority 45 weighted votes and seven countries		
Blocking minority 19 weighted votes and five countries		

Source: Own study based on: L. Jesień, *Po Amsterdamie przed poszerzeniem. Panorama polityczna Unii Europejskiej*, Warszawa 1998, p. 21 and : *Population in the former territories of the Federal Republic of Germany and the German Democratic Republic from 1950 to 2016*, Statista, <https://www.statista.com/statistics/1054199/population-of-east-and-west-germany/> and *Population Europe*, Worldometer, <https://www.worldometers.info/population/europe/>.

However, the accession of Spain and Portugal to the Communities and the related change that followed to the distribution of weighted votes in the Council of the EU was a moment when this principle was broken. Setting the blocking minority threshold at 23 votes afforded Denmark and Ireland (both of which had exactly three votes each) with above-average bargaining power. Indeed, a blocking coalition needed to have two large states and backing from Copenhagen or Dublin. Thus, the two small states acquired the strength to tip the scales and became the object of solicitation by the participating EEC powers in the negotiating bids.¹⁴

¹⁴ L. Jesień, op.cit. p. 22.

Table 4. Distribution of weighted votes in the EEC Council of Ministers after 1986 (twelve states)

State	Number of votes	Population in thousands in 1986
Germany	10	61 140
Italy	10	56 983
United Kingdom	10	56 522
France	10	55 545
Spain	8	38 855
The Netherlands	5	14 595
Greece	5	10 015
Belgium	5	9 928
Portugal	5	9 926
Denmark	3	5 114
Ireland	3	3 516
Luxembourg	2	368
Total in the Council	76	322 507
Passing majority 54 weighted votes and seven countries		
Blocking minority 23 weighted votes and six countries		

Source: Own study based on: L. Jesień, *Po Amsterdamie przed poszerzeniem. Panorama polityczna Unii Europejskiej*, Warszawa 1998, p. 21 and: *Population in the former territories of the Federal Republic of Germany and the German Democratic Republic from 1950 to 2016*, Statista, <https://www.statista.com/statistics/1054199/population-of-east-and-west-germany/> and *Population Europe*, Worldometer, <https://www.worldometers.info/population/europe/>.

Moving away from the principle of consent of at least two large states as a prerequisite for pushing through a given decision did not mean that the principle of having to convince a certain number of small states (as we can see above, this number was different each time the Communities were enlarged) would be abandoned as well. This principle would still apply – until the entry into force of the Lisbon Treaty – with each modification of the system as a result of successive enlargements of the EC/EU, irrespective of changes in the proportion of small and large states among the Member States.

Table 5. Distribution of weighted votes in the Council of the European Union after 1995 (fifteen states)

State	Number of votes	Population in thousands in 1995
Germany	10	81 138
United Kingdom	10	57 932
France	10	57 801
Italy	10	57 174
Spain	8	39 787
The Netherlands	5	15 467
Greece	5	10 745
Belgium	5	10 186
Portugal	5	10 091
Sweden	4	8 836
Austria	4	7 990
Denmark	3	5 232
Finland	3	5 119
Ireland	3	3 592
Luxemburg	2	408
Total in the EU Council	87	371 498
Passing majority – 62 weighted votes and 10 countries.		

Source: Own study based on: L. Jesień, *Po Amsterdamie przed poszerzeniem. Panorama polityczna Unii Europejskiej*, Warszawa 1998, p. 23 and: *Population Europe*, Worldometer, <https://www.worldometers.info/population/europe/>.

The majority of problems in preserving the principle of overestimation of small states had to be solved at the time of the “Great Eastern Enlargement” of 2004–2007, when the European Union, as a result of accession of 10 new states from Central Europe plus Malta and Cyprus, including only one large (Poland) and one in-between large and small states (Romania), need to work out a system for redistributing weighted votes in the so expanded EU Council. This task – concerning the decision-making system to be applicable in that body – constituted a major portion of the work of the Intergovernmental Conference 2000, culminating in the adoption of the Treaty of Nice at the European Union summit in Nice (7–11 December 2000), signed in its final version on 26 February 2001. A new distribution of votes was made on its basis.

State	Population (in thousands)	Share in the total population of		EU Council			
		EU 15	EU 27	Pre-Nice system – EU 15		Nice system – EU 27	
				Number of votes	Share in the total number votes	Number of votes	Share in the total number votes
Germany	82 038	21.86%	17.05%	10	11.49%	29	8.41%
United Kingdom	59 247	15.79%	12.31%	10	11.49%	29	8.41%
France	58 966	15.71%	12.25%	10	11.49%	29	8.41%
Italy	57 612	15.35%	11.97%	10	11.49%	29	8.41%
Spain	39 394	10.50%	8.19%	8	9.20%	27	7.83%
Poland	38 667	-	8.04%	-	-	27	7.83%
Romania	22 489	-	4.67%	-	-	14	4.06%
The Netherlands	15 760	4.20%	3.28%	5	5.75%	13	3.77%
Greece	10 533	2.81%	2.19%	5	5.75%	12	3.48%
Czech Republic	10 290	-	2.14%	-	-	12	3.48%
Belgium	10 213	2.72%	2.12%	5	5.75%	12	3.48%
Hungary	10 092	-	2.10%	-	-	12	3.48%
Portugal	9 980	2.66%	2.07%	5	5.75%	12	3.48%
Sweden	8 854	2.36%	1.84%	4	4.60%	10	2.90%
Bulgaria	8 230	-	1.71%	-	-	10	2.90%
Austria	8 082	2.15%	1.68%	4	4.60%	10	2.90%
Slovakia	5 393	-	1.12%	-	-	7	2.03%
Denmark	5 313	1.42%	1.10%	3	3.45%	7	2.03%
Finland	5 160	1.37%	1.07%	3	3.45%	7	2.03%
Ireland	3 744	1.00%	0.78%	3	3.45%	7	2.03%
Lithuania	3 701	-	0.77%	-	-	7	2.03%
Latvia	2 439	-	0.51%	-	-	4	1.16%
Slovenia	1 978	-	0.41%	-	-	4	1.16%
Estonia	1 446	-	0.30%	-	-	4	1.16%
Cyprus	752	-	0.16%	-	-	4	1.16%
Luxemburg	429	0.11%	0.09%	2	2.30%	4	1.16%
Malta	379	-	0.08%	-	-	3	0.87%
EU 15 total	375 325	100%	78%	87	100%	237	68.70%
EU 27 total	481 181	-	100%	-	-	345	100%

* Population according to Eurostat data for 1999.

Source: *Departament Analiz Stosunków Europejskich* Urzędu Komitetu Integracji Europejskiej (Department for European Relations Analysis, Office of the Committee for European Integration), http://www.ukie.gov.pl/dase/aktualnosci/informacje/podzial_glosow_rada.shtml.

The system introduced at Nice, in which, with 87 votes, the blocking minority was 26 and the passing majority was 62, was further complicated by two so-called compromises developed at earlier stages of integration. These were:

The Luxembourg Compromise – adopted by the Council of the European Communities (28/29 January 1966). It stated that any Member State has the right to block the adoption of a given provision by the Council where it concerns its “vital national interest”, and to demand that negotiations continue until the state is able to grant its consent to the proposed solution.¹⁵ This compromise was made to break the deadlock caused by the French “empty chair” policy. It was General Charles de Gaulle who used the French representative’s absenteeism during the dispute over the financing of the Common Agricultural Policy, when no agreement could be reached among the Member States. The dispute became a pretext for fighting over the decision-making system in the Council of Ministers of the Communities which was then undergoing transformation. Faced with a planned departure from the principle of unanimity, which had been in effect until then, de Gaulle, fearing that France would lose its sovereignty, forced the adoption of the aforementioned rule that any state could block any decision of the Council by invoking its ***vital national interest***. Considering the term of ‘vital national interest’ was not clarified and in the light of the danger of EU institutions becoming paralyzed if this rule is frequently applied, Member States in practice avoid invoking this legal provision. As a result, it has not seen use for several decades now. For this reason, it is highly probable that this provision has become a dead letter, and any attempt to invoke it would be politically ineffective in the current circumstances, especially if made by a small Member State.

The Ioannina Compromise was adopted at an informal meeting of EU foreign ministers in Ioannina, Greece, on 27 March 1994. Considering the upcoming accession of four small states – Austria, Finland, Norway and Sweden – to the EU, in which case the Union would consist of 16 states (or 15, after Norway’s resignation), it was deemed necessary

¹⁵ W. Weidenfeld, W. Wessels, *Europe from A to Z. Guide to European Integration*, Luxembourg 1997, pp. 56–57.

to amend the voting system. In the regulation that was adopted it was recognized that if the balloting reached a result between 23 votes (corresponding to the former blocking minority in the Union of 12) and 26 votes (corresponding to the blocking minority in the Union of 15), negotiations would continue until a qualified majority of at least 65 votes out of 87 was reached.¹⁶

The establishment at the dawn of European integration of this mechanism for overestimating small states was a *sine qua non* for launching the process as such. After all, if in 1957 the principle where the weight of votes is proportional to population, which is in force today under the Lisbon Treaty, had been adopted, the Benelux countries would never have joined such a system. It took as many as 50 years for the bonds created during that time, had the smaller states been confronted with the following alternative – either accepting the dominance of Germany and France or leaving the EU, to result in acceptance of the prevailing positions of the greatpowers – at least by the governments of the small states in question, which is not to say by their populations. The core of the voting system in the Council of the EU, which ultimately took effect as a result of the provisions of the Lisbon Treaty, was, after all, proposed already in the Constitutional Treaty, where it was rejected in a referendum by the French and the Dutch. The reasons behind the Dutch making this decision are explained by politicians of EU mainstream which desires to constantly deepen the integration, by referring to the misinformation of citizens, the results of introducing a single euro currency and the fear of an outflow of funds from the Netherlands as a net contributor to the EU's common budget, immigration (mainly of Muslim origin) or the fear that the Netherlands would lose their influence as a consequence of the great 2004 EU enlargement¹⁷. It cannot be ruled out that these reasons proved decisive. After all, average citizens rarely study intricacies in the treaties which determine the voting system in the EU Council. However, it is, of course, difficult to expect that any mainstream EU politician,

¹⁶ *Ioannina compromise*, <http://europa.eu.int/en/agenda/igc-home/en/g4000.htm>. Cf.: W. Weidenfeld, W. Wessels, *op.cit.*, p. 57.

¹⁷ R. Verhofstad, *The Netherlands and European integration. From 'Pro' to 'No'*, "Krakowskie Studia Międzynarodowe", IV, 2007 no. 2, pp. 208–213.

when citing the reasons behind the Dutch voters' decision, would admit their fear of German-French dominance.

For the small states, with successive enlargements of the Communities/European Union, the question of their own voting power in the Council of the EU became less important. They have never been in favor of abandoning the weighted voting system, although some – such as Ireland¹⁸ – have not undertaken its defense in a very determined manner. The weakening of small states' will to carry on the dispute with the big countries on this issue was parallel to the enlargement of the Communities/Union. The share of votes given to a given small state declined steadily with each enlargement, and with it the appeal of entering into coalition with such state and its ability to effectively impact decisions taken in the Council of the EU.¹⁹ It is therefore not surprising that, in line with the original aforementioned stance of the Netherlands which that country had already taken at the dawn of the European integration process, the strategy adopted by the small EU states in defending their political position in the organization at large was aimed at stressing the importance of maintaining the principle of unanimity of decisions in the European Council as well as the “one country – one commissioner” principle in the composition of the European Commission, rather than any specific distribution of votes in the EU Council. This position had already achieved unquestionable dominance during the works of the EU Reflection Group established at the EU summit in Corfu in 1994, which was tasked with preparing the 1996 Turin Intergovernmental Conference and whose efforts led to the creation of the Treaty of Amsterdam. Freshly after having gained membership in the Union, Sweden, Finland and Austria,²⁰ and probably Denmark as well, firmly defended the right to their own commissioner and did not accept arguments that would be

¹⁸ L. Jesień, *op.cit.*, p. 78.

¹⁹ For comparison of the power of individual states in changing voting systems in the EU Council, see: R. Trzaskowski, *Dynamika reformy systemu podejmowania decyzji w Unii Europejskiej*, Warszawa 2005, pp. 283–286.

²⁰ For more about accession of these states to the EU, see: *Negocjacje akcesyjne. Wnioski z doświadczeń Austrii, Finlandii, Norwegii i Szwecji...*, pp. 24–66.

opposed to this objective²¹. Ultimately, they succeeded, i.e. they successfully defended the “one country – one commissioner” principle.

The option to reduce the number of commissioners to 2/3 of the number of Member States,²² as enshrined in the Lisbon Treaty, has so far proved politically impracticable. This is a result of a strong resistance of smaller states (while the larger ones do not feel threatened, as they have other tools of influence) which are set on defending the “one country / one commissioner” principle, despite the fact that this office formally has Community, rather than national, character. Indeed, the requirement of unanimity in the European Commission’s decisions makes it so that a commissioner from even the smallest member state has an equal voice with his counterparts from larger countries and even greatpowers. For this reason, commissioners, although officially prohibited from taking instructions from the governments of their countries or from advocating solutions influenced by interests of particular Member States rather than the EU as a whole, remain an important instrument for pushing the national interests of their home countries within the EU structures.

When it comes to disputes over institutional issues, the Scandinavian countries since their accession to the European Union have been among the opponents of excessive federalization of EU, and in disputes over the distribution of votes in the EU Council they have obviously advocated for maintaining the principle of overestimating small states.²³

Until 2023, the small neutral EU states (Austria, Cyprus, Finland, Ireland, Malta, Sweden) firmly guarded their neutrality or non-involvement in military alliances. This made it so they distanced themselves from more substantial participation in the development of the EU’s Common Foreign and Security Policy. After the mass aggression of Russia against Ukraine, two of those countries – Finland and Sweden – applied

²¹ L. Jesień, *op.cit.*, pp. 44–47 and 74–79.

²² *Article 9d (4) and (5), Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, (2007/C 306/01)*, “Official Journal of the European Union”, t. 50, 17 December 2007, p. C 306/20.

²³ L. Jesień, *op.cit.*, p. 74.

for NATO membership and are now finalizing this process.²⁴ This is not due, however, to the size of these states, but to their location in the close vicinity to Russia, as a result of which both of them have a high level of the Russian threat perception and are thus seeking protection under the US military umbrella. At the same time, this is a visible sign of their distrust to the declared intentions of the European Union, which promises to transform itself into a military security organization too. In the past decades, from the very beginning of their membership in the EU, both Stockholm and Helsinki distanced themselves from the EU's military ambitions, which they expressed already during the negotiations over the Treaty of Amsterdam, being the first treaty, they had the opportunity to discuss in the capacity of Member States.²⁵ Meanwhile, Denmark, relying on NATO when it came to its security, made its very accession to the EU, which was then emerging from the European Communities (i.e. the adoption of the Maastricht Treaty by the Danes), conditional on Copenhagen's exemption from the CFSP, and managed to obtain it. It abandoned this exemption only as a result of Russian mass aggression against Ukraine, by joining the European defense integration on 1 July 2022.²⁶

In the late 1990s, however, during the debate over the dismantling of the Western European Union and the European Union assuming its tasks, the small states did not appear as a homogenous group. It was not size that determined the position taken in this case, nor even the general attitude toward transatlantic ties and neutrality. Denmark, as an avid supporter of strong ties with the US, and the two neutral states, Ireland and Sweden, stood alongside the United Kingdom, which was

²⁴ *Finlandia i Szwecja złożyły wnioski o dołączenie do NATO*, PAP, 18.05.2022, <https://www.pap.pl/aktualnosci/news%2C1212849%2Cfinlandia-i-szwecja-zlozyly-wnioski-o-dolaczenie-do-nato.html>. For more, see: W. Lorenz, *Wpływ członkostwa Finlandii i Szwecji w NATO na bezpieczeństwo Sojuszu*, "Biuletyn PISM", NR 94 (2513), 9 June 2022, pp. 1–2.

²⁵ L. Jesień, op.cit., p. 100.

²⁶ D. Szacawa, *Dania rezygnuje z klauzuli wyłączającej w sprawie polityki obronnej Unii Europejskiej*, "Komentarze IEŚ", no. 645 (157/2022), 30 June 2022, <https://ies.lublin.pl/komentarze/dania-rezygnuje-z-klauzuli-wylaczajacej-w-sprawie-polityki-obronnej-unii-europejskiej/>.

reluctant to increase European autonomy in the field of security. On the other hand, the decision to absorb the WEU into the EU was supported by Portugal and the Netherlands (usually pro-Atlantic oriented) and neutral Austria and Finland.²⁷ We can thus see that this breakdown of positions does not correspond to any pattern, be it size, neutrality or attitude toward the US.

Characteristically, with regard to the EU policy small EU states set prestige goals for themselves – by 2007, one such goal was to hold EU summits, especially those that were the most significant. Of the four locations where the EU treaties were signed, as many as three (Maastricht, Amsterdam, Lisbon) are cities situated in the territories of small states, and only one – Nice – belongs to an EU greatpower. The criteria for the admission of new countries to the EU were announced at the Copenhagen Summit (1994).²⁸ The enlargement of the EU, involving the invitation of new countries, was made public at the summits in Luxembourg (1997) and Helsinki (1999), and the accession negotiations were closed at the summit in Copenhagen (2002).

The same is true of efforts to fill key positions in the EU's formal structures. Of 17 presidents of the European Commission to date, as many as seven have come from small states. Of the three previous presidents of the European Council, two came from small states, and one (Donald Tusk) from Poland – a state which at this time positioned itself as such using the motto “navigate with the mainstream of the European Union”, i.e. follow the lead of others. Out of the three positions within the EU that formally are of key importance, only in the area of the Common Foreign and Security Policy (which is very telling) no representative of any small state has ever become a head of the EU diplomacy so far.

A characteristic feature of the small states' activities in the EU forum in terms of their influence on the outside world is that ideological matters (human rights, moral disputes, climate and environmental issues) place very high on their EU policy agenda. This is because ideological

²⁷ L. Jesień, *op.cit.*, pp. 101–103.

²⁸ *Accession criteria (Copenhagen criteria)*, Eurlex, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3Aaccession_criteria_copenhagen.

disputes are a “never ending story” – they are a “political fuel” that can be used indefinitely, they sell well during elections, do not require a great financial commitment, give their proponents the moral right to lead (highly desirable in the eyes of their own constituents), and are a weapon to stigmatize political opponents. We can see that this is the case when looking at the presidential priorities of particular countries. Among the Scandinavian countries, from the moment of their accession to the EU, environmental issues, human rights, gender equality, care for the disabled, etc., have been prevailing in the group of topics promoted at the EU forum by those countries.²⁹

Small EU states when holding the presidency (until 2009 in the EU, and since the entry into force of the Lisbon Treaty – only in the Council of the EU) tend to declare very ambitious foreign policy goals, using a strong rhetoric which emphasizes their concern for the aforementioned human rights, the rule of law and the humanitarian dimension of international relations, while the tasks and goals so indicated are very unspecific. This general nature of objectives does not, obviously, extend to national priorities, which are not based on the size of the country, but on the specifics of its interests – for instance, strengthening EU trade ties with the US as a priority of the 2013 Irish presidency (as many as 32 million Americans claim Irish roots, and for this exact reason a good part of them is more willing to invest in the “old country” than in other regions), the African and Brazilian priorities of the Portuguese presidencies, the Mediterranean-related priorities of the Maltese, the Eastern priorities of the Finnish, and the Balkan priorities of the Croatian. This hypothesis is confirmed by having examined from this perspective the customary priorities announced by a country upon assuming the EU/Council presidency. This is illustrated by the following table, where the term of foreign policy is used more broadly than just to refer to the CFSP, an area of activity to which some presidencies did not refer at all:

²⁹ L. Jesień, *op.cit.*, p. 73.

Announced foreign policy priorities of the presidency of small EU countries (1994³⁰–2023)

State	Presidency period	Declared priorities for the EU's CFSP
Greece	1 I – 30 VI 1994	None. (The main task of the Greek presidency with regard to the EU environment was to finalize the accession process of Austria, Finland and Sweden to the EU, which was achieved at the EU summit in Corfu on June 24–25, 1994 ³¹)
Ireland	1 VII – 31 XII 1996	No foreign policy priorities.
The Netherlands	1 I – 30 VI 1997	Cooperation with third countries (including candidate countries from Central and Eastern Europe) on the <i>Fifth Framework Program</i> – i.e., research and development and energy policy. ³²
Luxembourg	1 VII – 31 XII 1997	EU enlargement. ³³
Austria	1 VII – 31 XII 1998	Continuing the EU enlargement process; Kosovo crisis and post-Yugoslav problems – implementation of the Dayton Agreement which ended the war in Yugoslavia; The Cyprus and Turkey problem in the context of the EU enlargement process; Peace process in the Middle East; Increasing European defense capabilities. ³⁴

³⁰ The Maastricht Treaty, which established the CFSP, entered into force on 1 November 1993, and it is for this reason that our review of the priorities of the various presidencies starts with the first full presidency of the EU, being the Greek presidency in the first half of 1994.

³¹ *Past Greek Presidencies*, Hellenic Republic, Ministry of Foreign Affairs, Tuesday, 14 February 2023, <https://www.mfa.gr/en/foreign-policy/greece-in-the-eu/past-greek-presidencies.html>.

³² *Dutch Presidency research priorities*, European Commission, <https://cordis.europa.eu/article/id/7708-dutch-presidency-research-priorities>. For more about the presidency of the Netherlands in 1997, see: M. van Keulen, J.Q. Th. Rood, *Between Ambition and Modesty*, [in:] O. Elgström (ed.), *European Union Council Presidencies*, London 2003, pp. 71–86.

³³ *3 July Luxembourg presidency and European Commission meeting*, “Politico”, July 9th, 1997, <https://www.politico.eu/article/3-july-luxembourg-presidency-and-european-commission-meeting/>.

³⁴ Wolfgang Schüssel, *Schwerpunkte der österreichischen Präsidentschaft*, Wolfgang Schüssel, *The priorities of the Austrian Presidency*, cvce.eu, https://www.cvce.eu/en/obj/wolfgang_schuessel_the_priorities_of_the_austrian_presidency-en-904ad385-1acc-4e40-bed5-ad13b6f7913b.html. Cf.: E. Antola, *The Experience of Union Membership of the Former EFTA Countries*, [in:] H. Ch. Kroger, P. Tigrid, C. Brooks, C. Church (eds.), *Annuaire Européen 1998 / European Yearbook 1998*, Vol. XLVI, Haga/Boston/Londyn, 1998, pp. 8–9.

State	Presidency period	Declared priorities for the EU's CFSP
Finland	1 VII – 31 XII 1999	Increasing the EU's peacekeeping capacity – especially important in the context of Kosovo; Continuing the EU enlargement process; Forming the relationship with Russia as an immediate neighbor so as to minimize/avoid the risks of a “new Chernobyl”, to control cross-border environmental pollution, prevent the purchasing of nuclear weapons technology from Russia, which threatens its uncontrolled proliferation, combat the HIV epidemics as well as tuberculosis and diphtheria epidemics and organized crime. ³⁵
Portugal	1 I – 30 VI 2000	Adoption of the EU Common Strategy for the Mediterranean; Organization of the EU-India summit; Superseding the Lomé Convention ³⁶ with the Cotonou Agreement ³⁷ Promoting EU-Brazil relations – organizing the first EU-Brazil summit and working on a strategic partnership agreement between the two sides; Promoting EU-Africa relations; ³⁸

³⁵ *Speech by Mr Jukka Valtasaari, Secretary of State: “Priorities for the Finnish presidency and ideas for joint EU/US action to Russia”, Brussels 22th June 1999, Transatlantic Policy Network, TPN/EU/US Discussion Forum, Brussels 22 June 1999, Ulkoministeriö/Utrikesministeriet, https://um.fi/ajankohtaista/-/asset_publisher/gc654PySnjTX/content/speech-by-mr-jukka-valtasaari-secretary-of-state-priorities-for-the-finnish-presidency-and-ideas-for-joint-eu-us-action-to-russia-brussels-22th-june-1. For more about the presidency of Finland, see: T. Tiilikainen, *The Finnish Presidency of 1999: pragmatism and the promotion of Finland’s position in Europe*, [in:] O. Elgström (ed.), op.cit., pp. 104–119.*

³⁶ Lomé Convention - (Lomé I) signed on 28 February 1975 in Lomé – the capital of Togo, between the EEC and 46 ACP (African, Caribbean and Pacific) countries to replace the Yaoundé Convention (20 July 1963). It established a legal framework for financial cooperation between the EU and ACP countries and free access to the EEC market for products manufactured in ACP countries – signatories to the agreement. It entered into force on 1 April 1976. Amended by the agreements of 31 October 1979 (Lomé II) between the EEC and 56 ACP countries, 8 December 1984 (entered into force on 1 May 1986) between the EEC and 65 ACP countries (Lomé III) and 15 December 1989 (Lomé IV) – the EEC and 69 ACP countries (entered into force on 1 September 1991). On 23 June 2000, the European Community and 77 ACP countries signed a partnership agreement (L'Accord de partenariat) in Cotonou, Benin, concerning the distribution of EU funds to the Lomé countries. See: C. Zorgbibe, *L'Histoire de l'intégration européenne*, Paris 1993, pp. 283–291.

³⁷ For more information about the Cotonou agreement – which forms the legal basis for EU relations with the African, Caribbean and Pacific countries, see: *Cotonou Agreement*, European Council. Council of the European Union, <https://www.consilium.europa.eu/pl/policies/cotonou-agreement/>.

³⁸ L.C. Ferreira-Pereira, *Portugal in the European Union: Chronicling a Transformative Journey*, [in:] J.M. Fernandes, P.C Magalhães, A. Costa Pinto (eds.), *The Oxford Handbook of Portuguese Politics*, Oxford 2023, p. 657. Cf.: N.S. Teixeira, *Portugal and*

State	Presidency period	Declared priorities for the EU's CFSP
Sweden	1 I – 30 VI 2001	<p>Human rights – active cooperation in this area between the EU and the UN Commission on Human Rights, fight against the death penalty, outlawing torture, the situation of women, promoting children's rights, protecting the disabled, freedom of the media and information;</p> <p>European Security and Defense Policy – strengthening the EU's ability to prevent and manage crises in cooperation with the UN and OSCE; creating permanent ESDP structures based on decisions of previous EU summits;</p> <p>Cooperation for development;</p> <p>Cooperation with organizations and countries outside the EU:</p> <ul style="list-style-type: none"> – ONZ – modernization of the UN system – a substantial role of the UN and the UN Security Council in efforts to achieve international peace and security; – Disarmament and non-proliferation of weapons of mass destruction; – a better environment for UN activities aimed at promoting peace and preventing conflict; <p>Participation in UN conferences on underdeveloped countries, HIV/AIDS. Overcoming current obstacles to EU-UN cooperation, HIV/AIDS;</p> <p>EU-Russia</p> <p>EU-Russia cooperation "is of fundamental importance to Europe's security and development" – implementation of the EU's Common Strategy on Russia, support for civil society and free opinion-forming in Russia, security of the nuclear environment and the issue of Russian nuclear waste³⁹, fight against organized crime;</p> <ul style="list-style-type: none"> – cooperation on disarmament and non-proliferation of weapons of mass destruction; – Russia's integration into the world economy; <p>Northern Dimension⁴⁰</p> <ul style="list-style-type: none"> – development of regional cooperation, including within the framework of the Council of Baltic Sea States, the Barents Euro-Arctic Council and the Arctic Council; – the Action Plan for the Northern Dimension of the European Union, 2000–2003 with special focus on EU relations with the Kaliningrad region; <p>Eastern Europe and Central Asia – promoting democracy and market economy as well as human rights. Special attention to be given to Moldova and the South Caucasus – acting on the basis of Partnership and Cooperation Agreements (PCAs);</p>

European Integration (1974–2010), [in:] L.C. Ferreira-Pereira (ed.), *Portugal in the European Union: Assessing Twenty-Five Years of Integration Experience*, (Routledge Advances in European Politics), New York 2014, pp. 39–40.

³⁹ For more information about the interest shown by Sweden and Nordic states in general in the issue of Russian nuclear waste, see: P. Żurawski vel Grajewski, *Polityka Unii Europejskiej wobec Rosji a interesy Polski 1991–2004*, Kraków 2008, pp. 631–646.

⁴⁰ For more information about the Northern Dimension of the EU, see: *ibidem*, pp. 592–631.

State	Presidency period	Declared priorities for the EU's CFSP
		<ul style="list-style-type: none"> - implementation of the EU's Common Strategy on Ukraine;⁴¹ - enhancing cooperation with pro-democratic forces in Belarus; Western Balkans: - developing conflict prevention measures, crisis management, reforms and well-balanced financial assistance; - developing a long-range strategy for the region combined with the ability to respond quickly to any contingent crises; - gradual rapprochement between the Western Balkans and the EU – the main instrument being Stabilization and Association Agreements (SAAs), with the intention to establish a free trade area between these countries and the EU. Completing SAA negotiations with FYROM and Croatia, and progressing negotiations with Albania, Bosnia and the former Republic of Yugoslavia (Serbia and Montenegro) with support from EIB (European Investment Bank) for the latter countries. - Conflict prevention in the context of Kosovo and Montenegro; - Return of refugees; Middle East: - involvement in the Middle East peace process; Mediterranean Cooperation: - carrying on the Barcelona Process – striving for peace and stability in the region; - establishing a free trade zone in the region; - Implementation of the EU Common Strategy for the Mediterranean;⁴² Africa - conflict prevention and restrictions on the arms trade; - fighting against poverty; - regional cooperation; - HIV/AIDS prevention; - implementation of the Cotonou Agreement; - Cooperation within the European Economic Area – EEA; Strengthening EU-US relations - development of the New Transatlantic Agenda – NTA; - implementation of the Transatlantic Economic Partnership – TEP; - hosting the EU-US summit – intensifying dialogue, also about Russia;

⁴¹ For more information about the Common EU Strategy on Ukraine, see: P. Żurawski vel Grajewski, *Stosunki UE-Ukraina – studium niepowodzenia wysiłków Kijowa na rzecz uzyskania obietnicy stowarzyszenia z Unią Europejską*, [in:] P. Żurawski vel Grajewski (ed.), *Proces akcesji do Unii Europejskiej*, Łódź 2001, pp. 188–189.

⁴² *Common Strategy of the European Council of 19 June 2000 on the Mediterranean region*, (2000/458/CFSP), “Official Journal of the European Communities”, 22.7.2000, EN, L183/5-10.

State	Presidency period	Declared priorities for the EU's CFSP
		<p>Canada</p> <ul style="list-style-type: none"> - hosting the EU-Canada summit – dialogue on strengthening political cooperation, conflict prevention, cooperation on northern issues, intensification of EU-Canada trade policy; <p>Asia</p> <ul style="list-style-type: none"> - focus on the region's economic potential and on promoting human rights, democracy and environmental protection; - long-range policy toward China and dialogue with China on human rights; - intensifying cooperation with Japan; - monitoring the security situation in Asia, combating human trafficking; <p>Latin America and the Caribbean</p> <ul style="list-style-type: none"> - promoting peace, democracy and human rights – especially in Colombia, Peru and Cuba; - economic cooperation – a priority for free trade area negotiations with Mercosur and Chile.⁴³
Belgium	1 VII – 31 XII 2001	<p>Continuing the EU enlargement process;</p> <p>Working on the establishment of the ESDP – a review the options for fulfilling the Helsinki Headline Goal 2003;</p> <p>Relations with Russia, including the establishment of an Action Plan for the implementation of the EU's Common Strategy on Russia;⁴⁴</p> <p>Increasing the EU's involvement in Africa in the Great Lakes region, where Belgium used to have a presence – conducting an inventory of humanitarian and reconstruction needs, key sectors of public life – health, education, infrastructure, justice, and support for the democratization process;</p> <p>Stabilization in the Balkans and executing association treaties between the EU and certain countries in the region (at least one country);</p> <p>Work to advance the Middle East peace process in coordination with the US and other partners involved in the region.⁴⁵</p>

⁴³ *Programme of the Swedish Presidency of the European Union*, 1 January To 30 June 2001, pp. 15-19, <https://www.europarl.europa.eu/meetdocs/committees/empl/20010123/en.pdf>. For more about the presidency of Sweden in 2001, see: B. Bjurulf, *The Swedish Presidency of 2001: a reflection of Swedish identity*, [in:] O. Elgström (ed.), op.cit., pp. 138-154.

⁴⁴ About the Common Strategy of the European Union on Russia, see: P. Żurawski vel Grajewski, *Polityka Unii Europejskiej wobec Rosji...*, pp. 102-164.

⁴⁵ H. Türsan L. De Winter, *The Belgian Presidency 2001*, Groupement d'Études et de Recherches Notre Europe, Research and Policy Paper N° 13, June 2001, pp. 8-9. For more about the presidency of Belgium in 2001, see: B. Kerremans, E. Drieskens, *The Belgian Presidency of 2001: cautious leadership as trademark*, [in:] O. Elgström (ed.), op.cit., pp. 155-172.

State	Presidency period	Declared priorities for the EU's CFSP
Denmark	1 VII – 31 XII 2002	EU enlargement– completion of accession negotiations by December 2002 – resolving problems caused by enlargement in relations with Russia (cross-border traffic, Kaliningrad region, visas, etc. ⁴⁶); Security – combating terrorism and cross-border crime; “focus on our global responsibility in terms of relations with third countries, security, trade and development policy”. ⁴⁷
Greece	1 I – 30 VI 2003	Expanding towards the Western Balkans i.e.). ⁴⁸
Ireland	1 I -31 VI 2004	EU enlargement– continuing the accession process of Bulgaria and Romania and supporting Turkey in achieving its EU membership criteria; Cyprus division issue; ⁴⁹ Promoting multilateralism by intensifying cooperation with the UN; Improving EU-US relations; Advancing the Middle East peace process; Dialogue with African countries and focus on African problems, including AIDS; ⁵⁰ The great enlargement of the EU ⁵¹

⁴⁶ For more on the problem of the impact of the accession process of the countries of Central and Eastern Europe on the EU-Russia relations, see: P. Żurawski vel Grajewski, *Polityka Unii Europejskiej wobec Rosji...*, pp. 329–383

⁴⁷ *Priorities of the Danish Presidency – From Copenhagen to Copenhagen*, Address by Prime Minister Anders Fogh Rasmussen, DUPI-conference, New Members – New Deal?, June 14, 2002, The Prime Minister Office, <https://english.stm.dk/the-prime-minister/speeches/priorities-of-the-danish-presidency-from-copenhagen-to-copenhagen/>.

⁴⁸ *1st January – 31st June 2003 - Past Greek Presidencies*, Hellenic Republic, Ministry of Foreign Affairs, 19 February 2023, <https://www.mfa.gr/en/foreign-policy/greece-in-the-eu/past-greek-presidencies.html>. Cf.: A. Broughton, *Greek Presidency sets out priorities*, “Eurofund”, 19 January 2003, <https://www.eurofound.europa.eu/publications/article/2003/greek-presidency-sets-out-priorities> - contains no mention of foreign policy-related priorities of the Greek presidency.

⁴⁹ *European Presidency: Statements. Seanad Éireann debate – Thursday, 29 Jan 2004*, Vol. 175 No. 5, Tithe an Oireachtais / Houses of Oireachtas, <https://www.oireachtas.ie/en/debates/debate/seanad/2004-01-29/7/>.

⁵⁰ N. Rees, *Ireland's Foreign Relations in 2004*, “Irish Studies in International Affairs”, Vol. 16 (2005), p. 255.

⁵¹ *Ireland and the EU: Timeline of key events*, Tithe an Oireachtais / Houses of Oireachtas, <https://www.oireachtas.ie/en/inter-parliamentary-work/european-union/brief-history/>.

State	Presidency period	Declared priorities for the EU's CFSP
The Netherlands	1 VII – 31 XII 2004	Continuation of the EU enlargement process – the issue of accession of Romania and Bulgaria; Deepening the relations with the Asian market while promoting human rights and good governance (EU-South Korea, EU-India, EU-China summits and ASEM meeting); Assisting in resolving the Middle East conflict And intensifying relations with the widely understood Middle East; Creating effective multilateralism by trying to strengthen the role, responsibilities and political power of the UN Secretary General; Development of the European Security and Defense Policy – ESDP ⁵² (with particular focus on the first major EU-led crisis management operation – i.e. the operation in Bosnia and Herzegovina). ⁵³
Luxembourg	1 I – 30 VI 2005	Strengthening the CFSP and ESDP; Promotion of human rights and democracy in the world; Non-proliferation of nuclear weapons; Supporting the reform process in the Western Balkans; Commencing Croatia's accession process; Strengthening the EU's cooperation with Russia as a "strategic partner", "on the basis of shared values and interests"; Concern for Kosovo's future; Development of the European Neighborhood Policy; Continuation of the Barcelona Process; ⁵⁴ The Palestinian problem and the Middle East conflict; EU-Iraq relations; The situation in Iran, especially in the context of human rights; Continuing efforts to sign a free trade agreement with the Gulf Cooperation Council; Solving Africa's problems, from AIDS and the issue of child soldiers to conflicts in the Great Lakes region and Sudan; 12th ministerial meeting with the Rio Group and ministerial meetings with the Andean Pact countries, Central America, Mercosur, as well as Chile and Mexico;

⁵² For more about CSDP, see: P. Żurawski vel Grajewski, *Europejska Autonomia Strategiczna i Europejska Suwerenność Strategiczna (1991–2017). Część I*, "Kwartalnik Bellona", no. 2/2022 (709), pp. 46–56.

⁵³ *Dutch Presidency: Priorities* [Archived], "Euractiv", 3 July 2004 (updated 5 June 2012), <https://www.euractiv.com/section/security/linksdossier/dutch-presidency-priorities-archived/>.

⁵⁴ For more information see: G. Bernatowicz, *Proces Barceloński jako jeden z instrumentów polityki śródziemnomorskiej Unii Europejskiej*, "Sprawy Międzynarodowe", no. 4, 2005, pp. 17–36. Cf.: P. Żurawski vel Grajewski, *Wspólna Polityka Zagraniczna i Bezpieczeństwa Unii Europejskiej – aspekt bałtycki i śródziemnomorski*, Łódź 1998, pp. 115–16 and J. Jiménez-Ugarte, Ambassador of Spain to Greece, *He Barcelona Process: Past, Present, and Future. A view from Spain*, pp. 8–20, <https://www.eliamep.gr/wp-content/uploads/en/2008/10/opo101.pdf>.

State	Presidency period	Declared priorities for the EU's CFSP
		<p>EU-Asia relations with dialogue focused on: rule of law, counter-terrorism, non-proliferation of nuclear weapons, economic and trade issues, environmental protection, development and humanitarian aid;</p> <p>Cooperation with ASEM, ASEAN, ARF, the Shanghai Cooperation Council and SAARC. Development of the strategic partnerships with China, India and Japan – EU-Japan summit;</p> <p>Development of the EU's external policy based on the transatlantic partnership and close cooperation with the US, which are an irreplaceable partner for the EU especially with regard to the Middle East and the Balkans, economic cooperation, combating terrorism, non-proliferation of nuclear weapons – organization of the EU-US and EU-Canada summit;</p> <p>Strengthening the ESDP – particular focus on success of the ALTHEA's mission in Bosnia and Hercegovina. Other EU missions which are a priority for Luxembourg included the police mission in Bosnia-Herzegovina, FYROM and Kinshasa, and the mission to strengthen the rule of law in Georgia;</p> <p>Strengthening the EU's civilian and military crisis management capabilities; Cooperation with the European Defense Agency;</p> <p>Initiating a civilian-military early warning and planning cell at the EU headquarters. Preparing to establish an EU operations center by 1 January 2006. Continued implementation of the Action Plan for Civilian Aspects of the ESDP – Civilian Headline Goal 2008.</p> <p>Dialogue with the public opinion and NGOs on improving civilian crisis management;</p> <p>Preparing the financial compensation scheme established as part of the Headline Goal 2010⁵⁵ – preparing a list of orders for 2005 and the new Headline Goal questionnaire.</p> <p>Accelerating the EU's response to crises by establishing EU battle groups and developing their logistics;</p> <p>Development of working methods of the European Security and Defense College;</p> <p>Developing a theory of CSDP's contribution to the fight against terrorism;</p> <p>Seeking ways to improve EU cooperation with the UN, NATO, OSCE and African Union and EU partners.⁵⁶</p>

⁵⁵ Headline Goal 2010, adopted in 2003, replaced the Helsinki Headline Goal 2003 of 1999, which was impossible to achieve. At its core was a plan to establish 13 EU battle groups, each having 1,500 soldiers. For more information see: P. Żurawski vel Grajewski, *Europejska Autonomia Strategiczna i Europejska Suwerenność Strategiczna (1991–2017). Część I*, “Kwartalnik Bellona”, no. 2/2022 (709), pp. 51, 66–72.

⁵⁶ *The Presidency's Priorities*, Luxembourg Presidency of the Council of the European Union, https://www.eu2005.lu/en/presidence/priorities_et_pgm/priorities/index.html#external%20relations.

State	Presidency period	Declared priorities for the EU's CFSP
Austria	1 I – 30 VI 2006	Security and the fight against illegal immigration; Common European Asylum System; Protection of EU's external borders; Stability for the EU's neighborhood – a European perspective for the Western Balkans. ⁵⁷
Finland	1 VII – 31 XII 2006	Middle East conflict – Israeli-Palestinian problems; Improving the effectiveness, coherence and visibility of EU foreign policy; Turkey's accession process and the issue of the Cyprus conflict; Preparing a new EU-Russia Partnership and Cooperation Agreement (PCA) and conducting cooperation in the four EU-Russia Common Spaces; ⁵⁸ Continuing accession negotiations with Turkey and Croatia; The issue of Turkey's ratification of the Ankara Protocol; ⁵⁹ Western Balkans and Kosovo; European Neighborhood Policy in the eastern and southern direction; The Barcelona Process; Transatlantic relations – security and stability, climate change, EU-US Passenger Name Record Agreement; Preparing the 6th EU-Asia Summit (ASEM6); EU summits – China, – India, – South Korea, – Ukraine, – Russia, – Canada; Promoting human rights in the world; Intercultural dialogue; Enhancing the EU's civilian and military capabilities – developing the CFSP and ESDP; a military operation in Congo and a possible operation in Kosovo in the event of a significant civilian crisis; Developing the EU's strategy towards Africa, preparing the EU-Africa summit, working to resolve the conflict in Darfur; Migration policy; Conflict issues in Iraq, Iran's nuclear program and non-proliferation efforts; Preparing new EU-Ukraine Deep and Comprehensive Free Trade Area; Addressing the issue of security of energy supplies in the context of Russian gas blackmail against neighbors of Russia;

⁵⁷ *Main priorities of the Austrian Presidency of the Council of the European Union*, 20 July 2018, European Council, Council of the European Union, <https://www.consilium.europa.eu/en/documents-publications/library/library-blog/posts/main-priorities-of-the-austrian-presidency-of-the-council-of-the-european-union/>.

⁵⁸ For more information about the four EU-Russia Common Spaces (Common Economic Space, Common Space of Freedom, Internal Security and Justice, Common Space of Research, Education, Culture, and Common Space of External Security), see: P. Żurawski vel Grajewski, *Polityka Unii Europejskiej wobec Rosji...*, pp. 283–317.

⁵⁹ *Additional Protocol to the Agreement establishing an Association between the European Economic Community and Turkey following the enlargement of the European Union*, OJ L 254, 30.9.2005, p. 58–68, [https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:22005A0930\(01\)](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:22005A0930(01)).

State	Presidency period	Declared priorities for the EU's CFSP
		Revitalizing the EU Northern Dimension and preparing for the Mediterranean Dimension in view of the upcoming accession of Romania and Bulgaria; Taking into account the interests of the EU internal market in the context of the European Neighborhood Policy; The problem of political Islam. ⁶⁰
Portugal	2007	Developing a European perspective for the Western Balkans; Tackling climate change; Problems of legal and illegal immigration; Counterterrorism; Promotion of European values in the world; A new approach to the Mediterranean region – developing cooperation towards the EU's southern and eastern neighbors as interdependent areas; EU-Africa summit in Lisbon and the development of the EU's strategy towards Africa; Strengthening transatlantic relations – transatlantic economic integration; Intensifying relations with Latin America and MERCOSUL – revitalizing EU-MERCOSUL association negotiations, launching similar EU negotiations with Central America and with the Andean Community (Comunidad Andina de Naciones); Organize the first EU-Brazil summit and initiating EU-Brazil strategic dialogue; Organization of the EU-China, EU-India and EU-Ukraine summits “in close cooperation with European partners to create conditions for progress in the development of EU-Russia relations”; Working for the Middle East peace process and resolving the problems related to the situation in Afghanistan, Iraq and Iran. ⁶¹
Slovenia	2008	Strengthening the European perspective for the Western Balkans; Promoting dialogue between cultures, religions and traditions – establishment of the Euro-Mediterranean University in Piran. ⁶²

⁶⁰ *Presentation on the External Policy Priorities of the Finnish Presidency by Foreign Minister Erkki Tuomioja in Brussels*, 12 July 2006, Speeches, 12.7.2006, Ministry of Foreign Affairs of Finland, https://um.fi/current-affairs/-/asset_publisher/gc654PyS-njTX/content/ulkoministeri-tuomioja-suomen-eu-puheenjohtajakauden-prioriteetit-ulkosuhdeasioissa. Discussed in: S. Carrera, J. De Clerck-Sachsse, Ch. Egenhofer, M. Emerson, D. Gros, E. Guild, S. Kurpas, A. Renda, *Priorities for the Finnish Presidency of the EU*, July-December 2006, “CEPS Working Document”, No. 248/July 2006, pp. 13-20, <http://aei.pitt.edu/7372/2/7372.pdf>.

⁶¹ *Priorities of the Portuguese Presidency of the EU Council (July-December 2007)*, CVCE, 6.09.2012, pp. 3, 5-7, https://www.cvce.eu/content/publication/2007/7/4/od5f5fa9-2aec-409c-b4b1-9180c3aa992d/publishable_en.pdf.

⁶² *Programme and Priorities of the Slovenian Presidency*, Slovenian Presidency of the EU 2008, http://www.eu2008.si/en/The_Council_Presidency/Priorities_Programmes/index.html.

State	Presidency period	Declared priorities for the EU's CFSP
The Czech Republic	1 I – 30 VI 2009	<p>Developing a new EU approach, in the context of “recent steps taken by Russia” (i.e. Russia’s invasion against Georgia – P.Ž.G.), to the upcoming EU-Russia negotiations on the Partnership and Cooperation Agreement (PCA);</p> <p>Cooperation with the Eastern European region – especially with Ukraine and the development of relations with the Caucasus countries.</p> <p>Speeding up preparations for the establishment of the Eastern Partnership, with particular emphasis on the Eastern dimension of the European Neighborhood Policy;</p> <p>Continuing accession negotiations with Turkey;</p> <p>Taking steps in order to achieve the earliest possible accession of Croatia to the EU and to progress the process of Western Balkan countries fulfilling the criteria for EU membership;</p> <p>Continuing the development of the Southern Dimension of the European Neighborhood Policy and the Middle East peace process;</p> <p>Continuing the EU’s emphasis on development cooperation, support for human rights, the rule of law and democracy, and global conflict resolution.</p> <p>Keeping EU policy on track to combat the proliferation of nuclear weapons, their means of delivery and international terrorism;</p> <p>Strengthening the EU-NATO Strategic Partnership.⁶³</p>
Sweden	1 VII – 31 XII 2009	<p>EU Strategy for the Baltic Sea Region;</p> <p>Establishment of the European External Action Service;</p> <p>Continued EU enlargement;</p> <p>EU relations with its neighbors;</p> <p>Strengthening the EU’s crisis management capabilities;</p> <p>Development policy issues, with a focus on the issue of climate change and promoting democracy;</p> <p>Promoting free trade.⁶⁴</p>
Belgium	1 VII – 31 XII 2010	<p>Establishment of the European External Action Service.⁶⁵</p>

⁶³ *Priorities of the Czech Presidency*, European and External Affairs Committee, EUR(3)-02-08, (Paper 2), 3 February 2009, p. 3.

⁶⁴ *Report on the Swedish Presidency of the Council of the European Union 1 July – 31 December 2009*, se2009.eu, pp. 32–41, <https://www.government.se/contentassets/3cef7f96132a4eac96121249dbd5dda2/report-on-the-swedish-presidency-of-the-council-of-the-european-union-1-july--31-december-2009>.

⁶⁵ P. Tokarski, *Belgian Presidency of the EU Council*, “Bulletin” PISM, No. 104 (180), July 15, 2010, pp. 1–2. <https://www.files.ethz.ch/isn/120453/a180-2010.pdf>.

State	Presidency period	Declared priorities for the EU's CFSP
Hungary	1 I – 30 VI 2011	Completing the accession negotiations with Croatia; Maintaining the “political momentum” in the accession negotiations with Turkey, Iceland and in providing a European perspective to Montenegro, Macedonia (FYROM) and the Western Balkans in general; The inclusion of Romania and Bulgaria into the Schengen Area; Adoption of the European Strategy for the Danube Region; Enhancing EU energy security by expanding the interconnector system; Development of the Eastern Partnership. ⁶⁶
Denmark	1 I – 30 VI 2012	Developing the Common European Asylum System (CEAS) in the face of developments in the southern Mediterranean (i.e. the destabilization as a result of the “Arab Spring”); Support for EU High Representative for Foreign Affairs and Security Policy and the European External Action Service. ⁶⁷
Cyprus	1 VII – 31 XII 2012	“Europe in the world closer to its neighbors”. The development of this motto included measures aimed at: Continuing the process of EU enlargement with particular emphasis on relations with countries already granted the candidate status – Turkey and Iceland. Support for the accession negotiation process of Montenegro, Serbia and the European perspective for the Western Balkans. ⁶⁸ European-Mediterranean Partnership; Execution of the EU-Canada Comprehensive Economic and Trade Agreement; EU-China relations on investments; EU-Japan Free Trade Agreement; Exploring the potential for increased EU-US trade; EU-Singapore Free Trade Agreement; ⁶⁹ In accordance with the principles of the Millennium Development Goals, striving in cooperation with other EU partners to reduce global poverty by half by 2015; Respect for human rights, democracy, rule of law, gender equality, good governance and effective aid. ⁷⁰

⁶⁶ Hungary is giving details of its priorities in the Hungarian presidency of the EU, “Analyses” OSW, 24.11.2010, <https://www.osw.waw.pl/en/publikacje/analyses/2010-11-24/hungary-giving-details-its-priorities-hungarian-presidency-eu>. Cf.: *Priorities and programme of the Hungarian Presidency*, pp. 2–3, 5. https://www.europarl.europa.eu/meetdocs/2009_2014/documents/afet/dv/201/201101/20110125hupresiden_cypriorities_en.pdf.

⁶⁷ *Priorities of the Danish Presidency of the Council of the European Union*, Danish Presidency of the Council of the European Union 2012, EU2012.dk, Europaudvalget 2011-12, EEU alm. del Bilag 187, Offentligt, <https://www.eu.dk/samling/20111/almldel/EUU/bilag/187/1059288.pdf>.

⁶⁸ *Objectives. Enlargement*, Cyprus Presidency of the Council of the European Union, CY2012EU, <http://www.cy2012.eu/en/page/enlargement>.

⁶⁹ *EU Trade Commercial Policy*, Cyprus Presidency of the Council of the European Union, CY2012EU, <http://www.cy2012.eu/en/page/trade-policy>.

⁷⁰ *EU Development and Humanitarian Policy*, Cyprus Presidency of the Council of the European Union, CY2012EU, <http://www.cy2012.eu/en/page/development>.

State	Presidency period	Declared priorities for the EU's CFSP
Ireland	1 I – 30 VI 2013	Supporting the EU High Representative for CFSP. Representing the EU in facing global challenges such as hunger, poverty, climate change Using Ireland's election to the UN Human Rights Council to promote those rights Negotiating the TTIP (Transatlantic Trade and Investment Partnership) – EU-USA Fostering peace and democracy in the EU neighborhood Finalizing Croatia's accession process Maintaining the accession negotiation process with Turkey Addressing the European aspirations of Albania Montenegro, Serbia and North Macedonia. ⁷¹
Lithuania	1 VII – 31 XII 2013	Taking steps to strengthen the EU as a global model of openness and security. ⁷²
Greece	1 I – 30 VI 2014	Guarding the EU's external borders, migration and security at sea. ⁷³
Latvia	1 I – 30 VI 2015	European Neighborhood Policy in its eastern and southern dimensions, with a particular focus on the Eastern Partnership; Strengthening the transatlantic partnership, completing TTIP negotiations by the end of 2015; Ensuring progress in negotiations on the EU-Canada Comprehensive Economic and Trade Agreement (CETA) and the EU-Japan Free Trade Agreement. Working on EU Strategy for Central Asia – enhanced discussion on security, border management, energy supply and education exchanges; Post-2015 development goals – focus on sustainable development with an emphasis on gender equality and women's empowerment; Ensuring safety of people – combating threats created by the phenomenon of militant foreigners, development of a new international security strategy accompanied by the management of migration flows and support for stopping the Ebola virus; EU enlargement policy. ⁷⁴

⁷¹ *Programme of the Irish Presidency of the Council of the European Union*, 1 January – 30 June 2013, pp. 9–10 and 13–14, https://emnbelgium.be/sites/default/files/attachments/eu-pres_prog_en_a4.pdf. Cf.: Ireland and the EU: Timeline of key events, *Tithe an Oireachtas / Houses of Oireachtas*, <https://www.oireachtas.ie/en/inter-parliamentary-work/european-union/brief-history/>.

⁷² *Lithuanian EU Presidency Priorities*, Presidency Priorities, Lithuanian Presidency of the EU, Ministry of Social Security and Labour, <https://socmin.lrv.lt/en/activities/cooperation/lithuanian-presidency-of-the-eu>.

⁷³ *Past Greek Presidencies...*, <https://www.mfa.gr/en/foreign-policy/greece-in-the-eu/past-greek-presidencies.html>.

⁷⁴ *Priorities and Programme of the Latvian Presidency. The Presidency and the EU*, Latvian Presidency of the Council of the European Union, <https://eu2015.lv/the-presidency-and-eu/priorities-of-the-latvian-presidency>.

State	Presidency period	Declared priorities for the EU's CFSP
Luxembourg	1 VII – 31 XII 2015	CFSP Development, Organizing the Europe-Asia (ASEM) foreign ministers' meeting in November 2015 in Luxembourg ⁷⁵ Support for humanitarian relief efforts ⁷⁶
The Netherlands	1 I – 30 VI 2016	Migration and international security – common policies on border guarding, immigration and asylum. ⁷⁷
Slovakia	1 VII – 31 XII 2016	Stability, prosperity and democracy in the EU neighborhood. An effective European Neighborhood Policy. Maintaining the momentum of the accession process. Developing relations with the EU's strategic partners. ⁷⁸
Malta	1 I – 30 VI 2017	Addressing the challenge of migration – strengthening and improving the Common European Asylum System. Close cooperation with the European External Action Service to address migration, counterterrorism and hybrid threats. Stabilization of the EU neighborhood, including in particular the southern neighborhood. Activities to restart the Middle East peace process between Palestine and Israel. Ensuring the continuation of the democratic transition process in Tunisia. Contributions to the development of an adequate response by the EU and the international community to the conflict in Syria. Deepening EU-Arab League relations and looking for opportunities to resume EU-Gulf Cooperation Council relations. Eastern enlargement of the EU, including support for Ukraine and ensuring cooperation with Russia on issues of global and regional importance. Maritime Policy – International Ocean Governance and the launch of the Western Mediterranean Initiative. ⁷⁹

⁷⁵ 12th ASEM Asia-Europe Ministerial Meeting took place in November 2015 in Luxembourg.

⁷⁶ *Grand Duchy of Luxembourg Presidency of the Council of the European Union, Program and Priorities Presidency, A Union Created for Citizens*, Le Gouvernement du Grand Duché de Luxembourg, <https://www.consilium.europa.eu/media/56227/2015-jul-dec-lu-priorities.pdf>.

⁷⁷ *The Netherlands Presidency of the Council of the EU*, Epthinktank, European Parliament, 5/6/22, 3:08 PM, <https://www.consilium.europa.eu/media/56230/2016-jan-jun-nl-priorities-short.pdf>. Cf.: The Netherlands Presidency of the European Council 2016, NLU 2016, Press brief, p. 1.

⁷⁸ *Priorities of the Slovak Presidency, Programme and Priorities*, Priorities of the Slovak Presidency, Slovak Presidency of the Council of the EU, 2/6/2018, p. 1, <https://www.consilium.europa.eu/media/56232/2016-jul-dec-sk-priorities.pdf>.

⁷⁹ *2017 Maltese Presidency of the Council of the European Union Priorities*, Malta EU 2017, pp. 2, 4, 6-7, <https://www.consilium.europa.eu/media/56235/2017-jan-jun-mt-priorities.pdf>.

State	Presidency period	Declared priorities for the EU's CFSP
Estonia	1 VII – 31 XII 2017	Support for the <i>EU's Global Strategy</i> Strengthening transatlantic relations and relations with countries covered by the European Neighborhood Policy – in particular the Eastern Partnership Review of the Cotonou Agreement. Strengthening European military capabilities – in particular, taking steps to reach an agreement on spending 2% of GDP on armaments. Putting emphasis on security and cyber defense, in accordance with the EU-NATO Declaration of July 2016. ⁸⁰
Bulgaria	1 I – 30 VI 2018	Carrying on the EU's role as an inspiration for the global political scene and the EU's neighborhood, including the Western Balkans. ⁸¹
Austria	1 VII – 31 XII 2018	Security and the fight against illegal immigration Stability in the EU Neighborhood – EU membership perspective for the Western Balkans/Southeastern Europe. ⁸²
Finland	1 VII – 31 XII 2019	Strengthening the EU's global position as a leader in climate policy action. ⁸³
Croatia	1 I – 30 VI 2020	Defending freedom and democracy Countering hybrid threats Cyber security Encouraging the continuation of the reform process in Southeast Europe and regional cooperation Continuing a credible and effective enlargement policy based on a reaffirmed European perspective for candidate and potential candidate countries from Southeastern Europe and the fulfillment of agreed membership criteria. Preparing the EU-Western Balkans summit in Zagreb. Promoting international development policies to achieve stable development and eradicate poverty. Strategic support, promotion of reforms and strengthening of resilience in the EU's southeastern neighborhood. Strengthening transatlantic relations. Intensifying relations with Asia, Africa, Latin America and the EU's strategic partners.

⁸⁰ *Priority dossiers under the Estonian EU Council Presidency*, Briefing. Outlook for upcoming Presidency, European Parliament, p. 3, <https://www.consilium.europa.eu/media/56238/2017-jul-dec-ee-priorities-eparliament.pdf>.

⁸¹ *Priorities of the Bulgarian Presidency of the Council of the EU*, eu2018bg.bg, p. 1, <https://www.consilium.europa.eu/media/56262/2018-jan-jun-bg-priorities.pdf>.

⁸² 'A Europe that protects' – *Priorities of the Austrian Presidency of the Council of the European Union*, Austrian Presidency of the Council of the European Union, <https://www.consilium.europa.eu/media/56241/2018-jul-dec-at-priorities.pdf>.

⁸³ *EU2019.FI, Finland's Presidency of the Council of the European Union*, p. 4. Cf.: *Sustainable Europe – Sustainable Future*, <https://www.consilium.europa.eu/media/56248/2019-jul-dec-fi-priorities.pdf>.

State	Presidency period	Declared priorities for the EU's CFSP
		Strategic approach to defense and security Conflict prevention and crisis management in cooperation with partners Strengthening the EU's defense capabilities and defense industry. Close cooperation and complementarity between the EU and NATO. ⁸⁴
Portugal	1 I – 30 VI 2021	Promoting the EU as a leader in global climate action A commitment to effective multilateralism and the EU's geopolitical position as a global player. Focus on achieving results in an international partnership to advance and promote the human development debate, particularly in the areas of health, education, gender equality and the perspective of women's empowerment. Working to ensure European leadership in the consolidation of an open, rules-based international trading system, promoting a strong and fair trade agenda. Active participation in the preparation of the 6th EU-Africa Summit, with the intention of consolidating a mutually fruitful partnership. Providing a new political momentum to relations with southern Mediterranean neighbors. Monitoring the challenges faced by Latin American partners. Strengthening dialogue with the US – a strategic partner in all areas – with the intention of realizing the full potential of the transatlantic relationship. Establishing dialogue and cooperation with India in the political, economic and trade area, and hosting a summit of EU leaders with the Indian prime minister in Porto in May 2021. A comprehensive, balanced and fair partnership between the EU and the UK. Promoting deliberations on maritime security based on an updated assessment of threats in important sea areas such as the Gulf of Guinea and the Atlantic. ⁸⁵
Slovenia	2021	Strengthening the EU's strategic autonomy to combat medical threats Strengthening transatlantic ties Focus on the process of integrating the Western Balkans into the EU. ⁸⁶
The Czech Republic	1 VII – 31 XII 2022	Support for Ukraine fighting against the Russian invasion Joint defense with the U.S. and other democratic countries of EU's fundamental values, human rights and liberal democracy. Facing the refugee crisis triggered by Russian aggression against Ukraine Ukraine's post-war reconstruction

⁸⁴ *Priorities*, Hrvatsko predsjedanje Vijećem Europske unije / Croatian Presidency of the Council of the European Union, 1 January – 30 June 2020, EU.2020. HR, pp. 12, 14–15, <https://www.consilium.europa.eu/media/56251/2020-jan-jun-hr-priorities.pdf>.

⁸⁵ *Priorities*, Portugal, <https://www.consilium.europa.eu/media/56257/2021-jan-jun-pt-priorities.pdf>.

⁸⁶ *Slovenian Presidency of the Council of the European Union, Priorities*, <https://www.consilium.europa.eu/media/56260/2021-jul-dec-sl-priorities.pdf>.

State	Presidency period	Declared priorities for the EU's CFSP
		Energy security Strengthening Europe's defense and cybersecurity capabilities Strengthening the EU's strategic economic resilience. ⁸⁷
Sweden	11 – 30 VI 2023	Support for Ukraine and stopping Russian aggression. ⁸⁸

Source: Own study

The 2021 presidency of Slovenia, which identified its priorities in clear response to the COVID-19 pandemic, and even more the presidency of the Czech Republic in 2022 and of Sweden in 2023, deviate from the above list of priorities of the presidencies of small EU states. What undoubtedly affected the boldness and clarity of the priorities they formulated was the large-scale aggression of Russia against Ukraine, which fundamentally changed the security environment in Europe, as well as the geographical position of both countries on the eastern flank of the EU, which was thus transformed into a belt of NATO frontline states.

Conclusions

The attempt to isolate the characteristic behavior of small EU member states in terms of their attitude to institutional issues with a special focus on the decision-making process proved most successful. It is exactly in this area of the political game that the small states appear as a fairly cohesive bloc, and it is in this field that their small scale and potential most strongly determine their political stance.

When it comes to the future of the EU, this cohesion weakens strongly. Scandinavian states tend to oppose deepening EU federalization, while

⁸⁷ *Priorities of the Czech Presidency of the Council of the European Union in 2022*, EU2022.Cz, <https://www.consilium.europa.eu/media/57090/2022-jul-dec-cz-priorities.pdf>.

⁸⁸ *Swedish Presidency of the Council of the European Union Priorities*, <https://swedish-presidency.consilium.europa.eu/en/programme/priorities/>.

other small countries take various positions in this respect – from strongly reluctant (Hungary, Czech Republic) to supportive (Luxembourg, Belgium).

While the role of small EU states in the EU's Common Foreign and Security Policy is very distinctly marked by the small scale of the states in question (ideological radicalism, wide-ranging plans for multi-vectoral actions, forces and resources for which will be given, precisely due to their small size and potential, not by the announcing state, multilateralism), it is determined to the greatest extent not by the size of the state but by its geographic location, its historical and cultural ties to a given region on which they want to focus the EU's instrumentality, and the current political events (war, immigration crisis, terrorist attacks, HIV or COVID epidemics, etc.) that need to be faced at a given time.

The position of small states in the EU changes over time and has been weakening in recent years. The war in Ukraine, which primarily affected the eastern flank of the EU, with Poland as its only large state, attracting the attention of the United States and the United Kingdom to the region, the consolidation of the states of the area around the task of supporting the fighting Ukraine, comprising the bloc from Denmark, Finland and Sweden through the Baltic States to the Czech Republic and Slovakia, and initially also Slovenia, with Poland as the center of this cooperation, with the simultaneous weakening of the position of Germany and France, means that the trend, whereby the position of small states is weakening, may very well reverse. Most probably, this will not be translated into institutional changes in the EU, but may affect EU's political practice and hinder the progress of federalization as threatening the political independence of small states, which, while facing real threats from Russia, cannot agree that decisions about their security would be made against their will and that they would be forced to implement such decisions as a result of the majority voting procedure. Thus, we are probably facing another dispute over the distribution of power and sovereignty in EU decision-making structures. Poland, despite its scale, will probably stand in line with the small states of the EU's eastern flank, as it has similar interests and also faces the same threat – Russia.

PIOTR BAJDA

Small European state – a specific actor in international relations

A sovereign state as an actor in international relations is a basic category in political and legal sciences. In compliance with the doctrine of the international law all states are equal, which has been written down, among others, in 1945, in the Charter of the United States.¹ This equality is even more emphasised in diplomatic law, in diplomatic etiquette in which the size of the represented state does not matter, but the date of submitting letters of credence by the ambassador.² Nevertheless, not only for international relations researchers, but for all observers it is clear that world or even regional powers have a stronger voice, more opportunities of influence and forcing their interests in contact with others. This difference in potential is especially visible when political contacts proceed on the line between power and a small state, where the weaknesses of a smaller partner are sometimes used with absolute resolve. The aim of the article is to analyse the functioning of small European states in the changing geopolitical reality, in the situation of questioning the hitherto global governance. Presentation of undertaken attempts and adopted strategies of dealing with weaknesses especially by small Central European capital cities, which due to historic experiences

¹ In Article 2 of the Charter of the United Nations 'sovereign equality' of all UN Members is referred to, the Charter of the United Nations, the Statute of the International Court of Justice and the Agreement establishing the Preparatory Commission of the United Nation (Journal of Laws of 1947, No. 23, item 90).

² Vienna Convention on Diplomatic Relations, done at Vienna on 18 April 1961, Journal of Laws of 1965, no. 37, item 232.

and geographical location are at a risk of bigger challenges than small Western European states.

The category of a small state is not well described in the international relations science, there is a lack of a commonly recognised and used definition that would be referred to at various occasions. It was accurately observed by one of the international relations theorists, Matthias Maass working at the South Korean University Yonsei, who titled one of his articles: 'Elusive definition of a small state.' The author aptly noticed that paradoxically, with such a large number of small states they are 'surprisingly poorly defined.'³ However, understanding what small states are, according to Maass, is of crucial importance for the science for four reasons: it creates bigger analytical transparency, allows more effective use of statistical data, using applied theoretical framework and capturing the historical context.⁴ This approach also has a pragmatic dimension, as it shows that for the effectiveness of foreign policy it is necessary to consider characteristics of functioning of small states in the international arena. This postulate seems to be even more important in the case of middle power states, as e.g. Poland, which have to do its foreign policy by establishing wider coalitions to balance between powers and small capital cities.

The subject matter of functioning and cooperation with many partners simultaneously is interesting, since in the recent decades we have faced establishment of new entities of international law. It does not mean that the phenomenon of small state creations is exclusively a feature of contemporary times. If we go back to the far history of Europe, then, at the end of the Middle Ages, especially in territories of contemporary Germany and Italy, we could count dozens of more or less independent small states.⁵ Only the 19th century witnessed unification processes

³ M. Maass, The elusive definition of small state, 'International Politics', vol. 46/2009, p. 65.

⁴ M. Maass, *Small States in World Politics: The Story of Small State Survival 1648–2016*, Manchester University Press, Manchester 2017, p. 19.

⁵ Ch. Tilly, Reflections on the history of European state-making, [in:] Ch. Tilly (ed.), *The Formation of National States in Western Europe*, Princeton University Press, Princeton-New Jersey 1975, p. 15.

and development of large empires, which decided on the fate of Europe and disputes between them were the reason for the outbreak of global conflicts.

Today's number of almost 200 states in the world recognised by the international community is a result of three historic processes, which are hardly completed. The first such event in the European continent was the downfall of great empires of the House of Romanov, the House of Habsburg and the House of Osman, which especially in the case of Central Europe allowed establishment of a number of new national states. A more complete process was the decolonisation movement, which after completing operations at the fronts of World War II affected terrains beyond Europe. It coincided with the fight for ideological dominance between Moscow and Washington, one of effects of which was the establishment in 1955 of the Non-Aligned Movement, which formally wanted to remain outside the dispute of the greatest powers of that time.

For the second sudden increase in the number of states, this time mainly in Europe, we had to wait until the Autumn of Nations, democratic transformations that lead to the fall of the iron curtain and regaining sovereignty by capital cities subjected to Moscow dominance for years. The breakthrough that started in 1989 was a victory of liberal democracy in Central Europe, but it was also brought by the process called in the subject literature a phenomenon of defederalisation started in 1991 with a bloody collapse of Yugoslavia and the Soviet Union, and ended with a peaceful division of Czechoslovakia into two independent states with capital cities in Prague and Bratislava.

Events from the beginning of the 90s were not the end of the history of establishment of new states. The newest process is the observed phenomenon of decentralisation, that is, attempts at obtaining independence by regions enjoying autonomy or far-reaching separateness with successful examples provided by the history of establishment of Montenegro or Kosovo, and beyond Europe – South Sudan and East Timor.⁶ It does not

⁶ The theoretical framework of these processes has been presented by, among others, M. Sułek, *Małe państwa europejskie w świetle syntetycznych miar potęgi (Small European States in the Light of Synthetic Measures of Power)*, [in:] D. Popławski (ed.), *Małe państwa europejskie. Specyfika systemu politycznego i aktywności*

close the list of nations aspiring for independence, which results in the fact that it is difficult to consider ongoing political changes in the world as completed. Observing only the Old Continent, it is difficult to foresee the future of Scotland in Great Britain, Catalonia, Corsica or the Basque Country. The fate of para-states, terrains that have de facto become independent of their former capital cities and usually benefit from the protection of the Russian power (Transnistria, Abkhazia, South Ossetia) remains open. This group should be extended with Kurds – the largest nation devoid of a capital city, who has been fighting for an independent state for years. This process is accompanied by the increasing fragmentation in the political map, which is the effect of the phenomenon *terra nullus*, a lack of free areas on earth that could be colonised and provide grounds for establishment of new state creations.

Main features of small states

Given the theoretical framework that the aim of each state in the international arena is to maintain as far reaching autonomy of decision making as possible and the opportunity to influence the course of action in the direction of preferred settlements in relations with other capital cities, achievement of those main objectives of foreign policy for small Central European states will be a bigger challenge. With a small territory, a small number of citizens, a weak army and very often low GDP, the necessity to catch up with modernisation arrears after communist times, all of these factors did not make the implementation of the tasks easy. While analysing the measurable indicators, correlation factors, how particular states have been perceived by other international actors, what roles they have been assigned with, what roles they wish to play in the arena of diplomatic relations and how they compare with their neighbours, should also be taken into consideration. The occurring in this context factor of relativity

międzynarodowej (*Small European States. Characteristics of the Political System and International Activity*), the University of Warsaw – Faculty of Journalism and Political Science, Warsaw 2009, pp. 20–21.

is one of the elements hindering establishment of a commonly recognised definition, since sometimes defining an entity in the category of a small state depends on its neighbours. As illustrated by Erling Bjøl, 'Belgium is a small state in comparison to France, Luxembourg in comparison to Belgium, and France in comparison to the United States.'⁷ In Central Europe, a similar perception often overlaps with complex history, when e.g. Slovakia looks at its Hungarian neighbour as a larger state, which has historically had designs at territories that belong to Bratislava, although both states are included by other international actors and the majority of researchers in the category of small states.

Only after thus outlined frameworks of the subject matter in question, after indicating measurable factors, but also relative elements, one can attempt to propose a working definition of a small European state. Assuming that due to the number of various types of relations and contacts, the most measurable area of analysis will be the European Union with 27 Member States, 4,233.3 thousand km² of territory and 447.7 million of citizens, a small state will be considered below 75% of European average, that is, below 12.4 million of citizens and 110 km² of territory.⁸

It is worth noting what challenges (and sometimes weaknesses) of small states involve, what they are characterised with and how they differ from others. In the case of European capital cities, their small territory in the first place means limited natural resources. There are no examples of states comparable to Qatar, which due to its ores could guarantee a high standard of living to a large number of citizens. Of course, such a country with a small number of citizens and having large energy raw materials resources is Norway, however, in this case (similarly as Sweden and Finland) we deal with a disproportion, a large area with low population. It does not mean that the number of citizens will not have an impact

⁷ E. Bjøl, *The Small State In International Politics*, [in:] A. Schou, A.O. Brundtland (ed.), *Small States in International Relations*, Almqvist & Wiksells Boktryckeri AB, Uppsala 1971, p. 29.

⁸ More: P. Bajda, *Małe państwo europejskie na arenie międzynarodowej. Polityka zagraniczna Republiki Słowackiej w latach 1993–2016 (Small European State in the International Arena. Foreign Policy of the Slovak Republic in the Years 1993–2016)*, Ośrodek Myśli Politycznej and Wydawnictwo Naukowe Uniwersytetu kardynała Stefana Wyszyńskiego w Warszawie, Krakow-Warsaw 2018, pp. 48–51.

on politics, on the possibility of acting in the international arena. It is worth noticing that the first effect of limited human resources will be a smaller range of conducting active diplomacy, it is already visible in the maps of diplomatic representations. Great powers conduct global foreign policy, have their representations practically in each corner of the world, whereas states of average weight cannot afford such luxury and thus, e.g. in the case of Poland we have ambassadors accredited simultaneously in several states of the region, and small capital cities must be even more careful of the location of their representatives to achieve their objectives in foreign policy. In this case, in practice, ambassadors accredited at specific capitals do not reside abroad, but work at their departments of diplomacy and visit them only occasionally.⁹ Another element characterising the approach of small states can be observed in crisis situations such as the uncontrolled inflow of migrants, which we were observing in 2015–2016. For small Central European capitals, often for relatively new states established as a result of defederalisation, a characteristic feature will be higher sensitivity to migration movements, fears of unbalancing the nationalist consensus or causing social unrest. It is worth noticing that a mixed ethnic composition with a large percentage of national minorities is usually characterised with additional susceptibility to crises. Mono-ethnic states (or close to national uniformity) are an exception in Central Europe. In the case of small states of the region, an additional challenge comprises occurrences of internationalisation of ethnic disputes, which are well illustrated by pressures of the European Commission on Latvia in the course of accession negotiations for the latter to liberalise its act on citizenship extending the possibility of obtaining a Latvian passport by Russians residing there.¹⁰ It was quite a distinct interference in a sovereign law of a state acknowledged on the international arena, in areas that belong to its exclusive competence, even if reasoned by humanitarian premises.

⁹ Ibidem: p. 69.

¹⁰ More: A. Szabaciuk, *Polityka etniczna Republiki Łotewskiej* (Ethnic Policy of the Republic of Latvia), *‘Politeja’* 2(41)/2016, pp. 339–342.

A small state also means challenges in the area of the national economy. Apart from the aforementioned lack of access to natural resources, there are additionally limited possibilities of storing energy raw materials, which puts such states at a risk of various crises in the case of cutting off or limiting gas or petroleum supplies. Post-communist transmission lines in Central Europe mainly of a transit nature from East to West only today are supplemented by intersystem North-South connections, which was greatly contributed by the development of the Three Seas Initiative project. A lack of energy raw materials is not the only economic challenge faced by the discussed actors in international relations. The limited number of citizens entails specific challenges in the functioning of the internal market, which in order to obtain a perspective of development must, by definition, become an economy focused on export. In practice of Central European states, lagging after years of communism, it meant openness to the expansion of foreign capital to a larger scale than e.g. in the case of Poland. Additionally, foreign investors had stronger instruments of influencing investment conditions in the case of weaker states, which is well illustrated by the history of public assistance for Kia conglomerate opening its plant in Slovakia, in **Žilina**. It is also worth noticing that extending the currency union beyond founders, was executed by welcoming to the Eurozone small states (Cyprus, Malta, three Baltic states, Slovenia, Slovakia and Croatia), and for some of them currency policy was a relatively new challenge and the possibility of obtaining benefits in the form of attracting international capital not afraid of exchange rate differences was treated as an opportunity. Only the announcement of entering the Eurozone by Romania would be a breakthrough in the hitherto practice.

Another important feature characterising small European states is the weakness of their military forces, which is especially visible in a situation when the international order is questioned. There is only one case in the world – Israel, which despite limitations resulting from the number of population and territory, due to its internal mobilisation in the face of a threat from neighbours and immense support given by allied powers, became a nuclear power and one of the most modern economies with impact not only on the Middle East region. Small Central European states

do not have the possibility to follow the Israeli path of development and building a strong army with a deterrent power, and thus are doomed to international cooperation and collective defence. It is well illustrated by the Military Strength Ranking published by Global Firepower at the beginning of 2023, in which 145 states in the world were covered with the analysis using various indicators. In the last comparison Poland took 20th place and was described as a growing military force (with Pakistan, Indonesia, Ukraine and Vietnam) and overtook, among others, the Federal Republic of Germany. Romania was placed below (47th place) and overtook the Czech Republic by one place. Other states of the region were ranked worse, Hungary in 54th place, Slovakia – 67th and Slovenia – 86th. Whereas, the scale of the challenge for small states in the area of safety can be proven by the position of the Baltic states (Lithuania – 83rd, Latvia – 95th, Estonia – 104th) or Moldova at the very bottom of the ranking – on the 143rd position.¹¹

The list of weaknesses and challenges faced by small states should be extended by one more related to recognisability, which is an additional element weakening its position in the international arena, if proper determination of a partner is difficult. A good example from Central Europe can be commonly mistaking Slovakia with Slovenia by global leaders, wrongful play of hymns during official meetings or, as noticed by the editors of politico.eu in one of the European capital cities, the necessity to regularly exchange by Slovenian and Slovak diplomats wrongfully address correspondence.¹² The issue with recognisability poses a challenge not only for the smallest states of the Central European region, but even for the seemingly much more traditionally grounded Czech Republic. In 2016, the Czech journalist, Adam Brandejs triggered a hot discussion, when he entitled one of his text: ‘22 reasons why it would be better to be born as a Pole.’ In one of the presented points, he stated that abroad Czechs are mistaken for Poles, therefore, it is better to be

¹¹ All data as in the Global Firepower Ranking, <https://www.globalfirepower.com/countries-listing.php> [access: 15.01.2023].

¹² Slovenia and Slovakia: the lands of confusion, <http://www.politico.eu/article/slovenia-and-slovakia-the-lands-of-confusion-2/> [access: 15.01.2023].

a Pole than a Czech.¹³ A prove of Czechs' care of their image is not only this one article, but it is worth paying attention to the last discussion around the English version of the name of the state and promoting the use of the formula: 'Czechia' instead of the hitherto commonly used: 'the Czech Republic', which was noticed in foreign media on the occasion of the last presidency of Prague in the European Union.¹⁴ Another interesting case of struggling with the image is found in Slovakia, which gained independence on 1 January 1993 as a result of the dissolution of the Czechoslovak Federation. However, after several months of functioning as a sovereign state, the majority of Slovaks (60%) expressed worries about the future, and only 32% of respondents were happy with the division of the Czechoslovakia.¹⁵ Some reminiscences of those worries can be the results of the research on public opinion conducted at the end of 2022, that is, on the eve of the 30th anniversary of establishing Slovakia. In the conducted survey only 45.8% of Slovaks consider independence of their state as beneficial in contrast with 44.6% of not satisfied Slovaks.¹⁶ On the contrary, independence was welcomed enthusiastically by Lithuanians, Latvians and Estonians.¹⁷

The above examples show that a model Central European small state must tackle a lot of problems every day. In economic terms, they deal with the weakness of their economy, usually a lack of their own energy raw materials, sensitivity to all types of crises, the effect of which can be

¹³ A. Brandejs, 22 důvodů, proč by bylo dobré narodit sa jako Polák a ne jako Čech, <https://g.cz/22-duvodu-proc-by-bylo-dobre-narodit-se-jako-polak/> [access: 20.01.2023].

¹⁴ What's in a name? Czechs learn to live in 'Czechia', <https://www.euractiv.com/section/languages-culture/news/whats-in-a-name-czechs-learn-to-live-in-czechia/> [access: 20.01.2023].

¹⁵ More: P. Bajda, *Elity polityczne na Słowacji. Kręta droga do nowoczesnego państwa (Political Elites in Slovakia. A Switchback to a Modern State)*, the Institute of Political Studies of the Polish Academy of Sciences and Instytut Wydawniczy PAX, Warsaw 2010, p. 60.

¹⁶ Preskum: Rozdelenie ČSFR považuje za prínos 45,8% respondentov, <https://www.teraz.sk/slovensko/prieskum-rozdelenie-csfr-povazuje-za/683703-clanok.html> [access: 20.01.2023].

¹⁷ A. Kasekamp, *Historia państw bałtyckich (The History of the Baltic States)*, the Polish Institute of International Affairs, Warsaw 2013, pp. 180–183.

a limitation of the transmission or even blockade of the access to gas and petroleum. At the same time, a small number of citizens residing in small states causes natural limitations for the internal market, forcing opening of its own economic space to pro-export investment in a vast majority of a foreign nature. Small states are also militarily weak, which causes their exceptional sensitivity to all types of crises in the global architecture of safety. If we add the aforementioned image issues, challenges in the area of recognisability, in effect, we will receive a relatively complete image of states struggling with political weakness and forced to strive for attention of larger actors in the international arena. An answer to the challenges is provided by various types of adopted strategies allowing coming into existence, finding satisfactory roles to play in international relations, in order to find recognition of other capital cities, even in a situation of being treated unequally.

The most frequent strategies adopted by small states

The most important strategy is aimed at addressing the majority of weaknesses of small states is accession to defence alliances and political-economic associations. Thus, in the case of Central European capital cities, a natural move was striving for membership in NATO and the European Union. The only slightly visible difference consisted in placing emphasis on the importance of particular integration processes. The Baltic States that have felt constantly threatened by the Russian Federation, were aware that in order to reinforce their international position it was necessary to join the European Union and NATO. Starting integration with the North Atlantic Alliance became possible with withdrawal of the Russian army in 1994 and joining the Partnership for Peace programme. Also the consent to deepen European integration, first accession to the Schengen Area, and then accession to the Eurozone (Estonia in 2011, Latvia – 2014, Lithuania – 2015) constituted additional elements of the security construction of the Baltic States, since any aggression would also

hit the stability of Western markets.¹⁸ Another interesting case of the process of integration with European and transatlantic structures is the contemporary history of the Slovak Republic. It does, in fact, show the impact of internal political conflicts on the dynamics of relations with the EU and NATO. Due to the severe disagreement between the Prime Minister, Vladimír Mečiar and the President, Michal Kovač and then opposition, as well as breaking democratic procedures by the rulers, when in 1997 a decision was made on inviting first Central European states to the EU and NATO, Slovakia was not included in these processes and especially in the years 1994–1998 dangerously drifted in the direction of cooperation with Moscow.¹⁹ While, accession to the currency union in 2009 was used for several business environments friendly with those in power to earn significant incomes on exchange rates.²⁰

Of course, integration with military and political-economic alliances is not the only strategy of international activity adopted by small Central European states. Engagement in the regional cooperation constitutes an important element of building their position in the world, overcoming the lack of recognisability of general improvement of their attractiveness. The importance of regional groups can be proven by the fact that a lot of such formats have been established since the fall of the iron curtain and regaining sovereignty by Central Europe. What is interesting, only the first of them, inaugurated in 1989 under the name of Quadragonal (then Pentagonal, Hexagonal, and today finally the Central European Initiative, CEI) was established on the initiative of external actors of Italy and Austria. Another, such as: Visegrad Group, the Central European Free Trade Agreement, the Baltic Assembly, Craiova Group, the Bucharest Nine, Slavkov trilateral, the Central Five, the Lublin Triangle, and finally the biggest one of them all – the Three Seas Initiative, are original and autonomous initiatives of leaders of particular Central European capital cities, which are intended to act as a response to the observed

¹⁸ More on the path of the Baltic States to the EU and UN: A. Kasekamp, *op.cit.*, pp. 198–204.

¹⁹ P. Bajda, *Elity polityczne ... (Political Elites...)*, *op.cit.*, pp. 108–115.

²⁰ *Ibidem* pp. 212–214.

weaknesses and various types of deficits (political, economic, defensive) at a given moment.

A good illustration of these processes is the history of the Visegrad Group²¹ and establishment thereof in February 1991. Today, this most recognisable symbol of Central Europe could not have been established, since its institution was a secondary activity. It is worth, in fact, being aware that the main author of the conception of developing an autonomous format of regional cooperation – the then president of Czechoslovakia, Václav Havel – in the first stage wanted to build a new Central Europe without Poland. During the international conference organised by him in April 1990, in Bratislava, with participation of a delegation from Poland, Hungary, Austria, Yugoslavia and Italy, he proposed developing a platform for regional cooperation based on Adriatic-Danube states, and for Warsaw he planned the role of the centre of Northern Europe which would achieve its main political objectives in the Baltic Sea Region together with Baltic states then aspiring for regaining independence.²² While attempting to understand this reasoning one should assume that in the then conditions such plans were of a rational nature. Havel, as the leader of Czechoslovakia, a declared small state, wanted to keep his country as far as possible from any more or less probable problems. At that time Poland, in tough negotiations with the Federal Republic of Germany concerning confirmation of its Western border and in a dispute with Moscow regarding support for independence aspirations of the Baltic States and Ukraine, was not a preferred partner for cooperation. Paradoxically, these initial assumptions of Havel in the next few months were subjected to a radical transformation. The growing nationalist conflicts in Yugoslavia that ended with a collapse of the state a moment later, a lack of a real interest of Vienna in adopting a traditional role of the leader in the Central European region, resulted in the necessity of verifying

²¹ First, in the form of the Visegrad Polish-Czech and Slovak-Hungarian Triangle, and since 1993 an establishment of independent Slovakia and the Czech Republic known as cooperation of four states, also referred to as V₄ (Visegrad Four).

²² Projev prezidenta ČSFR Václava Havla na setkání představitelů Polska, Československa a Maďarska, Bratislava, 9. Dubna 1990, <https://archive.vaclavhavel-library.org/File/Show/157123> [access: 27.01.2023].

initial plans. The perspective of remaining in the format of cooperation only with Hungary in the Adriatic-Danube region resulted in Havel, half a year later, noticing in Poland a key element of a new form of regional cooperation in Central Europe. Thus, less than a year later, Vacláv Havel himself wrote the draft of the Visegrad Declaration adopted at the castle on the Danube, initiating formal cooperation in the Polish-Hungarian-Czechoslovakian triangle. Whereas, the shape and then adopted forms of cooperation characterise well the model manner of functioning of leaders of small states. The document initiating establishment of the Visegrad Group itself – ‘Declaration on Cooperation between the Czech and Slovak Federal Republic, the Republic of Poland and the Republic of Hungary in Striving for European Integration’²³ – indicates the auxiliary nature of the entire initiative. The main aim was, in fact, using this new format of regional cooperation to strengthen its international position on the path to European structures, therefore, it was not a cooperation for the sake of the states involved, focusing on the internal integration of the then three post-communist Central European states, but it was from the very beginning focused on activity addressed at an external recipient. It would be even justified to propose a thesis that the Visegrad Declaration was a kind of an appeal addressed at Western states to notice and appreciate the fact that a centre stabilising the region was being established in the centre of Europe, which was especially visible in the context of collapsing Yugoslavia and Soviet Union.²⁴ Another element indicating the auxiliary nature was the initial assumption that the Visegrad Group will have a nature of non-institutionalised structure. Therefore, until today

²³ Full text of the declaration available on the official website of the Visegrad Group: <https://www.visegradgroup.eu/documents/visegrad-declarations/deklapl> [access: 28.01.2023].

²⁴ More: P. Bajda, *Współpraca Wyszehradzka – nowe wyzwania w zmieniającej się Europie. Ocena polskiej prezydencji w V4 2012/13. Od minilateralizmu do makroregionu (Visegrad Cooperation – New Challenges in Changing Europe. Evaluation of the Polish Presidency in V4 2012/13. From Minilateralism to Macroregion)*, [in:] K. Koźbiał (ed.), *Europa Środkowa – Central Europe*, volume 3: *Instytucje demokracji bezpośredniej, zagadnienia systemów politycznych i współpracy regionalnej w Europie Środkowej (Institutions of Direct Democracy, Issues Regarding Political Systems and Regional Cooperation in Central Europe)*, Cavalry Captain Witold Pilecki State University of Małopolska in Oświęcim, Oświęcim 2015, pp. 190–191.

V₄ does not have its own status, secretariat, president or budget, which are the construction components of international institutions. A lack of willingness to institutionalisation was also dictated by fears that such a process of establishing a permanent structure could be treated in the West as an argument not to offer to Central European states membership in the European Union, since they have created something alternative. The informal nature of the Visegrad Group also has its internal dimension, since it protects the interests of smaller states against dominant position and, the largest in terms of territory and population, Poland, since in compliance with the binding rules, a consensus is required to make a decision within V₄.

In one more dimension the functioning of the Visegrad Group shows the model behaviour of small states well. It is worth noticing that as of establishment of V₄ until now, this format of cooperation has not been enlarged by new members, and through this period of time, several states of the region such as Lithuania or Romania, have been trying a few times, more or less formally, to gain accession thereto. An even more interesting case is the history of contacts between Slovenia and the Visegrad Group. According to the Slovenian diplomat with many years of experience, Stanislav Vidovič (former ambassador in the USA, and currently in Ireland) Ljubljana allegedly had a proposition of membership in V₄, but rejected it. Ambassador Vidovič considered this decision to be a historical mistake and underlined that 'Ljubljana should be more humble and currently, it would not allow itself to make such a mistake.'²⁵ Finally, Slovenia became one of the more important partners in the so-called format Visegrad plus (V₄+) activated in 2000, that is, an adopted formula that allowed opening the Visegrad cooperation for interested states without the necessity to accept new members.²⁶ Since then, representatives of other states interested in the theme can be invited to the

²⁵ More: P. Bajda, *Małe państwo europejskie... (Small European State...)*, op.cit., pp. 62–63.

²⁶ An interesting analysis of the relation of Slovenia with the Visegrad Group was proposed by A. Orosz, *Relation of Slovenia and the V₄ from perspective of changing foreign policy*, 'Journal of European Perspectives of the Western Balkans' vol. 7, number 2 (13), October 2015, pp. 45–48.

meetings organised under the auspices of the Visegrad Group. Furthermore, the V4+ format is used for the organisation of diplomatic summits with leaders of states outside the Central European region. During Polish presidency in the Visegrad Group (July 2012 – June 2013),²⁷ in this manner a meeting was organised in March 2013 of Visegrad Prime Ministers with the Chancellor of the Federal Republic of Germany, Angela Merkel and the President of France, Françoise Hollande, and three months later, with the Prime Minister of Japan, Shinzō Abe. Especially the second event will be one of the elements characterising activity of small states in the international arena showing how the format of regional cooperation can be used for promotion of smaller capital cities. It is difficult to suppose that leaders of states distant from Central Europe such as e.g. Japan would find it worthwhile to come to bilateral meetings with politicians representing small capital cities, with whom the economic cooperation is of a marginal character for Tokyo in comparison to the largest markets. However, the possibility of participating in a meeting of a multilateral character, showing the far-reaching cooperation of Visegrad states gained a completely different dimension. The fact is that the format of cooperation V4+Japan is of a permanent nature, meetings are organised regularly, and at the aforementioned summit in June 2013 a broad outline of common activities covering not only economic affairs but also defence, energetic and cultural issues, was agreed on.²⁸

The strength of the example of the Visegrad Group and the need to establish similar institutions can be evidenced by the fact that V4 is of an inspiring nature. After unsuccessfully completed by Romania

²⁷ Presidency in V4 was introduced in 2000, in order to improve coordination of undertaken measures, and as of then, the state holding the presidency in V4 is the organiser of the annual agenda of events, presidency begins on 1 July of a given year and lasts until the end of June of the following year. The following order of states holding the presidency in V4 has been adopted: Poland, Hungary, Slovakia, the Czech Republic.

²⁸ Visegrad Group plus Japan Joint Statement. Partnership based on common values for the 21st century, in: P. Bajda (ed.), Raport polskiego przewodnictwa w Grupie Wyszehradzkiej lipiec 2012 – czerwiec 2013 (*Report of the Polish Presidency in the Visegrad Group, July 2012 – June 2013*), the Ministry of Foreign Affairs of the Republic of Poland, Warsaw 2013, pp. 57–62.

attempts at gaining membership in the Visegrad Group, in April 2015, on the initiative of Bucharest, the Craiova Group was established,²⁹ and Bulgaria, Greece and Serbia were invited to cooperate within this group. According to the media information, V4 was an example for the Romanian Prime Minister, Victor Ponta of organising a regional cooperation.³⁰ Therefore, once again the Visegrad Group was treated as a model solution, as in 1991, the aim of the meeting of Visegrad leaders was to support integration pursuits with Western European institutions such as in the case of the Craiova Group one of the objectives was providing Serbia with assistance in accession to the European Union.

It is worth underlining the declared auxiliary function in the case of Serbia's participation in the Craiova Group, since this will be one of the crucial indicators of activity of small states in the international arena. Small capital cities must find a proper niche for themselves, their own task which will distinguish them and primarily, unburden large actors in international relations so that they can deal with more important challenges. This mechanism is more specifically visible in Central Europe. Wishing to gain prestige in the international area, in the described case with the European Union, a small state has to contribute to the EU added value, propose taking over some tasks of a community nature. A good example of such a model action can be the politics of the Slovak Republic towards Western Balkans, and its engagement is evidenced by the fact that virtually in each exposé of new Prime Ministers, the post-Yugoslavian region occurs as one of the priorities of the foreign policy, as well as in the strategic documents of the diplomacy department. Bratislava's interest in this region is of a permanent nature, resulting from historically grounded, traditional friendship. One of the Slovak researchers of international affairs, Milan Nič aptly indicated that 'Balkans are for us the nearest post-conflict area in terms of geography, linguistics

²⁹ The name of the format of the cooperation between four states comes from the city of Craiova in Southern Romania, where prime ministers initiating the cooperation met.

³⁰ Sofia News Agency, Bulgaria, Romania, Serbia Establish Craiova Group for Cooperation, Bulgaria, Romania, Serbia Establish Craiova Group for Cooperation – Novinite.com – Sofia News Agency [access: 28.01.2023].

and history. With some nations we had been for centuries a part of the Habsburg monarchy, which was competing with the Turkish and Russian empire for the position of a hegemon in this region.³¹ These occurrences result in Bratislava offering on the European area to play the role of an expert in the Balkan issues, to be a centre with knowledge and experienced staff, who can engage in solving problems of that area on behalf of the entire community. Speaking of human resources, for example, former Slovak Minister of Foreign Affairs, Miroslav Lajčák, who in his long diplomatic career was in 2006 a special observer of the EU and a plenipotentiary of the head of Union diplomacy, Javier Solana for independence referendum in Montenegro, High Representative of the EU for Bosnia and Herzegovina (2007–2009), and as of April 2020 – he has acted as the plenipotentiary of the Council of the EU responsible for dialogue between Serbia and Kosovo, and other matters related to Western Balkans.³² Slovak commitment to Western Balkans allows larger European capital cities to engage in solving more serious problems, which are of a more vital importance for them. A similar mechanism can be observed in the case of Lithuania's policy to support anti-Lukashenko Belarusian opposition. Vilnius hosts Sviatlana Tsikhanouskaya, who in August 2022 announced establishment of an emigration government ready to take over power in Belarus after the downfall of the regime of Alexander Lukashenko. An important gesture was also adopting by Sejmas – Lithuanian parliament, a resolution recognising Sviatlana Tsikhanouskaya as validly elected President of Belarus.³³

³¹ M. Nič, *Balkánsky podbrušok Európy: spomalená integrácia*, [in:] T. Valášek, M. Nič, B. Jarábuk, J. Batora, K. Hirman, J. Kobzová, *Bruselienie valašiek. Naša zahraničná politika po novemu*, Kalligram, Bratislava 2010, p. 77.

³² *Belgrade-Pristina Dialogue: EU appoints a new Special Representative*, Council of the EU Press release, 3 April 2020, *Belgrade-Pristina Dialogue: EU appoints a new Special Representative – Consilium* (europa.eu) [access: 29.01.2023].

³³ More on the policy of Lithuania with regard to the Belarusian crisis: J. Hyndle-Hussein, *Wilno skreśla Łukaszenkę. Litewska polityka wobec kryzysu na Białorusi (Vilnius Cancels Lukashenko. Lithuanian Policy Concerning the Crisis in Belarus)*, 'Komentarze OSW' no. 352 18.09.2020, *Wilno skreśla Łukaszenkę. Litewska polityka wobec kryzysu na Białorusi* (osw.waw.pl) [access: 29.01.2023].

Conclusion

Small European states are specific actors in international relations, and have to struggle with a lot of weaknesses (political, economic, defensive and even image-related) that force them to adopt relevant strategies reinforcing their position in the uncertain world. A basic form consisted in obtaining membership in the most important Euro-Transatlantic integration institutions with the European Union and NATO at the head. However, implementation of this plan does not allow them to adopt a passive attitude, they have to continuously remind of their existence with their activity. Therefore, in order to develop their position they are trying to engage at a regional level, as well as taking on the role of a centre offering good services to the benefit of the coordination of activities aimed at solving crises important for the entire European community, but not being the biggest threat, from the perspective of the strongest political centres in Europe.

Small Central European states as sovereign subjects of international law in the perspective of EU homogenisation efforts – formal aspects

Introduction

In the case of small states, it is difficult to speak of unique legal regulations that would shape their international legal situation, except perhaps for special ways of allocating the number of votes in various international organisations. Fundamental importance is given to the sovereignty of a state, which, by definition, has no regard for the size of the entity in question. According to Article 2(1) of the UN Charter,¹ „The [United Nations] Organisation is based on the principle of the sovereign equality of all its Members,” which can undoubtedly serve as a reference point for viewing the sovereignty of states as such, and especially with regard to small Central European states.² In addition, it is a principle of

¹ The Charter of the United Nations, the Statute of the International Court of Justice and the Agreement Establishing the United Nations Preparatory Commission (Journal of Laws of 1947, No. 23, item 90).

² See also United Nations General Assembly Resolution 2526 (XXV) of October 24, 1970 (containing the Declaration of Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. Its provisions imply that all states are endowed with sovereign equality – conceding its fundamental importance „and stressing that the purposes of the United Nations can be implemented only if States enjoy sovereign equality and comply fully with the requirements of this principle in their international relations.” Sovereign states have equal rights and obligations, and are equal members of the international community despite their differences, primarily economic, social and political. „In particular, sovereign equality includes the following elements: a) States are judicially equal; b) Each State enjoys the rights inherent in full sovereignty; c) Each State has the duty to respect the personality of other States; d) The territorial integrity and political independence of the State are inviolable; e) Each State has the right freely

international law that the authorities of any recognised state – regardless of its size – are entitled to the same range of diplomatic immunities and privileges,³ which also confirms the absence of consideration of the size of the state in the prospect of possible imposition of solutions aimed at its loss of (*de facto*) subjectivity.

In order to determine the position of small states as actors functioning in the international arena, it will be fundamental to determine their formal subjectivity – to identify the grounds for recognizing them as sovereign subjects of international law. Nevertheless, somehow naturally, much of the analysis of the title issue escapes purely legal consideration. This statement is reflected not only in the scope, but also at least in the research methodology, similar to that used in political science, for instance. This allows a freer formulation of theses, although in each case the formal aspect of the issues raised will be important.

The concept and outline of the legal international situation of small Central European states

On the one hand, the understanding of the term „small state” is intuitive and does not seem to pose problems at first. However, it turns out that some more precise description of it should be adopted, and perhaps even a definition.⁴ Particularly since some states classified as small and accepting such a qualification for even a longer period of time may

to choose and develop its political, social, economic and cultural systems; f) Each State has the duty to comply fully and in good faith with its international obligations and to live in peace with other States.”

³ See, for example, the preambles of the annexes to the Vienna Convention on Diplomatic Relations, drawn up in Vienna on April 18, 1961. (Journal of Laws of 1965, No. 37, item 232) and the Vienna Convention on Consular Relations, drawn up in Vienna on April 24, 1963. (Journal of Laws of 1982, No. 13, item 98), which *expressly verbis* refer to the „sovereign equality of states.”

⁴ The literature notes the difficulty of formulating a definition of a „small state.” See e.g.: P. Bajda, *Małe państwa europejskie na arenie międzynarodowej. Polityka zagraniczna Republiki Słowackiej w latach 1993–2016*, Krakow-Warsaw 2018, pp. 31–33, 36; M. Maass, *The elusive definition of the small state*, “International Politics”, 2009 vol. 46, p. 65. It is also worth distinguishing between a „small state” and a „microstate”

find it inconvenient for them for some reason and, without changing the circumstances and formal conditions, seek to change the existing qualification. For example, at the end of 2022 and the beginning of 2023, the Prime Minister of the Czech Republic, Peter Fiala began to refer to his state as a medium-sized state,⁵ although until then it was widely accepted to treat the Czech Republic as a small state.

Undoubtedly, the size of a state's territory and the number of its citizens will play a role in classifying it as a small state. These two elements also largely determine a state's position on the international stage. In particular, the number of residents or citizens (depending on the circumstances and issues addressed) of a state determines its impact on international (political) reality. In the European Union, for example, it is „fundamental to the size of national representation in the European Parliament and other Community bodies. Moreover, after the entry into force of the Lisbon Treaty, the size of the population plays a special role in qualified majority voting in the European forum.”⁶

Naturally, even small states strive, because they must, for the highest possible place on the international stage. The only way out for them is to pursue very smart policies – including defence and social policies that could compensate for natural weaknesses due to their small territory.⁷ Switzerland is doing this by becoming the banker of the world, backed by its neutrality, but it is necessarily unique. Unattainable even for (theoretically) neutral Austria. Other states can build their position by developing their military potential (e.g., Israel), using the diaspora (here, of course, Israel also comes to the fore) or selling natural resources (here, too, non-European states can be used as an example Qatar and Kuwait).

or „protectorate” – see R. Bierzanek, J. Symonides, *Prawo międzynarodowe publiczne*, Warsaw 1992, pp. 124–125.

⁵ Prime Minister P. Fiala in his New Year's address said: “Jsme významná, středně velká evropská země”. The entire speech is available on the Czech government's website: Novoroční projev předsedy vlády Petra Fialy, <https://www.vlada.cz/cz/clenove-vlady/premier/projevy/novorocni-projev-predsedy-vlady-petra-fialy-201915/> (accessed 8 February 2023).

⁶ P. Bajda, op.cit. p. 16.

⁷ See M. Machiavelli, *Książę (The Prince)*, Wrocław–Warsawa–Kraków 1969, pp. 46–47.

Others, such as Slovakia and the Czech Republic, must seek some sort of uniqueness, specialisation, which they will be able to use to sort of make others dependent on them or simply use their voice when voting in international forums or international organisations, including in the European Union. However, the latter possibility can hardly be considered formative to sovereignty. With that said, as Piotr Bajda notes, „even the richest and most economically developed small international actors (Luxembourg, Switzerland, Israel, Kuwait, Qatar) will never be major players in world politics, but it is hard to deny their lack of visibility or ability to mobilize the international community in crisis situations for them. Such a position and ability is an unattainable goal for many new, and small, subjects of international law.”⁸

In the case of small states of our region, i.e. Central European (Slovakia, Czech Republic), Baltic (Lithuania, Latvia and Estonia) or Balkan (Slovenia, Croatia), the international position can be shaped primarily by the formation of formal or informal alliances⁹ – here, by definition, it is possible to act sovereignly or, as it was already mentioned, a kind of trading of one’s voice, using the needs of larger players or yielding to their influence.

In the Central European space, two states with recently terminated their federation seem to have a special situation – the Czech Republic and Slovakia, of course. This uniqueness from the point of view of the title issue can be manifested, for example, in a different approach to issues related to the formation of joint blocks, or *ad hoc* agreements on the one hand – it is easier to reach an agreement if you have similar legal regulations (both Czech, and Slovak legal doctrine and jurisprudence often and freely refer to the views, jurisprudence and even legal regulations of their recent partner in the Czechoslovak federation), and on the other

⁸ Bajda P., op.cit. p. 17.

⁹ Montesquieu, for example, was convinced of the desirability of such measures taken by small states. See Montesquieu, *O duchu praw (On the Spirit of Laws)*, Kęty 1997, p. 118.

hand, it can lead to special sensitivity to homogenisation aspirations, depriving independence, sovereignty of states.¹⁰

The concept of sovereignty

In public law (primarily constitutional and international law), sovereignty is generally understood in two ways. Either as internal sovereignty – that is, the sovereignty of a nation or people, sometimes referred to as full authority, or as external sovereignty – that is, the sovereignty of a state, sometimes referred to as self-rule.¹¹ At the same time, the two aspects combine to interact with each other. Under the conditions defined by democracy, it can be said that the sovereignty of the state is basically derived from the sovereignty of the nation/people.¹²

It is impossible to agree with the views expressed in the literature, according to which membership in international organisations in general, or in the European Union (under the conditions of European integration) in particular, requires a „redefinition of the concept of sovereignty.”¹³

¹⁰ For once they have decided to be independent, they particularly value this independence.

¹¹ See K. Walczuk, *Zasada suwerenności Narodu*, in: M. Bożek, M. Karpiuk, J. Kostrubiec, K. Walczuk, *Zasady ustroju politycznego państwa*, Poznań 2012, p. 105; Uziębło P., *Suwerenność ludu (narodu)*, in: A. Szmyt (ed.), *Leksykon prawa konstytucyjnego. 100 podstawowych pojęć*, Warsaw 2010, p. 584; E. Ehrlich, *Prawo narodów*, Krakow 1947, p. 104; P. Winczorek, *Konstytucja RP a prawo wspólnotowe*, “Państwo i Prawo”, 2004 No. 11, p. 6. On various aspects of sovereignty, intervening from the point of view of the title issue, see also M. Dobrowolski, *Zasada suwerenności narodu w warunkach integracji Polski z Unią Europejską*, Lublin 2014; A. Gerloch, *Legitimita státní moci a její suverenita*, in: A. Gerloch, J. Hřebejk, V. Zoubek, *Ústavní systém České republiky*, Plzeň 2022, pp. 102–107; J. Maritain, *Člověk a stát*, Praha 2007, pp. 47–49; L. Cibulka a kol., *Ústavné právo. Ústavný systém Slovenskej republiky*, Bratislava 2014; P. Holländer, *Základy všeobecné státovédy*, Plzeň 2009, p. 82; M. Posluch, *Suverenita štátu, územie a obyvateľstvo*, in: M. Posluch, L. Cibulka, *Štátne právo Slovenskej republiky*, Šamorín 2009, p. 19.

¹² Of course, the situation is different for states that are not democracies, where the sovereign authority is an entity other than the people.

¹³ See W. Jedlecka, *O konieczności redefinicji pojęcia suwerenności w kontekście integracji europejskiej*, „Przegląd Prawa i Administracji”, 2013 No. 95, pp. 47–62 and footnotes therein.

It is true that sovereignty can be understood in different ways, but its core of meaning is immutable, and the desire to limit the sovereignty of member states cannot be the basis for changing the concept as such. Limitation of sovereignty must be referred to precisely as limitation, and deprivation of sovereignty as deprivation, not as „another form of sovereignty.” The assertion that „from the perspective of the sovereignty of the nation, membership in European structures can be understood not as a loss of sovereignty (as it was on the basis of the classical view of this principle), but as an expression of the state’s ability to decide for itself and as a manifestation of gaining influence over such spheres of relations in which the state was previously completely absent”¹⁴ can hardly be considered correct. Breaking the thermometer does not make the fever go away, so adjusting the definition of sovereignty to fit the circumstances will not make the state or sovereign authority have it, despite the fact that it may lose some of it, transfer it, for example, to the European Union. „The classic definition of sovereignty” is sufficient to describe the reality, including those related to the functioning of the EU.¹⁵

In the case of full authority, sovereignty will mean the ability of the sovereign authority to shape the internal situation of the state in the broadest sense. Depending on the form of organisation of the state, the political system within it, the sovereign authority will be an individual (e.g., monarchy and its equivalents) or a collective entity with a narrow (e.g., oligarchy and its equivalents) or broad scope (e.g., democracy and its equivalents).

External sovereignty, on the other hand, is characterised by the sovereign authority’s ability to independently and unrestrictedly shape the international situation of the state, both within the framework of public international law (*sensu largo*) and Community (or what is referred to as supranational) law, including the law of the European Union.

It can be assumed that the legal significance of the principle of sovereignty in both contexts – internal and external – lies primarily in: a) enabling the sovereign authority to participate directly in the exercise

¹⁴ M. Granat, *Prawo konstytucyjne. Pytania i odpowiedzi*, Warsaw 2019, p. 94.

¹⁵ See K. Walczuk, *Analysis of the directions...*, pp. 14–15.

of power; in today's practice, this takes place alongside forms of indirect – by representatives – exercise of power, and b) the obligation of the sovereign's representatives to refer to the sovereign authority's welfare,¹⁶ that is, to put the welfare of the whole first and act for the benefit of the sovereign authority, rather than, for example, the organisation in which one holds a mandate or representative function.

Approaching the issue in more detail, one can distinguish 5 main elements that characterise sovereignty as such (taken comprehensively). These are: its primary nature, permanence, self-rule, full authority and unlimitedness. It follows from the primary nature of sovereignty that it is not derived from any other authority, whether originating within or outside the state. Related to this is another feature – permanence, indicating that sovereignty (by definition) is not subject to any time restrictions. It is assumed that this feature is not subject to loss despite the change of: systems of government, governments themselves, or (individual) political elements.

The aforementioned independence of the sovereign authority from external (mainly non-state) power, referred to as self-rule, especially nowadays – especially in view of, for example, individual states' membership in the European Union – is not absolute. Nevertheless, it is linked to the ability of a particular state to shape its position on the international stage independently. The literature sometimes expresses the view that when a state joins an international organisation, there is a „separation of state sovereignty between [individual – KW] member states and the whole.”¹⁷ However, such a view can only be considered valid with reservations in the case of a federation, but no longer a confederation, or a community such as the European Union.¹⁸

¹⁶ M. Granat, *Zasada suwerenności narodu*, in: Skrzydło W. (ed.), *Polskie prawo konstytucyjne*, Lublin 1998, p. 133. Cf. V. Pavlíček, *Suverenita a evropská integrace: k ústavněprávnímu souvislostem vstupu České republiky do Evropské Unie*, Praha 1999, pp. 12–47.

¹⁷ A. Gerloch, *op.cit.* p. 105.

¹⁸ See and cf. *ibid.* pp. 105–106; Z. Šrein, *Lisabonská smlouva – další krok rozvoje integrace i téma velkých sporů*, in: A. Peltrám, (ed.), *Evropská integrace a Česká republika*, Praha 2009, pp. 40–41.

Full authority, on the other hand, is also the aforementioned independence of the sovereign authority from internal actors (functioning inside the state), manifested, among other things, in the independence to shape the internal situation. Full authority involves the presumption of multifaceted powers belonging to the sovereign, regardless of the form in which it is exercised. These competencies cover all areas of life. Full authority is connected with territorial sovereignty, that is, with the power to perform within the borders of the state all activities proper to the state and the exercise of state functions. It is also related to personal sovereignty, understood as ties between the state and individuals, from which certain obligations of individuals to the state arise, and it does not matter whether they are in the territory of the state at any given time.¹⁹ The last mentioned characteristic – unlimitedness – is the most debatable. It lies in the inability of the sovereign authority to effectively self-limit itself in domestic relations. This is a kind of independence of the sovereign authority from internal regulations, even self-limiting ones, legislated by himself.²⁰

The principle of sovereignty, as a rule, is defined in the constitution of a state,²¹ indicates the subject to whom power in the state belongs. In democracies, it is the collective subject. For example, the Constitution

¹⁹ See B. Banaszak, *Prawo konstytucyjne*, Warszawa 2010, p. 264; B. Banaszak, *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warsaw 2009, p. 41.

²⁰ K. Walczuk, *The constitutional principle of the sovereignty of Nation and State in contrast to the jurisdiction of the International Court of Justice – an outline of relation on the example of Poland*, in: *Medzinárodný súdny dvor: slovenská a česká teória a prax. Zborník príspevkov z V. slovensko-českého medzinárodnoprávneho sympózia. Kúpele Nimnica 28.-29. septembra 2012*, Bratislava 2012, pp. 75–76.

²¹ E.g., in accordance with: Article 1 of the Constitution of the Czech Republic (Ústava České republiky ze dne 16. prosince 1992 ústavní zákon č. 1/1993 Sb. ve znění ústavního zákona č. 347/1997 Sb. as amended), Article 1(1) of the Constitution of the Slovak Republic (Ústavný zákon č. 460/1992 Zb. Ústava Slovenskej republiky z 1. septembra 1992, as amended), art. I item 1 of the Basic Constitutional Charter of Independence and Sovereignty of the Republic of Slovenia (Temeljna ustavna listina o samostojnosti in neodvisnosti Republike Slovenije, Uradni list RS, št. 1/91-I in 19/91 – revised), Art. 2 item 1 of the Constitution of the Republic of Croatia (Ustav Republike Hrvatske NN 56/90, 135/97, 08/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76/10, 85/10, 05/14).

of the Republic of Poland of 1997,²² in Article 4(1) *expressis verbis* states that „the supreme authority in the Republic of Poland belongs to the Nation,” and therefore the supreme authority in Poland belongs to a community defined by law – and therefore not necessarily natural. The analogy is in the constitutional regulations of other Central European states, including those considered small states. At the same time, it is clear from the wording of the provision presented that Poland has adopted a different definition of sovereign authority than in most modern democracies. It is the „Nation,” not „citizens,”²³ as in the case of the Slovak Constitution, or the „people,” as in the Hungarian Basic Law and the Czech²⁴ and Slovenian²⁵ Constitutions. This approach to the issue is the result of the historical past, however, in some cases it may entail significant consequences.

It is worth noting that the principle of internal sovereignty, that is, the sovereignty of the Nation/Land/citizens is particularly closely related to the principle of a democratic state, and in particular to the principle of a democratic state under Polish, Hungarian or Slovak law, for example.²⁶ A Nation or People (possibly citizens) endowed with sovereignty

²² Constitution of the Republic of Poland of April 2, 1997 Journal of Laws No. 78, item 483, as amended).

²³ Slov. *od občanov* – Article 2(1) of the Constitution of the Slovak Republic. In the study, when defining the sovereign authority, the use of lowercase and uppercase letters was adopted in accordance with the way adopted in the constitutions of the states under discussion.

²⁴ Czech *Lid* – Article 2(1) of the Czech Constitution and Hung. *Nép* – art. B(3) of Hungary’s Basic Law; Magyarország Alaptörvénye Magyar Közlöny 2011. április 25 43. Szám, as amended. In Poland, the Hungarian term *nép* is sometimes not entirely correctly translated as „nation” – like in J. Snopek (transl.), *Ustawa Zasadnicza Węgier z dnia 25 kwietnia 2011 r.*, in: W. Staśkiewicz (ed.), *Konstytucje państw Unii Europejskiej*, Warsaw 2011, p. 820). See more extensively and cf. M. Gulczyński, *Suwerenność narodu*, in: D. Waniek, M. Gulczyński (ed.), *System polityczny Rzeczypospolitej Polskiej*, Warsaw 2009, pp. 70–72.

²⁵ Slovenian *ljudstvo* – art. 3 item 2 of the Constitution of the Republic of Slovenia.

²⁶ Accordingly, Article 2 of the Polish Constitution, Art. B(1) of the Basic Law of Hungary, Article 1(1) of the Constitution of Slovakia See also K. Walczuk, *Zasada demokratycznego państwa prawnego*, in: M. Bożek, M. Karpiuk, J. Kostrubiec, K. Walczuk, *Zasady ustroju politycznego państwa*, Poznań 2012, p. 105; K. Walczuk, *Państwo demokratyczne, a demokratyczne państwo prawne – zagadnienia teoretyczno-prawne*,

is an indispensable element of any form of democracy, unless, of course, it were to be a façade – like the so-called „people’s democracy” experienced by the Central and Eastern European states,²⁷ or more broadly (for the most part) by the Three Seas Initiative states.

At the same time, even if the supreme power belongs to the Nation/ People/citizens modern democracy (according to the constitutional principles: democratic state,²⁸ or democratic rule of law) allows the sovereign authority to exercise it not only directly, but also through representatives.²⁹ However, naturally, the power delegated to state or local government bodies, for example, and especially to external bodies (supranational or international), by virtue of its indirectness, has a lower rank,³⁰ among other reasons, due to the actual or formal limitation of sovereignty (in its internal and external form). This caveat assumes particular importance in the perspective of actions taken by non-elected EU (Community) administrative bodies, especially those aimed at homogenizing the European Union, primarily by limiting the internal and external sovereignty of individual member states.

in: M. Bożek, P. Śwital, K. Walczuk (eds.), *Instytucje demokracji bezpośredniej na tle rozwiązań konstytucyjnych i ustawowych. Stan obecny oraz postulaty de lege ferenda*, Radom 2012, pp. 9–20.

²⁷ See K. Walczuk, *Zasada suwerenności Narodu...*, p. 107; K. Walczuk, *The constitutional principle...*, p. 77.

²⁸ E.g., the Republic of Slovenia (Republika Slovenije) is defined by the Slovenian Constitution – *Ustava Republike Slovenije* (Uradni list RS, št. 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99, 75/16 – UZ70a in 92/21 – UZ62a) – as a democratic republic (Art. 1) and a social legal state (Art. 2 – *Slovenija je pravna in socialna država*).

²⁹ See, for example, Article 2 of the Constitution of the Slovak Republic, Article 2(1) and (2) of the Constitution of the Czech Republic,

³⁰ Cf. P. Winczorek, *Komentarz do Konstytucji Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r.*, Warsaw 2008, p. 24.

The perspective of international (external) sovereignty vis-à-vis the actions of the European Union administration and bodies

In the legislative and de facto (political) actions of the bodies and administration of the European Union, one can observe widespread attempts to limit the sovereignty of (nation) states, while seeking to create a „super-state.” Among other things, by imposing a hierarchy of legal sources that is incompatible with the founding treaties. Meanwhile, one of the manifestations of state sovereignty is the maintenance of the primacy of national (domestic) law over international law, including Community law, such as European Union law. Of course, this primacy does not necessarily consist in the supremacy of all norms of national law over European Union law. It is enough that the priority of regulations of constitutional rank,³¹ also taking into account the principles of *pacta sunt servanda* and *nemo plus iuris in alium transferre potest, quam ipse habet*, is maintained, confirmed.

In any case, it should be borne in mind that the three main legal regimes (systems), i.e.: national (domestic) law, international (public) law and European law, which is supranational law (derived directly from public international law, the law of the European Union), form a single legal system *sensu largo* in the member states of the European Union.³² Hence the importance of the actions taken by the broader EU

³¹ See K. Walczuk, *The constitutional principle of the sovereignty...*, p. 74; K. Walczuk, *Akty prawa obronnego w konstytucyjnej hierarchii źródeł prawa*, in: M. Czuryk, W. Kitler (ed.), *Prawo obronne Rzeczypospolitej Polskiej w zarysie*, Warsaw 2014, p. 78; K. Klíma, *Suverenita – ústavní význam*, in: K. Klíma a kol., *Encyklopedie ústavního práva*, Praha 2007, p. 628; See W. Czapliński, A. Wyrozumska, *Prawo międzynarodowe publiczne. Zagadnienia systemowe*, Warsaw 2014, p. 502.

³² See K. Walczuk, *Umowy międzynarodowe i prawo europejskie w konstytucyjnej hierarchii źródeł prawa*, in: E. Kozierska, P. Sadowski, A. Szymański (eds.), *Pacta sunt servanda – nierealny projekt czy gwarancja ładu społecznego i prawnego?*, Krakow 2015, p. 247. See also K. Walczuk, *The hierarchy of Polish state security laws from the perspective of European integration*, in: P. Sobczyk (ed.), *Security and Globalization in the Context of European Integration. Legal Aspects*, Hamburg 2017, p. 55. The basis of EU law is primary law, which primarily includes the founding treaties, which are nothing more than international agreements. Hence, in domestic law, the position

bodies to assert the primacy of EU law over any national law. It should be clearly emphasised that the success of these aspirations – and both formally and in fact (consisting in such a procedure, as if EU law was the law in the hierarchy of sources of law standing on the highest place) – would unequivocally mean depriving the European Union member states of their sovereignty, which they agreed to when joining the Union (Communities).

The issue of the primacy of external law over domestic law seems particularly momentous for small states – for they, even without it, inherently have less leverage in the international arena. This observation is not even negated by the „supernatural” position of the small Benelux states within the European Union. For in each case, we are talking about state sovereignty, and it is not the same as the strong position of its individual representatives in supranational (supra-state) structures.³³

Characteristically, it is assumed that the sovereignty of a state – regardless of its size, so also of a small state – includes not only a certain state of facts (what is), when the state has sovereign independence, but also, supported by the norms of international law, the power of the state to obtain and retain sovereign power (what can be, or even should be).³⁴ Nevertheless, as Janusz Symonides noted, „the question of whether a state

and importance of EU law will largely be similar to public international law. Likewise, the other treaties counted among the primary law of the European Union – the Treaty on European Union with its amending treaties and the accession treaties. As a rule, the founding treaties of international organisations are subject to ratification, often under special conditions, thus acquiring a special position in the system of law applicable in individual member states.

³³ This was clearly experienced, for example, by Poland, when the President of the European Parliament from 2009 to 2012 was Polish – Jerzy Buzek, or from 2014 to 2019, when the President of the European Council was also Polish – Donald Tusk (who, however, was elected to the post as a German candidate). During the time they held their undoubtedly important posts, Poland’s position (importance) within the European Union did not objectively increase.

³⁴ See W.J. Wołpiuk, *Niepodległość i suwerenność. Dystynkcje pojęciowe*, in: W.J. Wołpiuk (ed.), *Spór o suwerenność*, Warsaw 2001, p. 95; L. Antonowicz, *Podręcznik prawa międzynarodowego*, Warsaw 1998, p. 39; K. Walczuk, *The constitutional principle...*, p. 77.

is sovereign or not pertains to the realm of facts, not law.³⁵ This remark seems to have particular relevance especially when discussing the relations taking place between the European Union, as a special organisation of an international character (or simply an international organisation, by definition a community³⁶), and its member states.

In this context, it should also be noted that it is sometimes possible to find in the doctrine of public international law, with transfer also to the area of European law, an *a priori* limitation of the scope of sovereignty by recognizing that it consists in the independence of the state, but within the limits defined (only) by international, possibly European, law.³⁷ Such an approach to the issue, however, can hardly be considered valid, as it *de facto* implies the assumption of limited sovereignty per se, not just the actual possibility of limiting it.³⁸

An important reference for evaluating the actions of the administration and EU bodies is the clear indication that all actions of the European Union, primarily by virtue of primary European law, are limited by the specific competencies granted to it in specific areas by all member states, regardless of size (the principle of conferral). The Union itself is not sovereign, unlike the states that make it up. In addition, the leading role among EU principles should be attributed to, among others, the

³⁵ R. Bierzanek, J. Jakubowski, J. Symonides, *Prawo międzynarodowe i stosunki międzynarodowe*, Warsaw 1980, p. 133.

³⁶ Cf. J. Barcz, *Sprawne państwo a członkostwo w procesie integracji europejskiej. Problem zmiany Konstytucji RP z 1997 r. w związku z członkostwem Polski w UE*, "Ruch Prawniczy, Ekonomiczny i Socjologiczny", 2006 vol. 2, p. 96.

³⁷ As it seems on the ground of Polish theory, one of the precursors of such an approach could be W. Czapliński in *Raz jeszcze o problemie ciągłości i identyczności państwa polskiego*, "Państwo i Prawo", 1999 No. 9, p. 86. Although also the same author admitted that it is wrong to assume the possibility of limited sovereignty. See W. Czapliński, A. Wyrozumka, *Prawo międzynarodowe publiczne. Zagadnienia systemowe*, Warsaw 1999, p. 112.

³⁸ For more, see K. Walczuk, *Analysis of the directions of changes in the constitutional system of the sources of law – between primacy of the constitution and the principle of supremacy of the law of the European Union*, Warsaw 2022, mps submitted to the Institute of Justice within the framework of the Polish-Hungarian Research Platform 2021.

principles of proportionality and subsidiarity.³⁹ Expressed in Article 5 of the Treaty on European Union and defined in Protocol No. 2 attached to it,⁴⁰ the principles indicated are among the basic rules of the EU legal order. As a result, the claim that it is impermissible, being in accordance with the basic law of the European Union, to presume the competence of EU bodies, and even more so of entities of a (mere) administrative nature, in any case with regard to issues not directly delegated to them directly by the Member States, cannot be questioned. It should be clearly emphasised that it would be a circumvention of this principle to lead to a situation where some competence belonging only to the Member States or explicitly delegated by them to EU bodies would be transferred or extended indirectly by EU or *quasi-EU* bodies, for example, through interpretation, or jurisprudential or administrative (decision-making) activity.

The last remark seems particularly momentous when we realize that the limitation of the international sovereignty of individual states does not necessarily have to take the form of a direct withdrawal of certain competencies, but may consist in transferring them – also, as it were, in addition – to entities other than those states. Within the European Union, this can take the form of centralisation or federalisation, for example, and the creation of a „superstate” as a result – in these cases, small states seem to be particularly threatened in their sovereignty.

An important element of the European Union’s homogenisation efforts is the preference for regionalisms, at the expense of nation-states. This procedure can only be perceived at first as an effort to actually maintain diversity. *De facto* maintenance of the relationship of EU structures directly with regional centres – sanctioned especially by recent regulations within the Union – has the effect of weakening the sovereignty

³⁹ The practical application of this principle is met with criticism. See, for example V. Balaš, *Dělba pravomocí mezi Unii a členskými státy*, in: J. Blahož, V. Balaš, K. Klíma, *Srovnávací Ústavní právo*, Praha 2015, p. 481; Gerloch A., *op.cit.* p. 107.

⁴⁰ The consolidated version of the Treaty on European Union, drawn up on the basis of the text of the consolidated version of the Treaty on European Union and the Treaty on the Functioning of the European Union published in the Official Journal of the EU 2016 C 202, p.1 is available at: https://oide.sejm.gov.pl/oide/index.php?option=com_content&view=article&id=14803&Itemid=945 (accessed 24 January 2023).

of member states with an illusory strengthening of the sovereign authority's power. The only entities actually gaining power are EU bodies (structures). Such a procedure seems particularly dangerous for the sovereignty of small states.

Conclusions

Small states, including Central European ones, are formally subject to the same limitations and have the same powers as larger states. Of decisive importance here will be the sovereignty that belongs to them – starting with internal sovereignty and, as a result, also external sovereignty – manifested in the international arena. Sovereignty is defined in the first instance in the acts of self-determination of individual states – legal acts of constitutional rank. It is also confirmed by international regulations, which, as a rule, all participants in international life are obliged to respect, so not only states, but also international organisations, including the European Union.

The actions of the EU administration and the broader EU bodies (including the judiciary) aimed at the creation of a „superstate” are not grounded in EU primary law – the member states, when joining the Union (Communities), did not agree to such actions, to such a goal. Since individual states have sovereignty, including externally, only their will determines the extent of the powers transferred to the international organisation. States – regardless of their size, and therefore also small states – express their will, including those leading to a limitation (most often to the extent necessary, and therefore minimally necessary) of their sovereignty (in favour of the organisation) by concluding membership treaties and in the course of functioning within the organisation. However, they always do so on the basis of law – international, EU, but also domestic (internal) law, which, by virtue of state sovereignty, is binding to a fundamental (constitutional) extent in interstate relations. Not only does the principle of *pacta sunt servanda* apply here, but also – especially during the transfer of powers – *nemo plus iuris in alium transferre potest, quam ipse habet*. It is in accordance with the scope

defined in acts of constitutional rank that states enter into international agreements – the constitutions of the Czech Republic and Slovakia, for example, make this clear.

Nevertheless, despite the lack of a fundamental distinction between the formal position in international (and supranational) relations of states of different sizes, as it were, small Central European states must base their functioning in the international space to a large extent on formal and informal alliances. Also, in the case of the European Union's homogenisation efforts. Hence, an important role may fall to the Three Seas Initiative and the Visegrad Group.

PIOTR BAJDA

The European Union after the Lisbon Treaty vs challenges for small Central European states

European integration before the Lisbon Treaty

The history of European integration is full of twists and evolutions of forms of cooperation, however, one remains unchanged – it is primarily an effect of decisions of leaders of states interested in achievement of their objectives and a kind of a measurement of powers of particular capital cities at a given moment in Europe. The first step consisted in signing the Paris Treaty establishing the European Coal and Steel Community (ECSC) in April 1951. The aim of this agreement was of a preventive nature, it was intended to develop mechanisms guaranteeing keeping peace on the European continent by deepening cooperation of an economic nature with a simultaneous consent to cover raw materials that can be used for armaments with supranational control. Among six states signing the document (France, the Federal Republic of Germany, Italy, Belgium, the Netherlands and Luxembourg), the most important was binding them with provisions of the largest three. Another two Rome Treaties signed in the same group in March 1957 on the European Economic Community and European Atomic Energy Community extended and deepened areas of economic cooperation. Such a construction proved to be attractive for new candidates. An important event consisted in joining European Communities by one of the most powerful global economies – Great Britain, which together with Denmark and Ireland became a member of the union on 1 January 1973. A few years later, in 1981 the European Communities were joined by Greece, and in 1986 – by Spain and Portugal. Extensions made in the period between 1973 and

1981 doubled the number of states in the European Communities in comparison to the number of founders. This process gave an incentive to undertake first reformative works, which resulted in signing in February 1992 the Maastricht Treaty establishing the European Union as of the beginning of 1993. A change of the nature of thus defined format of cooperation is proven by the treaty provision of Article G stating that the term ‘the European Economic Community’ has been replaced with the term ‘European Community.’¹ Therefore, it is worth noticing that from the declarative side it was agreed that thus instituted the European Union will be a union of states interested not only in economic but also political cooperation. In Maastricht, not only extension of the scope of common economic policy was agreed on, but also creation of a currency union was initiated and areas of cooperation were supplemented with foreign policy, internal and military security policy. Moreover, the new treaty entered into force after unification of Germany, which made Berlin the largest European state with over 83 million citizens and the strongest economy. As aptly emphasised by the researchers, one of the reasons for establishing the Eurozone was limiting the role of the German central bank. ‘Among others, France and Italy hoped that introduction of the euro currency would allow eliminating the exclusive position of Bundesbank in creating monetary policy and exercising bigger control by the states of the Community.’² Under such circumstances, in 1995 the European Union was joined by Austria, Sweden and Finland, although, at the same time, Norwegians and Swiss rejected the idea of joining the community in a referendum. In the case of Norway, the society voted twice against accession, for the first time in September 1972, and for the second time in November 1994.³ Whereas, Swiss rejected the option of

¹ As in: A. Skolimowska, *Unia Europejska jako organizacja międzynarodowa (European Union as an International Organisation)*, Wydawnictwo CeDeWu, Warsaw 2014, p. 62.

² M. Gwóźdź-Lasoń, S. Miklaszewski, K. Pujer, *Unia Europejska i strefa euro. Doświadczenia i wyzwania ekonomiczne, techniczne, inżynierskie (The European Union and Eurozone. Economic, Technical and Engineering Experiences and Challenges)*, Wydawnictwo Exante, Wrocław 2017, p. 10.

³ More on the EU-Norway relations, A. Boryczka-Cichy, *Norwegia a kwestia integracji ze strukturami Unii Europejskiej (Norway and the Issue of Integration with*

joining the European Union in a referendum conducted in December 1992, in which 78.3% Swiss participated and 50.3% of them voted against integration.⁴

Under these circumstances, the international arena in Europe was entered by Central European states, which as a result of the Autumn of Nations regained sovereignty as a result of the downfall of the Eastern Bloc and collapse of the Soviet state. The possibility of free decision making regarding their own fate was quite quickly manifested with first measures undertaken to the benefit of integration with Western European institutions, hence, the endeavours for accession to the Council of Europe, the Organisation for Economic Co-operation and Development, OECD, and primarily to the European Union and the North Atlantic Alliance. Also, other measures undertaken on the regional arena were subjected to the aforementioned objective. It is worth mentioning here that the declared objective of the Visegrad Group established in February 1991 was the cooperation of then three Central-European states (Czechoslovakia, Poland and Hungary) for the European integration.⁵ The auxiliary nature of this decision is proven by the fact that until today V4 remains a non-formalised format without any institutional instruments such as: a statute, secretariat or budget from contributions of member states. It was an effect of worries that making the Visegrad Group a full-sized international organisation would be received in the West as an alternative integration project. As shown by the history, this strategy proved to be effective, since V4 became a kind of a region stabiliser, reactivating and separating Central Europe from the entire Eastern Block

European Union Structures), 'Studia ekonomiczne' 2012, no. 123 Międzynarodowe stosunki gospodarcze – integracja regionalna w Europie i na świecie (International Economic Relations – Regional Integration in Europe and in the World), pp. 242–243.

⁴ M. Tomczyk, *Polityka Szwajcarii wobec Unii Europejskiej (Policy of Switzerland Towards the European Union)*, Wydawnictwo Uniwersytetu Łódzkiego, Łódź 2013, p. 132.

⁵ It was quite unequivocally indicated by the title of then signed document initiating the work of the Visegrad Group: 'Declaration on Cooperation between the Czech and Slovak Federal Republic, the Republic of Poland and the Republic of Hungary in Striving for European Integration', <https://www.visegradgroup.eu/documents/visegrad-declarations/deklapl> [access: 30.01.2023].

covered at the beginning of the 90s in chaos, becoming one of the most important partners for the European Union in its Eastern peripheries.⁶ It was, in fact, evident that for some members of the European Union accepting to the community the Central-European states was treated rather as a trouble than an opportunity. It can be best illustrated by the foreign policy of the French President, François Mitterand, who instead of the offer of opening the Union to the post-communist states proposed establishing a loose European confederation open to the membership of even the Soviet Union (later the Russian Federation), and wanted to limit the in-depth integration only to West Europe.⁷

Fortunately, the course of historic events in the form of the collapse of the Soviet Union, civil war in Balkans and determination of Central European leaders resulted in undertaking measures by the European community in order to prepare the EU for a larger extension. In consequence, the Nice Treaty was signed in February 2001, which entered into force two years later and was supposed to improve the functioning of a larger union. One of the main provisions consisted in extending the scope of subject matters which were supposed to be adopted by qualified majority voting. To this end, votes in the Council of the European Union were divided among particular Member States and candidates from 29 votes to 3 ones for the smallest capital cities. In theory, the number of vested votes was to be counted proportionally to the size of population of each country, however the Federal Republic of Germany with population of over 82 million in the Council of the European Union had 29 votes, the same that were granted in the treaty to three remaining largest capital

⁶ More: P. Bajda, Współpraca Wyszehradzka – nowe wyzwania w zmieniającej się Europie. Ocena polskiej prezydencji w V4 2012/13. Od minilateralizmu do makroregionu (*Visegrad Cooperation – New Challenges in Changing Europe. Evaluation of the Polish Presidency in V4 2012/13. From Minilateralism to Macroregion*), [in:] K. Koźbiał (ed.), Europa Środkowa – Central Europe, volume 3: Instytucje demokracji bezpośredniej, zagadnienia systemów politycznych i współpracy regionalnej w Europie Środkowej (*Institutions of Direct Democracy, Issues Regarding Political Systems and Regional Cooperation in Central Europe*), Cavalry Captain Witold Pilecki State University of Małopolska in Oświęcim, Oświęcim 2015, pp. 190–192.

⁷ A. Hall, Po co nam Francja (*What Do We Need France For*), <https://wszystkoconajwazniejsze.pl/aleksander-hall-po-co-nam-francja/> [access: 30.01.2023].

cities: Great Britain, France and Italy.⁸ States preparing to join the European Union in 2004 were granted with the following number of votes: Poland – 27, the Czech Republic and Hungary – 12 each, Slovakia and Lithuania – 7 each, Latvia, Slovenia, Estonia, Cyprus and Malta – 3 each, for candidates with whom accession negotiations were continuing, for Romania – 14 votes were reserved and for Bulgaria – 10.⁹ It meant that for the group of ten states preparing to join the European Union, in total 80 votes out of 321 were reserved, and after accession of Bulgaria and Romania, in total there were 104 votes vested in new members out of 345. In the light of new treaty provisions, a motion subject to voting by qualified majority required obtaining 74.8% votes from 51.9% Member States, if the applicant was the European Commission, or required support from 66.6% of capital cities if the initiative was presented by one of the Member States. Furthermore, states supporting the motion had to represent at least 62% of citizens of the European Union. Therefore, in theory, after the first large extension new members of the EU could be outvoted by the rest, since states longer established in the community had the required majority of 241 votes and only accession of Bulgaria and Romania in 2009 would allow more effectively blocking unfavourable solutions. However, at the moment of decision making regarding specific provisions of the Nice Treaty, limiting the influence of Germany was probably a bigger priority, since in their case the principle of proportionality in the number of vested votes was clearly disturbed, than plans of imposing will on new members of the European community.

⁸ Article 3 Provisions concerning the weighting of votes in the Council, A Protocol annexed to the treaty on European Union and the treaties establishing the European Communities, Treaty of Nice amending the treaty on European Union, the treaties establishing the European Communities and certain related acts, Official Journal of the European Communities C80/1, 10.3.2001, p. 50, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12001C/TXT&from=EN> [access: 30.01.2023].

⁹ Declarations adopted by the conference, *ibidem* p. 82.

Extending the European Union in 2004

Accession on 1 May 2004 of ten new states to the European Union changed the hitherto nature of the community. The club of relatively wealthy 15 members was suddenly transformed into a union of 25 states, including eight post-communist countries with the entire unique baggage of experiences and especially economic backwardness, it was a single enlargement by 66%. As aptly noticed by the researcher on the subject matter of the European integration “accession of Poland and other states of Central Europe to the European Union constituted a thoroughly geopolitical project aimed at including this region of Europe in the transatlantic strategic alliance.”¹⁰ Despite the aforementioned, demonstrated by France unwillingness to enlarge, the geopolitical calculation was present in the approach of other capital cities, especially Germany, Great Britain and the United States and resulted in undertaking by them intensive measures to the benefit of Eastern enlargement of the European Union. What is interesting, each of the aforementioned states was following its own political interest. Washington wanted, due to the accession of Central European capital cities, to extend the area of stability, anchor more new members of the community in processes of economic and political cooperation with the West, which was a particularly important supplementary factor after the accession of first states to NATO. First in 1999, by Poland, the Czech Republic and Hungary and later, in 2004 by as many as seven states (Bulgaria, Estonia, Lithuania, Latvia, Romania, Slovakia and Slovenia). For Berlin, it was more important to move the external border of the EU more in the East direction and use its economic advantage to gain new markets. Whereas, Great Britain saw in the enlargement of the European community with Eastern neighbours an opportunity to reinforce the preferred by London transatlantic option and weakening centralistic tendencies deepening the EU integration.¹¹

¹⁰ T.G. Grosse, W objęciach europeizacji. Wybrane przykłady z Europy Środkowej i Wschodniej (*In the Embrace of Europeanisation. Selected Examples from Central and Eastern Europe*), the Institute of Political Studies of the Polish Academy of Sciences, Warsaw 2012, p. 90.

¹¹ More: *ibidem* pp. 90–91.

Central European states' pursuits to gain membership in European and transatlantic organisations constituted a natural reaction and goal after the fall of Communism, which in this region created an immense open grey zone susceptible to rivalry of various ideas. In the 90s, the European Union was undoubtedly the greatest regional power, especially after the disintegration of the Soviet Union into sixteen independent states. Furthermore, over the years the promise of membership in the European community mobilised candidates to adopt Union regulations, open their markets for goods and services and, primarily to solve disputes between them with peaceful measures.¹² Candidate countries voluntarily subjected to the process of Europeanisation counting on future benefits and, one may add, breaking free from the grey security zone. Although, the Union obtrusion, as the politics of Brussels was defined by the aforementioned J. Zielonka, was already noticed. "The EU not only dictated Eastern-European candidates what they had to do, for example in the scope of legislative changes or administrative reforms, but also sent their representatives to particular ministries in order to verify whether the changes were introduced in compliance with the recommendations included in the twinning programme."¹³ Sometimes Brussels ruthlessly entered into areas reserved for the sovereign decision of states, such as demands of liberalisation of the act on Latvian and Estonian citizenship, which opened the path for naturalisation of many Russians residing in former Soviet republics, which was against national interests and security of Riga and Tallinn.

It is worth underlining that Brussels' offer of Europeanisation was not the only proposal made to Central European capital cities. The Russian Federation, restoring its position on the international arena, tried to find some footholds in the region. This plan was closest to implementation in the Slovak Republic during the governance of the Prime Minister, Vladimír Mečiar in the years 1994–1998. The style of his governance, breaking democratic procedures, attempts at monopolisation of the

¹² More: J. Zielonka, *Europa jako imperium. Nowe spojrzenie na Unię Europejską (Europe as Empire. New View on the European Union)*, the Polish Institute of International Affairs, Warsaw 2007, p.71.

¹³ *Ibidem* p. 73.

Slovak political scene resulted in Bratislava having been eliminated from the group of the first states invited to accession talks with the European Union and NATO. Under these circumstances Moscow proposed the rulers in Slovakia to establish closer political and economic relations. This was the aim of the visit of the Russian Prime Minister, Viktor Chernomyrdin in Bratislava in February 1995 and re-visit of the Prime Minister, Vladimír Mečiar in Moscow six months later. Among others, the frameworks of military cooperation and the terms and conditions of Russian assistance in development of the Slovak nuclear power plant in Mochovce were agreed on, and a draft of customs union was considered. However, the most dangerous idea comprised statements given by Slovak leaders supporting announcement of Bratislava's neutrality, which was supposed to be guaranteed by Moscow.¹⁴ Implementation of this scenario would lead to the establishment of a path of neutral states including Switzerland, Austria and aforementioned Slovakia, which would effectively break the cohesiveness of the North Atlantic Alliance. Fortunately, the result of parliamentary elections in Slovakia, in September 1989 removed Vladimír Mečiar from power, and the new government of the Prime Minister, Mikuláš Dzurinda sped up integration processes with the EU and NATO, which resulted in including Slovakia in the first group of states joining the European community in May 2004, and the North Atlantic Alliance within the second round of extension by seven Central European states two months earlier.¹⁵ This longer description of a single case study of a candidate state to the EU is, however, a good illustration that the process of Europeanisation was not the only offer available on the international arena, and returning to its imperial policy Moscow tried to challenge Brussels. Today, a similar competition for influences can be observed not only in the post-Soviet area, but also post-Yugoslavian area.

¹⁴ In details on the foreign policy of the Slovak Republic in the years 1994–1998 in: P. Bajda, *Elity polityczne na Słowacji. Kręta droga do nowoczesnego państwa (Political Elites in Slovakia. A Switchback to a Modern State)*, the Institute of Political Studies of the Polish Academy of Sciences and Instytut Wydawniczy PAX, Warsaw 2010, pp. 108–115.

¹⁵ See: *ibidem* pp. 169–171.

Nevertheless, the major enlargement of the European Union by ten new states drastically changed the image of the community. On the one hand, the accession included visibly poorer states (with the exception of Malta and Cyprus), even in comparison with the not rich Portugal and Greece, and, on the other hand, the entire community was significantly moved to East by integrating a large post-Communist area. May 2004 brought one more effect for the European Union – as a result of extension, the EU became to a prevailing extent a community of small states. It is worth reminding that single Poland with population of almost 38 million citizens was more populated than the remaining nine states accessing the EU in total (35.3 million in total) and slightly smaller in terms of territory: 312,696 km² in comparison with 425,698 km² of others. Only the accession of Romania to the European Union in 2009 slightly changed these proportions, however, Bulgaria, which accessed with Bucharest, or later Croatia can hardly be included even in the group of medium states. Of course, in the process of extending the European Union, the goal in itself was not to create a club for small capital cities, however, it is worth taking a look at the consequences of these processes. The first definite effect was the frequent necessity to establish a consensus between first 25, and then, finally 27 states. Another one noticed by the aforementioned Professor J. Zielonka, related to Brussels' approach to new members with a certain protectionism, was a visible temptation of further imposition of top-down Europeanisation. The voting power assigned to particular states within the procedure of qualified majority voting would allow a relative ease in establishing a blocking coalition. Therefore, while enforcing the Nice Treaty, a deeper reform of the European Union was simultaneously prepared for. In the subject literature this debate was called 'a compromise from Nice' consisting in focusing on the accession of new states, at the same time opening a discussion on the treaty reform. Directions of this debate were included in the 'Declaration on the future of European Union' adopted during a meeting of the European Council in December 2000. The document assumed that the purpose of works should be the simplification of treaties, precise separation of division of competences between the community and the Member States, agreeing on the status of the Charter of Fundamental Rights adopted in Nice and

reinforcement of the democratic legitimisation of the EU by extending competences of European national parliaments in Union matters.¹⁶

The Treaty of Lisbon and its consequences for small Central European states

The path that led to the Treaty of Lisbon was the awareness of the need of conducting in-depth organisational and systemic reform of the European Union. As a result of the previously signed treaties inaugurating the post-war international cooperation on the old continent, in the years 1951–1957, three international organisations were first established: the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Community – Euroatom. Each of them had its own statute and relevant executive bodies. Simultaneously, under the Treaty of Rome in 1957, origins of the European Parliament and the Court of Justice were established. Multitude of these solutions contributed to making the first attempt at structural order, which was aimed at by the so-called ‘Merger Treaty’ signed in Brussels, in 1965, on the grounds of which bodies of three aforementioned institutions were joined and one common Council and Commission of European Communities were established.¹⁷ However, it did not mean a formal merger of the ECSC, EEC and Euroatom, it happened only on the grounds of the Treaty of Maastricht signed in December 1991 and establishing the European Union. Nonetheless, the path to a comprehensive and integrated community was still far, and then established institutional frameworks were based on three various pillars of cooperation. The first one concerning economic issues was based on the final combination of three of the

¹⁶ J. Barcz, Wprowadzenie – droga do traktatu z Lizbony (*Introduction – Path to the Lisbon Treaty*), in: J. Barcz (ed.), Traktat z Lizbony. Główne reformy ustrojowe Unii Europejskiej (*The Lisbon Treaty. Main Systemic Reforms of the European Union*), Office of the Committee for European Integration, European Documentation and Publication Department, Warsaw 2008, p. 12.

¹⁷ *Traité instituant un Conseil Unique et une Commission Unique des Communauté Européennes*, as in: <https://eur-lex.europa.eu/legal-content/PL/TXT/?uri=CELEX:11965F/TXT> [access: 02.02.2023].

aforementioned international organisations, and thus, the European Union, created within the first pillar, adopted the international-legal character after its predecessors and became a typical, supranational, intergovernmental organisation. Whereas, two remaining pillars in the form of the Common Foreign and Security Policy (CFSP) and cooperation in the scope of the judicature and internal affairs did not have such rigid institutional frameworks. Cooperation in these two pillars was conducted in the category of the international regime. Understood as a solution 'of a nature of non-formal models of states' behaviours, inspiring to fill in a loophole existing between a norm of the international law binding subjects of international relations, and their right to independence and freedom of action in the international environment.'¹⁸ It touched on sensitive areas over which the states wanted to maintain full sovereignty and only later, the migration and asylum policy was slightly communitarised. The issue of the sovereignty of Member States in the European Union exceeds the assumed frameworks of the article, however, it is worth noticing that leaders in particular capital cities, within decision making processes, have to calculate profits and losses, in which areas and on what terms and conditions transferring another national competences at the community level will be profitable.

The European Union established pursuant to the Treaty of Maastricht was a specific institution mixing two orders, a dimension of a formalised international organisation within the first pillar of the European Communities with the intergovernmental nature in the area of defence, internal security and foreign affairs policy as well as judicature. Another two documents – the Treaty of Amsterdam of October 1997 and the aforementioned Treaty of Nice, were of an order and auxiliary nature, preparing the EU for a large extension to the East. In this second case, additionally a preview of further reforming work was included, aimed at simplifying treaties by improving its clarity and comprehensibility, determining the division of competences between the EU and Member States in compliance with the principles of subsidiarity, determining the formal-legal character of the Charter of Fundamental Rights (adopted in

¹⁸ A. Skolimowska, *op.cit.*, p. 63.

Nice) and explaining the role of national parliaments in the construction of the European community.¹⁹

In consequence, the Constitutional Treaty was adopted in October 2004, which, apart from the implementation of the task in the form of simplification of the primary law, proposed introduction of symbolic elements in the form of a hymn or a motto ‘unity in diversity’, it also foreshadowed the introduction of Union acts or functions of Union ministers. It was supposed to prove the willingness of transforming the European Union into a quasi-state structure, which triggered anxiety in citizens of many countries and, in effect, induced the French and Dutch to reject the project in a referendum.²⁰ The negative decision of two of the founders of the European Community, released other states, facing such a task, from the obligation of ratification. A relevant referendum was not organised in Denmark, Poland, Portugal, Ireland, Great Britain and the Czech Republic.

The draft of the Treaty of Lisbon was a partial step back. On the one hand, it derived from the provisions of the rejected Constitution for Europe, however, it resigned from the attempt to replace founding documents. Therefore, the hitherto tested manner of amendment was adopted, as in the case of the Treaty of Amsterdam and Treaty of Nice, by introducing amendments to founding documents.²¹

From the perspective of small Central European states, deepening European integration has more advantages than disadvantages. Institutionalisation of the European Union and gained international legal personality entail, in effect, reinforcement of the community against external partners. Perhaps an even more important argument in favour

¹⁹ A short characteristics of the Treaty establishing a Constitution for Europe, https://oide.sejm.gov.pl/oide/index.php?option=com_content&view=article&id=14459&Itemid=390 [access: 02.02.2023].

²⁰ As in: D. Kabat-Rudnicka, *Konstytucjonalizacja Unii Europejskiej a sądownictwo konstytucyjne. Wielopoziomowa współpraca czy rywalizacja? (Constitutionalisation of the European Union v Constitutional Judicature. Multi-level Cooperation or Competition?)*, Wolters Kluwer, Warsaw 2016, pp. 31–32.

²¹ D. Byrska, K. Gawkowski, D. Liszkowska, *Unia Europejska. Geneza. Funkcjonowanie. Wyzwania (The European Union. Genesis. Functioning. Challenges)*, Exante, Wrocław 2017, pp. 32–33.

of institutionalisation is the conviction that, in theory, writing down treaties accurately in the letter of the law weakens informal mechanisms, in which opportunities of small states are very limited. Therefore, all new small capital cities of the EU, with the exception of the Czech Republic, completed the ratification process of the Constitution for Europe and were among members who were the first to finalise the ratification process of the Treaty of Lisbon.

From the perspective of small capital cities, the value is added by the integrating function of international organisations consisting of harmonising principles and changing relations between states into a more conciliated approach, since violation of such rules puts the culprit at a risk of imposing disciplinary or sanction measures.²² Another important function, from the perspective of small states, is the readiness of organisations to take over the administrative or operational role such as conducting community humanitarian measures or peace operations.²³ As a result, smaller actors in international relations can be released from the necessity of conducting independent activities, which, considering their small human resources, allows transferring people working in public administration to other tasks. While analysing behaviour of small states in the European Union it is worth noticing one more reason for supporting deepening integration and institutionalisation. The European Union, due to the power of its Member States, is at a disposal of powerful, accumulated knowledge from various areas from economic to social data that is available for members of the community, and has wider than only national character, which allows making more rational decisions.²⁴ Whereas, the aforementioned, postulated by small states, strong role of the European Union on the international arena is caused by the frequent situation, in which smaller capital cities see the biggest threats from the outside. In the first place, it concerns the strategy of the Baltic States for which neighbouring the Russian Federation is the

²² A. Skolimowska, *op.cit.*, pp. 36–37.

²³ *Ibidem* p. 37.

²⁴ C.H. Grøn, A. Wivel, Maximizing Influence in the European Union after the Lisbon Treaty: From Small State Policy to Smart State Strategy, 'Journal of European Integration', vol. 33, no. 5, p. 524.

biggest challenge in the area of national security. It is worth noticing that an element of developing resilience of the Baltic States to external threats comprised not only accession to the EU and NATO, but also entering the Eurozone, since a possible assault on them would hit the entire currency union and force a reaction of even the states remaining outside the North Atlantic Alliance. Therefore, one may propose a hypothesis that entering the Eurozone by the Baltic States, apart from the economic dimension, was also aimed at gaining additional guarantees of security.²⁵ The Baltic States are not the only ones for whom the security was of a crucial importance in terms of striving for accession to the European Union. Another such example is the Western Balkans. For the integrated with the community, Slovenia and Croatia, membership in the EU constitutes an additional element of the security architecture against the potentially generating threats, unstable Bosnia and Herzegovina, or Serbia which is closely cooperating with Russia and China. Although membership in the EU does not solve all conflicts, which is illustrated by the Slovenian-Croatian dispute on the course of the sea border in the Piran Bay, settlement of which was submitted to the Permanent Court of Arbitration in the Hague.²⁶ What is interesting, the Court of Justice of the European Union, which is so active in other cases, this time refused to deal with this case.²⁷

Whereas, while examining the regulations introduced pursuant to the Treaty of Lisbon concerning division of competences between the European Union and Member States, from the perspective of small states they implement the postulate of taking over by the entire community the areas of activity, which smaller capital cities were ready to transfer such as customs, trade and currency policy (within the Eurozone), as

²⁵ P. Bajda, *Małe państwo... (Small State...)*, op. cit., p. 215.

²⁶ More: M. Sroka, Chorwacko-słoweński spór graniczny – bez przełomu (*Croatian-Slovenian Border Dispute – Without a Breakthrough*), 'Analizy OSW' 26.07.2017, <https://www.osw.waw.pl/pl/publikacje/analizy/2017-07-26/chorwacko-slowenski-spor-graniczny-bez-przelomu> [access: 03.02.2023].

²⁷ CJEU washes hands of the border dispute between Croatia and Slovenia, <https://prawo.gazetaprawna.pl/artykuly/1451683,tsue-spor-graniczny-miedzy-chorwacja-i-slowenia.html> [access: 03.02.2023].

well as the common fishery policy. The situation is similar within shared or supporting competences.²⁸

Adopted strategies and approaches of small states towards new Union regulations

The international legal personality of the European Union, obtained as a result of entering into force of the Treaty of Lisbon, introduction of unification and specification of treaty provisions, division of competence – all of the above was welcomed in small states which were also ready to agree to weaken the power of their vote in the case of the procedure of qualified majority decision making. All of these changes forced, however, modification of the hitherto strategies of functioning in community, and this tendency has additionally been reinforced by the Russian aggression on Ukraine, which demolished the hitherto frameworks of security architecture.

While observing the new system of voting which introduced the principle of double majority in the European Union, small European states are not left with a large margin of activity and, in practice, they are doomed to a passive approach. Let us remember that as of November 2014 in the case of qualified majority decision making by the Council, it suffices to collect 55% of Member States plus one (that is 15 states), representing 65% of all EU citizens. Therefore, it is difficult for small states to establish a blocking minority in the new system. Although, it is true that meeting the first condition – gaining support of four capital cities for rejecting an unfavourable project does not seem to be a difficult task, meeting the second condition – representation of at least 35% of the community citizens is virtually unfeasible for small states.²⁹ The voting simulator posted on the official website of the European Union explicitly

²⁸ <https://eur-lex.europa.eu/PL/legal-content/summary/division-of-competences-within-the-european-union.html> [access: 03.02.2023].

²⁹ J. Barcz, Przewodnik po Traktacie z Lizbony. Traktaty stanowiące Unię Europejską. Stan obecny oraz teksty skonsolidowane w brzmieniu Traktatu z Lizbony (*The Lisbon Treaty Guide. Treaties Establishing the European Union. Current*

shows the weakness of position of the Central European states in this system of decision making. Assuming, hypothetically, that states engaged in the Three Seas Initiative project wanted to block an unfavourable decision, and even if Austria wanted to join this blocking minority, such a coalition would not be effective.³⁰

A lack of the political power causes small Central European states to be forced to use specific strategies and specific behaviours in order to achieve objectives of the greatest importance for their national interest. The most frequently adopted approach is joining the strongest actor in the international area (bandwagoning). This manner of doing politics is not only reserved for small and weak states, since we encounter this type of activity also in the case of actors of average weight as for instance, Poland. There is, however, one important difference characteristic for the Baltic States, Western Balkans or other small capital cities; in their case bandwagoning concerns searching for a partner among neighbouring, regional powers. Therefore, until recently, due to a lack of alternative, acceptance for the German leadership in European politics was observed. Another, although less popular nowadays, strategy used by the small Union states is the balancing policy, as an attempt of conducting diplomatic measures aimed at limiting pressures from a strong and potentially threatening player, by cooperating with other powers. This type of activity played an important role in the pre-accession period when in the case of Central European states, Europeanisation and finally, accession to the European Union was of a nature of not only civilisation but also preventive measures towards the attempts made by the reviving Russian imperialism. What is important for our deliberations, is that the history shows that the attempts at conducting permanent balancing politics are doomed to failure. In fact, Ukraine wanted to do such politics for years, as well as in a slightly modified and weaker form – Belarus, in order to maintain a safe, for governing elites, distance between the Russian Federation and the European Union. However, such an approach of

Status and Texts Consolidated in the Wording of the Lisbon Treaty), Wydawnictwo Prawnicze Lexis Nexis, Warsaw 2008, p. 66.

³⁰ Voting system calculator in the EU, <https://www.consilium.europa.eu/pl/council-eu/voting-system/voting-calculator/> [dostęp: 04.02.2023].

constant balancing dooms capital cities using it to reactivity, since they have no impact on the course of events and in the case of the intensification of rivalry between powers, such a capital city becomes the first victim of this conflict. From among Central European states, which have been, at least partially, successful in the balancing politics, we might try mentioning Serbia. However, even in this case, with a certain important reservation, since the history of gaining international legal personality by Montenegro and independence by Kosovo shows costs of such politics done by Belgrade.³¹

Whereas, in the case of the Central European states, after their accession to the EU we could notice an interesting attempt at combining both of the aforementioned strategies. On the one hand, maintaining the bandwagoning policy (*vide* Germany), and on the other hand, a kind of balancing, limiting the hegemony of Berlin by binding it with legal, treaty frameworks of cooperation, thus, the acceptance for the institutionalisation of the European Union and deepening of the integration. Whereas, upon accession a manner to establish one's position and gain a good reputation was to find some leading specialisation that would make a particular capital city a community expert on specific matters. Another strategy of proving one's usefulness to the most important Union actors consists in offering good services, a proposition of undertaking auxiliary measures on behalf of the entire community. Such politics is aimed at unburdening large capital cities from tasks that are important from their perspective; albeit, not strategic, yet, still absorbing their attention. The list of such examples of specialisation could be used for a separate analysis. In another text included in this compilation, the example of Slovakia's specialisation was referred to, which, on behalf of the entire EU deals with the issue of Western Balkans, and in the case of Lithuania – the offer to act as a coordinator in supporting Belarusian opposition. An interesting example of specialisation is provided by

³¹ More on bandwagoning strategies in balancing: T.G. Grosse, Tragedia państw peryferyjnych, czyli o geopolitycznych dylematach Polski w Unii Europejskiej (*The Tragedy of Peripheral States, That Is, on Geopolitical Dilemmas of Poland in the European Union*), in: T. Zarycki (ed.), Polska jako peryferie (*Poland as Peripheries*), Wydawnictwo Naukowe SCHOLAR, Warsaw 2016, pp. 34–35.

Estonia, which in contrast to other small European states wishes to be distinguished with basing its economic development on innovativeness, openness to being a national tester of new solutions in the area of digital technologies, as a result of which, in the OECD's assessment, it earned the name of 'the Baltic tiger'.³² Whereas, a successful example of actions as a state offering good services was organising by Slovakia, in February 2005, Bush-Putin summit in Bratislava.³³

An interesting strategy used by small Central European states is independent development or entering into various regional structures. The place and significance of the Visegrad Group in the politics of its members was analysed in detail in another text included in this compilation. Therefore, it is worth examining other distinctive regional formats and attempting defining their roles.

The most important projects of regional cooperation in Central Europe, after accession of states of this part of the old continent to the European Union, are the Three Seas Initiative and the Bucharest Nine. Both are inscribed in the second wave of new regionalism as a response to the erosion of the hitherto architecture of international security. In this context, one can understand establishing the Bucharest Nine associating states of the Eastern flank of NATO in November 2014, that is, a few months after the illegal annexation of Crimea by the Russian Federation. Development of this format of defensive cooperation was dictated by the willingness to show the importance of the Central European region for the safety of Europe. But also, a kind of assessment of a lack of actual interest from the EU in reinforcing security in its periphery in the face of Russian aggression. A lack of proper reaction of Community institutions, signals coming from the most important European capital cities: Paris and Berlin ready to start dialogue with Crimea and listening to Russian postulates, in effect, led to the erosion of international relations in the area of national safety in the community dimension. Hence, the initiative of the states of the Eastern flank and autonomous decision on establishing their own regional format of cooperation as filling in

³² More on the Estonian path to success: P. Bajda, *Małe państwo...* (*Small State...*), op.cit., pp. 266–267.

³³ P. Bajda, *Małe państwo...* (*Small State...*), op.cit., p. 236.

the loophole in the security architecture.³⁴ One may notice a similar genesis in the root causes of establishing the Three Seas Initiative in Croatian Dubrovnik, in August 2016, as an independent and original idea, constituting a response to ‘the diagnosis of common weaknesses of the states of the region, imposed on them peripheral status within the European Union, preferred model of passive Europeanisation according to the top-down outline and continuous treatment of the region as New Europe.’³⁵ Therefore, once again we deal with a decision made by the Central European states’ leaders as a result of reflection and analysis of weaknesses displayed by engaged in the project states despite several or a few years of membership in the European Union. Concentration of the Three Seas Initiative on the cooperation in the area of energy security, transport infrastructure or digital solutions is the best illustration of defined weaknesses and areas of a lack of sufficient interest from Union institutions. In the context of the evolution of the Three Seas Initiative it is interesting to observe how particular, engaged capital cities of small states use this opportunity to emphasise their uniqueness in compliance with the aforementioned strategy of specialisation. Estonia, organising in 2020 the presidential summit of the Three Seas Initiative, used this event to underline its role as a leader in implementation of digital solutions and used then pandemic situation to conduct the conference in a hybrid mode³⁶. A year later, the summit was hosted by Bulgaria, which on this occasion invited to participate in the meeting the President of Greece, Ekaterini Sakielaropulu, in order to demonstrate the willingness to play the role of a leader to engage Athens in the Central European cooperation.³⁷ Although the aim of the article is not to provide an analysis of the

³⁴ More: A. Orzelska-Stączek, P. Bajda, Security Aspects of Regional Cooperation in Central Europe: Visegrad Group, Bucharest Nine, and the Three Seas Initiative, ‘Online Journal Modelling the New Europe’ No. 37/2021, pp. 11–13.

³⁵ P. Bajda, Inicjatywa Trójmorza 2016–2020 in statu nascendi (*The Three Seas Initiative 2016–2020 in statu nascendi*), Fundacja Collegium Interethnicum, Warsaw 2020, p. 5.

³⁶ Ibidem pp. 12–13.

³⁷ A two-day summit of the Three Seas Initiative in Sofia started, <https://www.gazetaprawna.pl/wiadomosci/swiat/artykuly/8206087,szczyt-trojmorze-sofia-bulgaria.html> [access: 10.02.2023].

activity of small Central European states in the Three Seas Initiative, two aforementioned examples are a good illustration of how smaller capital cities use any opportunity to implement their national strategies in the changing European Union.

Instead of a conclusion – the war in Ukraine and its impact on the approach of small states

If we agree with the thesis of the researcher on Europeanisation processes, T.G. Grosse that the evolution of the European Union is directed towards increasing sovereignty of the largest Member States at the cost of smaller countries and with the use of community institutions, we will notice in this light the biggest contemporary challenge for small capital cities. ‘These countries more and more often face the challenge of protecting their sovereignty against the growing transfer of competences to Union institutions and, actually, against the informal governance of the largest EU states, which to a growing extent can limit the power of a sovereign in smaller Members States.’³⁸

The process of European Union’s centralisation under the governance of the Treaty of Lisbon was disturbed by the outbreak of war in Ukraine. For Central European states the issues with a swift and adequate response of Union institutions, and primarily, especially visible on the first days of the conflict, dodging of Paris and Berlin, were proof that also their security in crisis situations is not fully guaranteed. Therefore, the decisive approach of Warsaw, which from the very first days unquestionably supported the attacked state, was welcomed in particular capital cities with great enthusiasm. In effect, we have been observing a growing role of Poland, which in its foreign policy is trying to balance, reinforce its position with regard to the European Commission, change the assigned role of a peripheral state and bandwagoning with Berlin (as the regional hegemon) by establishing strategic and allied relations with the United States. Thus, Poland is trying

³⁸ T.G. Grosse, *Suwerenność i polityczność. Studium integracji europejskiej (Sovereignty and Political Character. The European Integration Case Study)*, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, Warsaw 2022, p. 11.

to build around it a relatively autonomous political centre. Which, given the consequently presented approach of a lack of willingness to use its dominant position in the region, is beginning to be an attractive offer for small Central European states. This trend is quite distinctly outlined in the area of defence, which is confirmed by the more and more frequent signals mentioning the role of Poland as a guarantor of military security on the Eastern flank of NATO. If the above is accompanied by an accumulation of wealth, economic development, limitation of economic dependence on foreign entities, in consequence, the international position of Warsaw would be permanently improved and then, partnership with Poland might prove to be a more attractive path of development than the current bandwagoning and conforming own interest with the regional power in Berlin. However, the change in the composition of political forces, the new division of influence in Europe comes at a specific and measurable cost, it causes a reaction of political actors, whose position is threatened. Therefore, despite the unprecedented situation, the immense expenditures incurred by the Polish budget to the benefit of humanitarian and military assistance for Ukraine, we deal with another flare-up of a dispute between the European Commission and Warsaw around the National Recovery Plan or judgements of the Constitutional Tribunal. Supporters of the Union *ancien régime* in Brussels and other larger capital cities of Western Europe must use all available instruments to diminish the attractiveness of Warsaw, especially since the first signals confirming the change in the status of Poland on the international arena have already been coming in. One of them was the joint trip of the Czech Prime Minister Petr Fiala, the head of the Slovenian government Janez Janša and Polish leaders to Ukraine in March 2022, during fierce fights around Kyiv, whereas Ukrainians had to wait for many more months for a visit of the President of France and the Chancellor of Germany. Another interesting example can be the appeal of Slovak conservative intellectualists from August 2022, in which they opted for changing alliances and supporting in-depth cooperation with Poland³⁹. Thus, they questioned one of the most important axioms of the

³⁹ M. Hanus, J. Majchrák, Zmena slovenskej doktríny Prečo by sme sa mali v novej epoche držať Poľska, <https://www.postoj.sk/112312/preco-by-sme-sa-mali-v-novej-epoche-drzat-polska> [access: 10.02.2023].

Slovak foreign policy articulated by the Deputy Minister of Finance during the crisis in the Eurozone in 2011, when he stated that Slovakia must at all cost 'stick to Germany'.⁴⁰

Slovak voices clearly show the contemporary dilemma of small Central-European states where to put a red line, how far should they proceed in the processes of the European Union's centralisation within the frameworks set by the Treaty of Lisbon, and how to keep as far-reaching sovereignty as possible. Or perhaps, they should make an attempt at using new treaty provisions and, primarily the changed situation on the international arena, in order to regain more impact on Europe.

⁴⁰ J. Javorský, M. Onuferová, Tvaroška z ministerstva financií: Musíme sa držať Nemecka, <https://index.sme.sk/c/6014464/tvaroska-z-ministerstva-financii-musime-sa-drzat-nemecka.html> [access: 10.02.2023].

The Three Seas Initiative as an opportunity and a challenge for small states

The Three Seas Initiative includes twelve EU member states, most of which are so-called small European states.¹ These include six states with a population of less than 10 million people with a territory of no more than 80,000 km²,² and also four other states that slightly exceed either the population or area indicated above:³ In this context, Poland and Romania stand out in terms of potential, which is a source of asymmetry in the region's multilateral relations, representing an important factor influencing the nature of the Three Seas Initiative.

The participation of small states in this form of regional cooperation is a consequence of their efforts to strengthen their international position. According to the hypothesis, the main opportunities⁴ presented to them by the Three Seas Initiative pertain to affecting its activities so that they correspond to their preferences and allow for a stronger influence on the direction of the region's economic development through the

¹ The issue of defining small states is widely covered in: G. Baldacchino, A. Wivel (ed.), *Handbook on the Politics of Small States*, Edward Elgar Publishing Ltd., 2020, pp. 2–25, also in: P. Bajda, *Małe państwo europejskie na arenie międzynarodowej. Polityka zagraniczna Republiki Słowackiej w latach 1993–2016*, Centre of Political Thought, UKSW Publishing House, Kraków-Warsaw 2018, pp. 23–82.

² The six countries are: Croatia, Estonia, Lithuania, Latvia, Slovakia and Slovenia.

³ Czechia, Bulgaria, Austria, and Hungary. The point of reference for 10 million population and 80,000 km² is the criterion of 50% of the pre-Brexit EU average. See. P. Bajda. *op.cit.*, p. 57.

⁴ I define the term 'opportunities' as chances created by the Three Seas Initiative for the participating states. Such states can take advantage of the opportunities to achieve the desired results.

development of energy, transport and digital infrastructure. Indirectly, this cooperation provides small states with the opportunity to increase their impact on changes in the international environment in terms of politics and security. However, among the threats, the concerns of small states mainly revolve around a potential mismatch between the priorities of their foreign policies and actions taken within the Three Seas Initiative, which is not among their priorities. Instead, it is designed to achieve other objectives inherent in the interests of particular states.

The small states' perspective should be taken into account when building a communication strategy, which is a pillar of the international cooperation development. This strategy should take into account the high sensitivity of small states to signals of unclear intentions from strong actors, as well as concerns about dominance in a region where superpowers are still active alongside the so-called middle powers. The communication strategy by Poland, perceived as the leader of the Three Seas Initiative,⁵ is not based on a coherent message. Given the strong polarisation of the political scene, it facilitates external and internal forces in opposition to the Polish authorities to deepen mistrust and raise doubts about the forms of cooperation supported by Poland. Another complication is that Polish elites lack knowledge of the specific instruments used by small states in foreign policy, combined with the occasional treatment of small states from a position of strength.⁶

The Three Seas Initiative is based on a model of cooperation specific to Central Europe with a certain degree of stability and recurrence, albeit with no permanent structures and administrative background. It lacks a status of an international organisation. It is a relatively permanent partnership, established through the international negotiations, functioning since 2016 on the basis of annual presidential summits where

⁵ On the role of the leader in the Three Seas Initiative see. A. Orzelska-Stączyk, P. Ukielski P., *Inicjatywa Trójmorza z perspektywy jej uczestników*, ISP PAN, Warsaw 2020, pp. 80–85. Minister K. Szczerski, when asked what country plays such a role, responded: “I see a group of leaders – namely the countries that organised the summits.” Interview with the Head of the Cabinet of the President of Poland, minister K. Szczerski, conducted at the Chancellery of the President of Poland in Warsaw on 17 July 2019 by A. Orzelska-Stączyk and M. Czernicka. *Ibidem*, p. 149.

⁶ P. Bajda, *op.cit.*, p. 18.

declarations are adopted. In the field of political sciences, we do not have a single accurate term for such types of cooperation, described by the very partners in their declarations as a ‘cooperation platform’.⁷ In a terminological manner, I recognise the Three Seas Initiative as an international institution in terms of political sciences, however, I emphasise that it is not an international institution in legal terms. By no means is it an international organisation. It is based on so-called summit diplomacy, complemented by the development of cooperation in other areas, including that of business, finance and the regions, e.g. the annual Business Forum and the Congress of Regions; the Three Seas Initiative Investment Fund is emerging as a separate legal entity. This cooperation is believed to appeal to the participants through specific projects that provide tangible benefits.

On the methodological side, I rely on qualitative research. Scientific work on the small states and my previous research on the Three Seas Initiative serve as a starting point. Discussions during seminars at the ISP PAN as well as the results of the project called Research Centre for the Three Seas Initiative at the ISP PAN played an important role. Another valuable research experience was the study visit to Czechia in 2022 carried out within the framework of the said project. Among the literature I would like to highlight Piotr Bajda’s research paper entitled *Małe państwo europejskie na arenie międzynarodowej Polityka zagraniczna Republiki Słowackiej w latach 1993–2016*,⁸ *Handbook on the Politics of Small States* edited by Godfrey Baldacchino and Anders Wivel,⁹ *European Strategic Autonomy and Small States’ Security In the Shadow of Power* edited by Giedrius Česnakas i Justinas Juozaitis.¹⁰

⁷ Joint Declaration of the Seventh Summit Three Seas Initiative (Riga, 20–21 June 2022), <https://3si.politic.edu.pl/three-seas-initiative/joint-statements-of-the-three-seas-initiative/> [access: 10.02.2023].

⁸ P. Bajda, *op.cit.*

⁹ *Handbook on the Politics of Small States...*, *op.cit.*,

¹⁰ G. Česnakas, J. Juozaitis (red.), *European Strategic Autonomy and Small States’ Security: In the Shadow of Power*, 2022, Routledge, <https://doi.org/10.4324/9781003324867> [access: 10.02.2023]

Theoretical framework

I refer to A. Wendt's theory of social constructivism¹¹ when analysing the concerns formulated by small states towards the Three Seas Initiative. Constructivism emphasises the role of narrative, information and message created in collective consciousness. The Three Seas Initiative, beyond Poland, remains unknown to the wider audience. A narrow but diverse image of this cooperation emerges, which raises uncertainty as to the genuine intentions of its participants and its goals and objectives.

Uncertainty is amplified, firstly, by inconsistent message from the participants themselves, compounded by internal divisions, which is apparent in Poland as a result of polarisation, and secondly, by the involvement of third countries. For example, on the one hand the Three Seas Initiative is presented as an intra-EU forum for strengthening the European Union, while on the other hand the exact opposite narrative is being constructed, i.e. it is designed to be an alternative to the EU and to disintegrate it from within. The origin of the Three Seas Initiative is in some studies attributed to the shared experience of the countries undergoing transition after 1989, in others to the unfulfilled imperial aspirations of Poland, dating back to the Middle Ages and constituting their direct continuation. Another important element involves answering the question of what the Three Seas Initiative is in formal terms. On the one hand, the participants emphasise that it is an informal type of cooperation and is meant to remain so, but on the other hand, some believe that it is an international organisation. Attributing meanings to scientific terms that are completely different from the scientifically accepted terms creates terminological chaos, resulting either from ignorance, weakness of academic circles and intellectual elites, or from a deliberate effort to introduce chaos and/or deconstruct concepts. There are more similar examples of discrepancies in the narrative concerning the Three Seas Initiative. It has a negative impact on communication between participants and it makes it difficult to build trust. This is of particular importance as regards relations between representatives of small states and medium/large states like Poland. Such

¹¹ A. Wendt, *Spółeczna teoria stosunków międzynarodowych*, Warsaw 2008.

communication necessitates precision of message, cohesion and, at the same time, taking into account the concerns inherent in the policy of small states towards stronger actors in the international arena, subject to conditions at the international system level.

The process of shaping message about the Three Seas Initiative is currently underway. Material factors play an important role, but they can be to some extent driven out of the information space. A. Wendt's constructivism prioritises social structures over material ones, while emphasising the importance of objective constraints resulting from the international environment, which must be taken into account when interpreting international reality. It draws attention to the fact that if the structure of selection is very limiting, the explanation of actors' behaviour actually depends on the accuracy of assumptions as to their desires and beliefs, but these explanations are trivial, e.g. in the case of a hotel fire, most people escape because they want to stay alive.¹² In the case of the fire right before our eyes, the facts speak for themselves in the sense that no narrative analysis is required to explain the motivation of people escaping fire. However, in the complex international reality, the way from the fact to the audience's level of consciousness is complicated, and the fact itself may be twisted along the way or may even disappear completely. This does not change Wendt's assumption that objective constraints resulting from the international environment must also be taken into account. The explanatory power of constructivism has weaknesses, which are a starting point for the search for more refined theoretical tools.¹³ In a complex international environment, reference to

¹² A. Wendt, *op.cit.*, p. 118.

¹³ According to A. Visvizi "Constructivism is incapable of giving a clear and unambiguous explanation of the nature of interactions that develop between structures (both material and conceptual) and subjective causality. As outlined before, this leads either to a methodological individualism with a tendency to excessive subjectivisation of the argument or to a methodological collectivism in which the role of subjective causality is put in brackets." – says A. Visvizi, *Realizm krytyczny i morfogeneza wobec metateoretycznych pułapek konstruktywizmu: od teorii do praktyki w studiach europejskich*, in: J. Ruskowski, L. Wojnicz (red.), *Teorie w studiach europejskich: w kierunku nowej agendy badawczej*, Szczecin: The Institute of Political Science and European Studies at the University of Szczecin; Warsaw: The Institute of European Studies at the University of Warsaw, 2012, p. 9. An interesting suggestion

different theoretical approaches becomes warranted and is reflected in numerous scientific studies. The development of different intra-EU forms of regional cooperation in Central Europe calls for a multi-dimensional analysis, with various theoretical approaches proving useful in finding answers to the related research questions.

The theory of liberalism, advocated by small states, is proving particularly useful when studying cooperative behaviours. In this sense, it is not war, but peace that is the natural state of international relations, and states can benefit more by cooperating than by competing. The emphasis on international law, in the light of which all states are equal, diminishes the importance of power as a primary indicator of the position of actors in international relations.¹⁴ In the theory of liberalism, the position of small states becomes stronger than the balance of power would suggest, and their combined voice, forged in cooperation, can enhance this strength. Cooperation can help reduce the quest for dominance by certain states and pave way for new avenues of influence in the international environment. Institutions are not tools of dominance of states, and cooperation does not only contribute to achieve their interests, but creates a new quality, a new added value serving common interests. Exploration of the underlying motives for cooperation within the Three Seas Initiative led me to conclusion that its participants express reasonable behaviour in an anarchic environment. They try to pursue their own interests while taking into account the common interest. By acting within the initiative, they affect the behaviour of other actors in international relations. A high degree of participation in various forms of multilateral cooperation constitutes one of the characteristic features of small states' policies.¹⁵

for a theoretical approach was presented by A. Dudek, *Użyteczność analitycznego eklektycyzmu w badaniu stosunków Polski z Rosją*, "International Relations" 2016;52(2), pp. 39–70.

¹⁴ P. Bajda, *op.cit.*, pp. 78–81.

¹⁵ A. Kosowska, *Duża Unia małych krajów – państwa małe w Unii Europejskiej*, in: R. Żelichowski (ed.), *Małe państwa Europy Zachodniej i terytoria o statusie specjalnym*, ISP PAN, Warsaw 2008, pp. 25–27.

The realism theory presents another explanation of the motives for cooperation.¹⁶ In general, realists take a pessimistic approach to international cooperation, believing that states' decision to cooperate is motivated by their own self-centred interests. In the minimum variant they seek to improve their own security, and in the maximum variant they seek to establish dominance. This spectrum is decisive when choosing a particular option and when assessing other states' behaviour, with small states not involved in the battle for dominance. Realists concentrate their attention on the superpowers, perceiving small states as the object of international politics rather than its subject.¹⁷ The research findings indicating that small states are able to effectively exert influence on decisions taken by international institutions, whose actions often correspond to the preferences of small states, contradict such a position. The exact mechanism behind this remains unclear to scientists.¹⁸ On the ground of realism, international cooperation is motivated by the struggle for interests and power of particular states and also by rivalry. The underlying dilemma associated with the decision of state authorities to commit to work together concerns the question of to what extent it serves their own national interests and how it may affect the distribution of power. A common threat constitutes one of the main motivations for states to cooperate.

In the international context, it is worth noting that the Three Seas Initiative was launched during the time of growing threat from Russia. The illegal annexation of Crimea by Russia in 2014, followed by the violent Russian invasion of Ukraine in 2022, presented a real threat to the vital interests of many countries, especially small Eastern European states.

¹⁶ A. Orzelska-Stączek, *Inicjatywa Trójmorza w świetle teorii realizmu. Polityczne aspekty nowej formy współpracy dwunastu państw*, "International Affairs", 2019. M. Waleczek, *Współpraca w świetle nurtów realizmu defensywnego i realizmu ofensywnego. Przypadek współpracy turecko-irańskiej*, [in:] *Teoria realizmu w nauce o stosunkach międzynarodowych*, ed. J. Czaputowicz, E. Haliżak, PTSM, Rambler, Warsaw 2014, <http://ptsm.edu.pl/wp-content/uploads/publikacje/teoria-realizmu-w-nauce-o-stosunkach-> [access: 10.02.2023].

¹⁷ J. Juozaitis, *Introduction. Small States, International Institutions, and European Strategic Autonomy*, in: G. Česnakas, J. Juozaitis (ed.), *op.cit.*, p. 21.

¹⁸ J. Juozaitis, *Introduction. Small States, op.cit.*, p. 22.

The Three Seas Initiative as an opportunity and for small states

Small states employ many different strategies to minimise or compensate for the relative weakness: ranging from defensive policies of isolation through strategies of adaptation to strategies of international activism.¹⁹ The functioning of the international system on the basis of the principles and norms of international law, including the principle of sovereign equality and the principle of refraining from the use of armed force, remains fundamental to them. Participation in various forms of multilateral cooperation allows them to promote those principles and constitutes the basis of a broadly understood international engagement strategy. This allows small states to exert influence, greater than their potential would suggest, in shaping the international environment, to gain greater access to data and to the decision-making capacity of key players. However, involvement in regional formats requires diplomatic and organisational efforts, which can prove challenging for small states, especially with abundance of already existing forms of cooperation. Hence the need for the optimal and cautious investment of resources available to the small states, so that the benefits and risks involved are all taken into account. The decision of small states to join the Three Seas Initiative was based on their opinion that the expected benefits would outweigh the risks.

A key motive for small states to get involved in the Three Seas Initiative was their pragmatic desire to achieve tangible benefits by boosting the region's economy. The opening words of the Dubrovnik Statement (2016) mentioned the importance of "connecting the economies and infrastructures of Central and Eastern Europe from North to South, to complete the construction of the European Common Market, bearing in mind that most efforts to date have been to connect the East and West of Europe".²⁰ Through the individual efforts of countries,

¹⁹ A. Kosowska, *op.cit.* p. 26.

²⁰ Joint Declaration on the Three Seas Initiative (Dubrovnik Summit Declaration of 25 August 2016), <https://trojmorze.isppan.waw.pl/inicjatywa-trojmorza/deklaracje-szczytow-inicjatywy-trojmorza/wspolna-deklaracja-w-sprawie-inicjatywy-trojmorza-deklaracja-z-dubrownika-25-sierpnia-2016/> [access: 10.02.2023].

it would be practically impossible to build infrastructure links between the northern and southern parts of Central Europe. The needs of the region are vast, as the so-called list of priority interconnection projects, unveiled during the Bucharest Summit in 2018, covering some 150 pages, demonstrated to a certain extent. This list has since been significantly expanded. It was intended to garner political support for the listed projects and to encourage concerned governments, companies and financial institutions to work together for their prompt implementation. In 2022 the list included 91 submitted projects. Seventeen projects have been submitted by Hungary and Croatia, twelve by Poland, eleven by Lithuania and Latvia, eight by Slovakia, seven by Romania and Slovenia, six by Estonia, four by Bulgaria and one by Czechia.²¹

The appeal of the Three Seas Initiative is largely based on the fact that this cooperation is expected to eliminate the enduring division of the European Union into Western Europe and the underdeveloped Eastern Europe. This is in line with the interests of the Three Seas Initiative small states. The expected benefits primarily include boosting economic growth through the development of energy and transport infrastructure, and also the North-South digitalisation. Small states feature a tight internal market, high dependence on external markets and on the current global economic prosperity. The development of cooperation, on which the concept of the Three Seas Initiative is based, addresses the needs of these states. The selected model of cooperation further provides opportunities to establish fresh networks and influence the international environment in new ways. Besides the economic and political aspect, cooperation within the Three Seas Initiative indirectly concerns the area of security in various aspects. In terms of energy security, crucial efforts include seeking to diversify delivery routes and sources of supply of raw materials for the region, which has been dependant on Russian raw material supplies for many years. In the wider sense of security, Poland's strong

More on the economic potential: K. Popławski, J. Jakóbowski, *Building closer connections. The Three Seas region as an economic area*, Polish Economic Institute, Warsaw 2020, <https://pie.net.pl/wp-content/uploads/2022/01/PIE-Three-Seas.pdf> [access: 10.02.2023].

²¹ Details: <https://projects.3seas.eu/report> [access: 10.02.2023].

commitment to promoting this regional cooperation, with support of the United States, is of significant importance. The United States remains the strongest military power worldwide and guarantees European security. All the Three Seas Initiative states, save for Austria, belong to NATO and this form of cooperation provides an additional opportunity to solidify relations within the alliance. Speaking of opportunities created by the Three Seas Initiative, Egils Levits, the President of Latvia, which hosted the 2022 Summit in Riga, highlighted cross-border infrastructure projects concerning digital, energy and transport connections. He stated that the cross-border infrastructure demands of the twelve countries are still substantial, despite EU funding. However, he also identified another dimension of the Three Seas Initiative, important especially in the light of the Russian invasion of Ukraine.²²

The Three Seas Initiative provides numerous examples demonstrating how small states can benefit from this opportunity for cooperation. Let us begin by noting that the Dubrovnik Presidential Summit of 2016, organised by Croatia in cooperation with Poland, is considered to be the date when this format was created. Croatia is presented as one of the initiators of this cooperation, which has strengthened its recognition and prestige on the international stage. Furthermore, it co-hosted the Three Seas Initiative Summit in Warsaw, which was personally attended by the president of the United States. It was the most important diplomatic event in Central Europe in 2017.²³

The Three Seas Initiative is based on a loose-knit model of cooperation, which in many ways is considered optimal by small states. Firstly, it somewhat imitates an organisation and offers some of the benefits associated with it without fixed costs; secondly, due to its flexibility, it is not a source of rigid obligations that might compel states to behave in a certain way. A. Kosowska believes that “Most small states conduct

²² Address by the President of the Republic of Latvia Egils Levits, A. Sprūds, M. Vargulis (ed), *Three Seas Initiative: Mapping National Perspectives*, Latvian Institute of International Affairs, 2022, p. 7, https://liia.lv/en/publications/three-seas-initiative-mapping-national-perspectives-1002?get_file=1 [access: 10.02.2023].

²³ More information about the summit in: P. Kowal, A. Orzelska-Stączek, *Inicjatywa Trójmorza. Geneza, cele i funkcjonowanie* ISP PAN, Warsaw 2019, pp. 56–60.

their foreign affairs in a similar way: usually through cheap and effective methods, which include multilateral diplomacy rather than bilateral diplomacy”.²⁴ In the case of the Three Seas Initiative, small states have a clear preference for the so-called *project-oriented* model of cooperation, bolstered by the summit diplomacy in the format of presidential meetings. States are driven by the desire to maximise benefits while optimising the management costs of a specific task. Establishing permanent institutions within the Three Seas Initiative is a regularly recurring topic in discussions, but the rising levels of bureaucracy would necessitate the development of control functions, which would translate into an increase in the cost of controlling the international environment through the partnership. The choice of loose-knit forms of regional cooperation that dominates in Central Europe translates into relatively high effectiveness in exerting influence on the other actors’ behaviour combined with great flexibility and low operating costs. Moreover, it helps to avoid empowering one state, where the organisation’s permanent headquarters would be located, at the cost of weakening other states’ positions.

As already mentioned, taking into account the institutional aspects, the functioning of the Three Seas Initiative is based on the annual presidential summits. Hosting the summit is not a legal obligation, countries may or may not take this opportunity. Among the countries that have so far hosted the summit are Croatia (2016), Poland (2017), Romania (2019 and 2023), Slovenia (2019), Estonia (2020), Bulgaria (2021) and Latvia (2022). Estonia stands out among them and, as the smallest country in terms of population in the Three Seas Initiative (population of 1.3 million, area of 45 300 km²), deserves attention.

The Tallinn 2020 Summit was promoted by the Estonian government as a major diplomatic event. The official website mentioned that “The fifth Three Seas Summit and its third business forum will be held at the Tallinn Creative Hub on 19 & 20 October 2020. [...]. It will be one of the biggest and most influential events in Estonia’s recent history, with the potential to make a significant contribution to the development of Central and Eastern European states and to the well-being of more

²⁴ A. Kosowska, *op. cit.*, p. 27.

than one hundred million people.”²⁵ The Estonian Ambassador Martin Roger explained that “We have hosted various events in Estonia over the last decade, the held the Presidency of the Council of the European Union from July 2017 until the end of December 2017 or the informal NATO Foreign Ministers’ meeting in April 2010. The Three Seas Initiative Summit in its physical form would indeed be a very important meeting, bringing together 12 participating countries, partners, the vast business community. A change of format does not alter its content and objectives. We will therefore organise a Virtual Summit.”²⁶ Pandemic proved to present an unexpected challenge to the hosts. The original date of the Three Seas Initiative Tallinn Summit was scheduled for June, then postponed to October, until the decision was made to change the format to the Three Seas Virtual Summit and Web Forum, organised in this format for the very first time. While on the one hand this impeded the original plan, as many official delegations had to be cancelled, on the other hand it presented an additional opportunity that Estonia managed to take advantage of. It has reinforced its reputation of a *smart state*. As the host of the summit, Estonia unveiled its concept of development in the area of *smart connectivity*, strengthening its reputation of a country boasting a high level of innovation and digitalisation. As the host of the summit, Estonia has also created a new website for the Three Seas Initiative, registered its new logo, and created the ‘Research Papers’ website, where it effectively promotes selected research papers on the Three Seas Initiative.²⁷ It should be noted that two months following the Tallinn Summit held in December 2020, the completion of the second (after

²⁵ “The fifth Three Seas Summit and its third business forum will be held at the Tallinn Creative Hub on 19 & 20 October 2020. The event will bring heads of state, leading business figures, and senior officials from Europe and the United States to Estonia. It will be one of the biggest and most influential events in Estonia’s recent history, with the potential to make a significant contribution to the development of Central and Eastern European countries and to the well-being of more than one hundred million people.’ 2020 Summit and Business Forum, Tallinn, Estonia, <https://www.3seas.eu/event/summit-and-business-forum-estonia?lang=en> [access: 10.02.2023].

²⁶ Ambassador M. Roger in the interview with A. Legucka and A. Orzelska-Stączek, M. *Estonia’s vision of the Three Seas Initiative*. *International Affairs*, 2020, 73(2), 11–21. <https://doi.org/10.35757/SM.2020.73.2.13> [access: 10.02.2023].

²⁷ <https://3seas.eu/about/three-seas-trademark?lang=pl> [access: 10.02.2023].

Cargounit) investment ever made by the Three Seas Initiative Investment Fund (FIIT), which acquired 92% of shares in the Estonian-based company Greenergy Data Centers, was announced.²⁸

Three Seas Initiative Investment Fund remains a separate issue. It is an independent legal entity, a commercial fund, although its origin is closely linked to the Three Seas Initiative. From the small states' perspective, it felt important to have Poland take the main investment risk. BGK (Bank Gospodarstwa Krajowego) is still the largest shareholder of the Three Seas Initiative Investment Fund, having increased its contribution from EUR 500 million to EUR 750 million in 2020. The remaining nine states declared contributions of EUR 20 million, apart from Slovenia with a contribution of EUR 22 million.²⁹ The fund has drawn the attention of investors to Central Europe; joint promotional efforts have resulted in the United States declaring its commitment. Should the Three Seas Initiative Investment Fund succeed, the entire region will benefit measurably, however, in the event of the investment failure, the risk for small states remains low. The attention should be drawn here to the ability of small states to take advantage of the opportunities provided by the Three Seas Initiative Investment Fund. The Czechs, just like the Slovaks, signed a letter of intent to establish the fund, indicating their willingness to join the fund, but made no formal commitment. Czechia, Slovakia and Austria are not among the so-called *core sponsors*, as many paper suggest. Very few authors report that the Czechs have taken the opportunity

²⁸ The exact amount of the transaction is not known, but the Investment Committee has authorised funds of up to EUR 70.9 million for the investment. Greenergy is implementing the development of the largest and most energy-efficient data centre in the Baltic region. The project is also notable for its 100% renewable energy use. Digital data storage and processing solutions will be available to all countries in the region. The company's plans also include data centres outside Estonia. J. Wilczek, A. Rudowski, *Fundusz Trójmorza W stronę instytucjonalizacji Inicjatywy?*, Collegium Interethnicum Publishing House, Warsaw 2021, https://interethnicum.pl/wp-content/uploads/2022/01/BAROMETER_3_final.pdf [access: 10.02.2023].

²⁹ In May 2022, the total declared budget of the Investment Fund amounted to EUR 928 million. The budget included the contributions of key investors from the nine Three Seas states, who declared a total contribution amounting to EUR 913 million, and two private investors. The fund's target budget is expected to amount to EUR 3–5 billion.

to nominate their representative to the Board of the Fund.³⁰ There has been some interest in the fund from the Slovakian side, but no binding actions so far. The Austrian authorities have repeatedly declared their lack of interest in such an investment institution. This did not prevent Austrian-based company Enery, operating in several countries in Central Europe, including Czechia and Slovakia, from being chosen as the fund's third investment. As a result, despite the moderate attitude towards the fund, these states managed to draw concrete benefits from it and receive particularistic advantages in the short term.

It was crucial on the part of small states to overcome German and E.U. scepticism and gain support from the United States. Under the Bucharest Declaration of 2018 adopted by the presidents of the Three Seas Initiative states, the United States and Germany were awarded the status of partner states, and the European Commission, the European Investment Bank, the European Bank for Reconstruction and Development and the World Bank Group were awarded the status of partner institutions.³¹ In contrast, in the declaration adopted in Riga in 2022, the United States, Germany and the European Commission were described as strategic partners of the Three Seas Initiative. Ukraine has been granted the status of a partner state.³² The support of Japan and the United Kingdom was also mentioned. The basic pillars and objectives of the Three Seas Initiative were defined as: strengthening economic development; strengthening European cohesion, also by modernising infrastructure in the region; strengthening transatlantic ties. This direction of cooperation development presents new opportunities and possibilities in line with the interests of small

³⁰ <https://3siif.eu/fund-structure> [access: 10.02.2023].

³¹ Joint Declaration of the Third Summit of the Three Seas Initiative (Bucharest, 17–18 September 2018) <https://trojmorze.isppan.waw.pl/inicjatywa-trojmorza/deklaracje-szczytow-inicjatywy-trojmorza/wspolna-deklaracja-iii-szczytu-inicjatywy-trojmorza-bukareszt-17-18-wrzesnia-2018/> [access: 10.02.2023].

³² Joint Declaration of the Seventh Summit Three Seas Initiative (Riga, 20–21 June 2022), “We welcome Ukraine as a special guest in this year’s 3SI Summit and as a partner to the 3SI who from today begins the process of participating in the 3SI”. <https://3si.politic.edu.pl/joint-declaration-of-the-seventh-summit-three-seas-initiative-riga-20-21-june-2022/> [access: 10.02.2023].

states and, concurrently, in the common interests of Central European states, the European Union, and the transatlantic community.

Challenges and threats

The Three Seas Initiative was originally a concept of the Central European states with Poland and Croatia playing a key role. However, the tensions between Poland and the EU institutions and Germany, the overlapping problem concerning German-American relations, remained a burden from the small states' perspective. Any actions that could be construed as an effort to undermine their relations with Brussels and Berlin raised concern. An integral element of the politics of small states is the awareness that their survival is highly dependent on their relations with other actors in international relations, especially at a time of growing military threats. In the area of deficits that small states of the Three Seas Initiative constantly face, military insecurity is the most measurable and relevant from the viewpoint of their vital interests. The EU and NATO (with the exception of a non-NATO Austria) are their pillars of security, with a strong German position in Europe and the United States worldwide.³³

In many ways, Poland remains an attractive partner for small Central European states, but they are not ready to tighten relations with Warsaw at the risk of deteriorating relations with Germany or Brussels. Poland lacks financial resources necessary to implement ambitious projects within the Three Seas Initiative and its ability to seek support at the EU level is limited. However, external support is required given that the Three Seas states cover almost a third of the EU's territory, a quarter of the EU's population, but contribute much less to the EU's GDP. In terms of GDP per capita, salaries, quality of life, infrastructure, Austria stands as a clear leader among the Three Seas states. However, in the face of

³³ J. Juozaitis "small European states generally perceive the partnership with the United States and memberships in NATO and the EU as their primary security providers." – J. Juozaitis, *op.cit.*

Russian aggression, the balance of power is shifting and so are the political priorities of small states.

From their perspective, among the challenges associated with participation in the Three Seas Initiative, the biggest concerns related to the possible negative impact of this new form of cooperation on the participating states' relations with Germany and the European Commission. The small states do not wish to be a party to the contentious issues separating Poland from the group of larger European actors, led by Germany. Despite the signal of a change of attitude from Brussels and Berlin in 2018, as demonstrated by awarding the partner status to Germany and partner Institution status to the European Commission, the position of the European Commission and the European Union has remained ambiguous. Some concerns had been dispelled, but some are still relevant. In 2019, Ambassador of Slovakia to Poland Dusan Kristofik said: "Slovakia objected to the creation of a new political or geographical concept on the European map that could draw new demarcation lines between 'Eastern and Western Europe', which would be counterproductive. The initiative should not be an alternative to the EU".³⁴

Another category of threats, built at the narrative level by those against this cooperation, related to the superpower ambitions attributed to Poland and its quest for regional dominance. This element is particularly emphasised in the Russian narrative³⁵. Against the background of the region's small states, Poland indeed stands out, but compared to its large neighbouring states of Germany and Russia, it has much less potential and lacks the means and ambitions to be a regional hegemon. Poland, due to its size and geographical location, appears to be a sizeable country compared to other countries in the region, but compared to other European countries – is an average-sized country at best. According to

³⁴ Interview with H.E. Ambassador Dušan Krištofik conducted at the Slovak Embassy in Warsaw 6 June 2019 by Prof. Agnieszka Orzelska-Stączek and Marzena Czernicka, PhD in: A. Orzelska-Stączek, P. Ukielski, *Inicjatywa Trójmorza z perspektywy jej uczestników*, ISP PAN, Warsaw, 2020, p. 168.

³⁵ P. Bielicki, *Stanowisko Rosji wobec Inicjatywy Trójmorza*, „Studia z Dziejów Rosji i Europy Środkowo-Wschodniej”, 2022, T. 57, no. 1, DOI 10.12775/SDR.2022.1.08. <https://apcz.umk.pl/SDR/article/view/40412/33404> [access: 10.02.2023].

J. Juozaitis, “Poland, while being neither a small state nor a superpower, emerged as a potential builder of the coalition of small states sharing a transatlantic attitude towards EU strategic autonomy”.³⁶

Among the concerns raised against the Three Seas Initiative by small states, the adopted form of cooperation is believed to be unclear. The flexible model implied a lack of legal agreements that could provide a conclusive answer to many questions. Transferring the organisation of summits each year presented additional challenges in the field of coordination between participants, given the absence of any permanent institution.

Another category of challenges involved the potential impact of this cooperation on the regional balance of power as a consequence of unequal distribution of benefits among the participants. The selection of investment projects promoted by the Three Seas Initiative involved a decision on direction of developments and benefits which, for some countries, may strengthen their position, but for others, relatively weaken it. From the realistic point of view, the decision makers do not reflect on whether a state will benefit from a given cooperation, but try to determine whether they will benefit more from it than other states. This is reflected, e.g. in discussions on the establishment of permanent Three Seas institutions, at least in a limited capacity, such as a secretariat. Ultimately, no institution was established at the Three Seas Initiative level, however, a similar discussion occurred on the occasion of the establishment of the Three Seas Initiative Investment Fund, which is, I stress, a separate commercial entity. When choosing its headquarters, arguments were raised that it should be located in one of the Three Seas states to enhance its prestige and contribute to its development. Lower operating costs of such establishment and the aim to strengthen the local business community also spoke in favour of this solution. However, another solution prevailed – the choice of Luxembourg for the Three Seas Initiative Investment Fund headquarters allowed to avoid the Three Seas states competing for this privilege.

Discrepancies in how threats are defined are a constant factor adversely affecting cooperation in Central Europe. In the face of Russia’s invasion of Ukraine, all the EU countries, including the small Three

³⁶ J. Juozaitis, *op.cit.*

Seas Initiative states together with NATO, have demonstrated solidarity and ability to work together, but significant differences have appeared. Between the eastern, small European states, at one end of the spectrum there are Baltic states of Lithuania, Latvia and Estonia, in favour of severe measures against Russia,³⁷ and at the opposite end, Hungary, having great sympathy for Russia's actions and obstructing efforts to support Ukraine.³⁸ Russia has many instruments to keep impacting the states of Central Europe and play them out. Besides the *hard power* factors, it is worth to mention the ability to build influence among the elites. Studying at the Moscow State Institute of International Relations still looks appealing and attracts youth in some Central European countries to Russia. For example, the Slovaks still regard Russia as one of their primary destinations for educational travel.³⁹

Another category of challenges the Trilateral Initiative is facing concerns the adequacy of the level of aspirations in relation to real capabilities. Concerns arise among small states as to whether the implementation of bold, ambitious projects is possible, or is boosting the economic growth of the eastern part of the EU realistic, given the existing financial and structural constraints. Small states with limited resources must manage them in the best possible way; participation in structures that exist but do not produce tangible results appears to be an unnecessary burden for diplomacy and the government budget. In unofficial talks, the Central European Initiative is regarded as such an example.⁴⁰

In conclusion, challenges associated with the Three Seas Initiative on the particular levels of analysis can be identified as follows:

³⁷ <https://ies.lublin.pl/komentarze/panstwa-baltyckie-kolejne-ograniczenia-i-rozyjski-odwet/> [access: 10.02.2023].

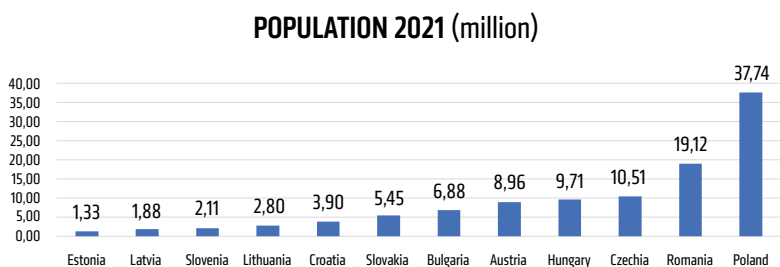
³⁸ <https://www.pism.pl/publikacje/wegry-wobec-zagrozenia-ponowna-agresja-rusji-na-ukraine> [access: 10.02.2023].

³⁹ This aspect was highlighted by P. Bajda in the abovementioned research paper published in 2018. This trend remains the same: <https://www.saia.sk/sk/main-old/schvaleni-stipendisti/vyberove-konania-na-skolsky-rok-2020/2021/ruska-federacia-mgimo> [access: 10.02.2023]. Information based on data from the Slovak Academic Information Agency.

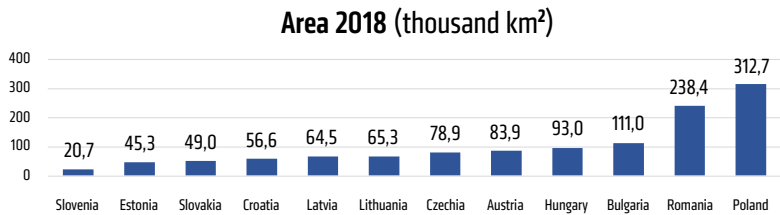
⁴⁰ Insights of the study visit to Prague as part of the project entitled Research Centre for the Three Seas Initiative, ISP PAN, December 2022.

- at the state level: at this level, the key issue is how much can each country benefit from this cooperation, with the emphasis on relative rather than absolute gain. I would like to highlight the importance of the available information and knowledge of these benefits at the level of public awareness and the message built.
- Central European and EU level: this is the main area of activity of the small states' foreign policy. These countries expect the Three Seas Initiative to be closely integrated with the European Union. The biggest threat is the perception of the Three Seas Initiative as an alleged attempt to seek to develop an alternative to the EU. At this level of analysis, an important factor is the asymmetry in relations between small states and medium/large states like Poland and Romania with the activity of regional and global superpowers in this part of Europe.
- global level: it essentially remains outside the area of small states' activity. However, it is important to mention that support for the Three Seas Initiative is provided by the United States, which, from the small states' perspective, bolsters their security and constitutes a constraining factor for the Russian agenda. The US support for regional cooperation in Central Europe is negatively received in pro-Russian circles.

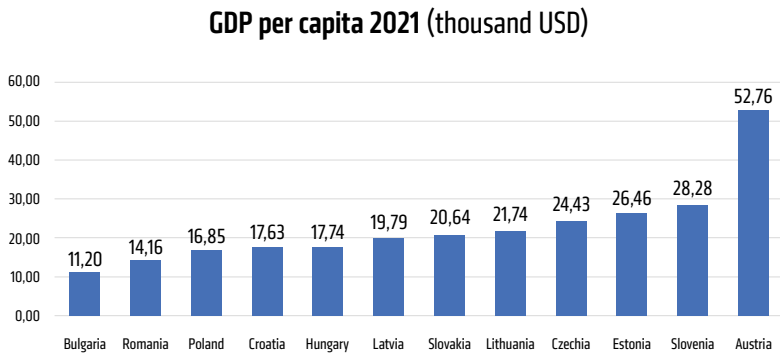
Table 1. Population of the Three Seas Initiative states.



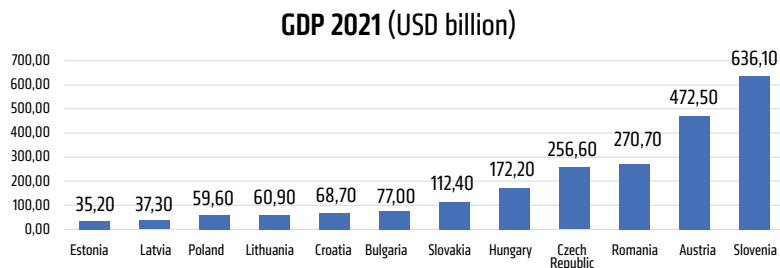
Source: own study based on <https://databank.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG/1ff4a498/Popular-Indicators#>, [access: 10.02.2023].

Table 2. Territory of the Three Seas Initiative states.

Source: own study based on <https://databank.worldbank.org/data/indicator/NY.GDP.MKTP.KD.ZG/1ff4a498/Popular-Indicators#>, [access: 10.02.2023].

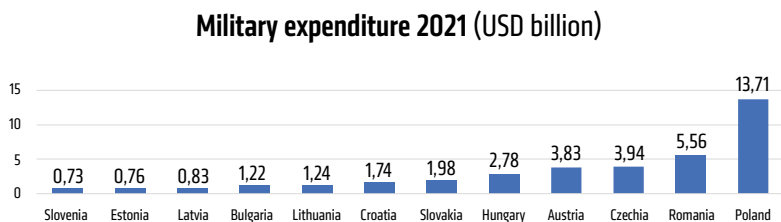
Table. GDP per capita in the Three Seas Initiative states.

Source: own study based on <https://databank.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG/1ff4a498/Popular-Indicators#>, [access: 10.02.2023].

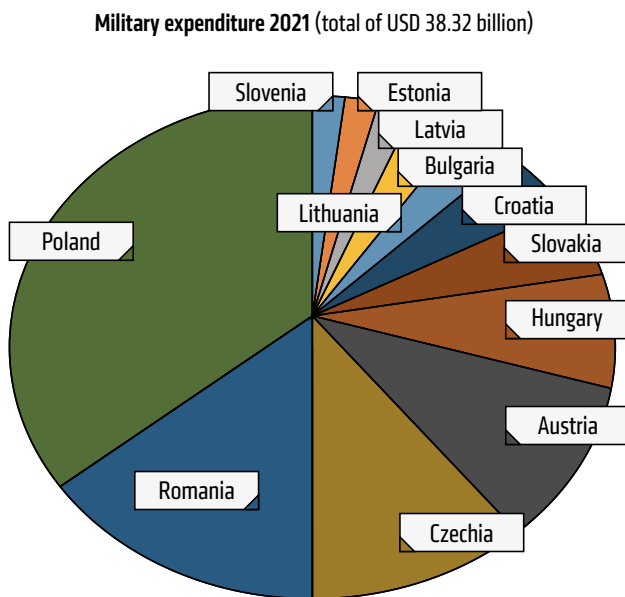
Table 3. Total GDP in the Three Seas Initiative states.

Source: own study based on <https://databank.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG/1ff4a498/Popular-Indicators#>, [access: 10.02.2023].

Table. Military expenditure.



Source: own study.



Source: SIPRI data, <https://milex.sipri.org/sipri>, [access: 10.02.2023].

*Austria is not a member of NATO.

Summary

The main opportunities offered to small states by the Three Seas Initiative include the possibility of influencing its activities to correspond with their preferences. The priority areas include energy infrastructure, transport infrastructure and digitalisation. The Three Seas cooperation indirectly creates the possibility to increase their influence in the field of politics and security, especially as regards energy security. Furthermore, it is becoming a platform for the development of contacts with third parties, including the United States, Germany, Ukraine and the European Commission. The development of cooperation within the Three Seas Initiative to date reveals that small states are capable of effectively affect the course of decisions taken on this forum, in line with their interests.

The Three Seas Initiative was created in 2016 as a new, initially undefined format of cooperation, comprising ten small states together with Poland and Romania. In the years 2016–2023, presidential summits were hosted every year in a different country; as a matter of fact, most of them were hosted by small states. Besides the political dimension, expanded from the presidential level to the governmental level and, to some extent, local government, attempts were made to cooperate in other areas, such as the Business Forum, the Civil Society Forum, the Local Government Three Seas Congress and the Economic Forum. The CEEplus index, established by the stock exchanges of the seven Three Seas states and coordinated by the Warsaw Stock Exchange, was inspired by the Three Seas Initiative.⁴¹ A separate commercial entity, the Three Seas Initiative Investment Fund, has also been established. It is worth noting that the Three Seas Initiative has become an important platform for promotional activities to attract new investors to Central Europe. Reports, analytical and scientific papers about the economic potential of the region and the benefits that this cooperation can bring, have been produced. The so-called list of priority interconnection projects helped to publicise specific

⁴¹ „Poland’s share in this index has been intentionally capped at 50%, otherwise Polish companies would dominate it”, <https://ine.org.pl/5-wyzwan-stojacych-przed-trojmorzem/> [access: 10.02.2023].

infrastructural needs reported by individual countries. At the narrative level, an important new point of reference has emerged. Overall, the Three Seas Initiative has given small states new ways to express their needs, build contacts and implement their interests. As previously mentioned, small states share common challenges of coping with the relative deficit of power in international relations. With limited resources at hand, they seek optimal ways to ensure that their interests are taken care of, with participation in regional cooperation and strong international activity on at the regional level among the features of their foreign policy.

In terms of threats, small states are voicing concerns that the Three Seas Initiative might take action not in line with their foreign policy priorities. They also point out the asymmetry of potentials and a significant role of Poland. The importance of accuracy of expression, a communication strategy that would work towards building trust and good neighbourly relations, is getting increasingly important under these conditions.

Small states acting as rational actors in an anarchic environment, in pursuit of their business, must pay close attention to their fundamental interest of security and survival. In the evolving international environment, with the rising threat from Russia, the role of the Three Seas Initiative and the opportunities for small states to bolster their position through it is increasing.

GÁBOR HULKÓ

Constitutional Values of State Sovereignty – Towards a Localized or Centralized EU?

1. Introduction

The crises of recent years, such as the global financial crisis, the refugee crisis (and later the pandemic and the Ukrainian crisis), have led to a concentration of power in the hands of a few key actors and a lack of democratic accountability. This has raised questions about the role of state sovereignty in the EU and the relationship between member states and the supranational institutions that govern them. There are opinions¹ asserting that in connection with the global financial and the refugee crisis, key decisions on the EU level about economic governance, refugee policy, and security have been made in opaque and non-transparent ways, outside of the traditional channels of democratic representation and accountability. This has led to a concentration of power in the hands of a few key actors, such as the European Commission and the European Central Bank, who are often shielded from democratic scrutiny, and to the strengthening of executive power in the EU, often at the expense of democratic institutions and processes. This trend towards “*executive federalism*” has eroded the democratic legitimacy of the EU, as well as the sovereignty of its member states. This trend can also be seen later in the COVID virus situation, where the European Commission has been

¹ Like Auer, Stefan (2022): *European Disunion: Democracy, Sovereignty and the Politics of Emergency*. Hurst, London, 288 pp.

active, but not always transparently,² often without consulting the Member States. There is an urgent need for greater democratic accountability and transparency in the EU's politics. Without these, the legitimacy and stability of the EU will continue to be undermined, potentially leading to further crises and disunion.

Transparency in the context of the EU refers to the principle that decisions made by the EU institutions and Member States should be open, accessible, and understandable to citizens. One aspect of transparency is the clearly defined relationship between the EU and its Member States, which is outlined by default by the principle of subsidiarity, which means that decisions should be taken at the lowest possible level of government, with the EU only intervening when necessary. Recent developments have highlighted several issues in the European Union that require clarification, particularly concerning the long-term sustainability of the EU. One crucial aspect of this is the sovereignty of the Member States. This study examines the issues of constitutional sovereignty and social stability, primarily from the perspective of the former socialist, post-transition countries.

2. State sovereignty in the context of the EU framework

The purpose of state sovereignty³ is to establish the state's authority over its territory and population and to protect its independence and ability

² For instance: Ongoing EPPO investigation into the acquisition of COVID-19 vaccines in the EU. <https://www.eppo.europa.eu/en/news/ongoing-eppo-investigation-acquisition-covid-19-vaccines-eu> or The European Commission's refusal of public access to text messages exchanged between the Commission President and the CEO of a pharmaceutical company on the purchase of a COVID-19 vaccine. <https://www.ombudsman.europa.eu/en/case/en/59777>.

³ On the matters of sovereignty its aspects there is rather rich literature. See for instance: Chronowski, Nóra – Petrétei, József (2020): Szuverenitás. In Jakab, András – Könczöl, Miklós – Menyhárd, Attila – Sulyok, Gábor (szerk.): *Internetes Jogtudományi Enciklopédia*. <http://jotot.hu/szocikk/szuverenits>. Takács, Péter, ed. (2015): *Az állam szuverenitása*. Gondolat kiadó, Győr-Budapest, 562 pp. Jenei György (2018): *A modern európai állam, állami szuverenitás, népszuverenitás*. *Köz-Gazdaság* 2018/4. http://unipub.lib.uni-corvinus.hu/6706/1/15_Article_Text_58_1_10_20190223.pdf. Chronowski

to make decisions without interference from external actors. State sovereignty is the foundation of the modern nation-state system and is considered a fundamental principle of international law. Sovereignty allows states to govern their affairs, establish their laws and policies, and represent their interests on the international stage. It is seen as a means of ensuring political stability, promoting economic development, and protecting the welfare of citizens.

Issues of state sovereignty in the context of the European Union have been met with a fair share of controversies and debates. The EU, as a supranational entity, has taken a lot of power away from its member states, particularly in the areas of law and policy-making. This shift of power has raised fundamental questions about the role of the nation-state in a regional bloc and how it affects the sovereignty of its member states. In light of the ongoing debates, it is crucial to examine how state sovereignty has been impacted by the EU, and what implications this has for the future of European integration.

State sovereignty has several components, including *territorial integrity, political independence, legal supremacy, monopoly on the legitimate use of force, recognition by other states, control over resources, population, cultural identity, international relations, and decision-making autonomy*. These main areas can be extended to include others, but these attributes can be at least considered necessary for the sustainable functioning of the state.

Nóra (2011): Szuverenitás az Európai Unió tagállamaként. In Chronowski Nóra szerk.: Alkotmány és jogalkotás az EU tagállamaként. Válogatott tanulmányok. Budapest, HVG-Orac. 9–44. Bitsch, Marie-Therese – Loth, Wilfried (2009): European Institutions and Political Integration. In Loth, Wilfried ed.: *Experiencing Europe: 50 Years of European Construction 1957–2007*. BadenBaden, Nomos. 103–123. DOI: <https://doi.org/10.5771/9783845213323-103>. Bitsch, Marie-Therese – Loth, Wilfried (2009): European Institutions and Political Integration. In Loth, Wilfried ed.: *Experiencing Europe: 50 Years of European Construction 1957–2007*. BadenBaden, Nomos. 103–123. DOI: <https://doi.org/10.5771/9783845213323-103>. Philpott, Daniel (1997): Ideas and the Evolution of Sovereignty. In Hashmi, Sohail H. ed.: *State Sovereignty. Change and Persistence in International Relations*. University Park, PA, The Pennsylvania State University Press. 15–48. Philpott, Daniel (2001): *Revolutions in Sovereignty. How Ideas Shaped Modern International Relations*. Princeton–Oxford, Princeton University Press. Takács Péter (2011): *Államtan*. Budapest, Budapesti Corvinus Egyetem.

Territorial integrity is a fundamental aspect of state sovereignty, as it denotes a state's exclusive authority and control over its territory and borders. This ensures that the state can exercise its sovereignty within its borders and prevent external actors from interfering in its internal affairs. Within the European Union, the principle of territorial integrity holds great importance, as member states are bound by a series of legal and political agreements. These agreements not only promote cooperation and solidarity but also recognize the critical nature of maintaining the territorial integrity of each member state. The Treaty on European Union⁴ lays out the foundational principles of the EU, including respect for human dignity, freedom, democracy, equality, and the rule of law. The inviolability of borders and territorial integrity is a crucial aspects of this treaty. The Treaty on the Functioning of the European Union,⁵ however, introduces a wider approach by installing the EU's competence to ensure the application of EU law and policies throughout its territory. Territorial integrity remains a fundamental component of state sovereignty, particularly in the context of the European Union. While the EU fully recognizes the importance of maintaining the territorial integrity of each member state, it parallelly promotes cooperation and solidarity among them. It is critical to strike a balance between these factors to ensure the stability and prosperity of the Union.

Political independence is another crucial element of state sovereignty within the context of the European Union. It refers to a state's ability to govern itself without external interference or coercion. In the EU, member states have agreed to pool certain aspects of their sovereignty,

⁴ The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State. Consolidated version of the Treaty on European Union, TITLE III – PROVISIONS ON THE INSTITUTIONS. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012M%2FTXT>.

⁵ Consolidated version of the Treaty on the Functioning of the European Union. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>.

such as trade and economic policy, to achieve common goals. However, member states still retain their political independence in many other areas. This means that they have the right to make their own decisions on these matters without the interference of other EU member states or institutions. The EU respects the political independence of its member states and has established mechanisms to ensure that decisions are made democratically and transparently. The EU's decision-making processes involve the participation of all member states, and decisions are reached through a complex system of checks and balances. However, the issue of political independence can become contentious when it comes to areas such as human rights and the rule of law. The EU places a high value on these principles and expects member states to uphold them. When a member state's actions are seen as contrary to these values, the EU may take action to protect them, including imposing sanctions or suspending certain rights or privileges.

Legal supremacy, in general, means that the state has ultimate authority over its legal system and can pass and enforce laws within its territory. It is another key aspect of state sovereignty within the European Union, however it has a rather unique aspect in the framework of the EU, as the legal supremacy of a given Member State is limited by EU laws. This means that EU law takes precedence over national laws in case of any conflict, and that national courts are required to interpret national laws in accordance with EU law. This principle is enshrined in the EU's founding treaties and is essential to the functioning of the EU as a single market and a legal community. It ensures that the rules governing the single market are applied uniformly across all member states, and that EU citizens have equal access to justice and legal protection regardless of where they live. Legal supremacy also means that EU law has the power to override national laws that are incompatible with it. This can sometimes lead to tension between the EU and member states, particularly when national laws conflict with EU law. In such cases, the EU can take legal action against the member state to ensure compliance with EU law. The EU has established a complex legal framework to ensure the application and enforcement of EU law. This includes the Court of Justice of the European Union (CJEU), responsible for interpreting

EU law and ensuring its uniform application across all member states. National courts also play a crucial role in upholding legal supremacy by referring cases to the CJEU for interpretation when there is uncertainty about the compatibility of national laws with EU law.

The principle of legal supremacy in the European Union can sometimes conflict with the constitutional sovereignty of member states. Constitutional sovereignty refers to the principle that the constitution of a state is the highest source of law, and no other law can supersede it. This conflict arises because EU law, including the decisions of the CJEU, can sometimes be perceived as overriding the constitutional provisions of member states. This is particularly true in cases where national laws are deemed incompatible with EU law and must be amended or struck down. This conflict can create tension between the EU and member states, particularly those with strong constitutional traditions. Some critics argue that legal supremacy in the EU undermines the sovereignty of member states, as it limits their ability to make decisions that conflict with EU law.

Overall, the conflict between legal supremacy in the EU and the constitutional sovereignty of member states remains a complex issue. While legal supremacy is essential to the functioning of the EU as a single market and legal community, it must be balanced with respect for the constitutional traditions and sovereignty of member states. The EU has established a system of checks and balances to address these concerns. Still, ongoing dialogue and cooperation between the EU and member states are necessary to ensure the continued success of the Union.

The concept of a “*monopoly on the legitimate use of force*” is central to state sovereignty. It refers to the state’s exclusive right to use force, or violence, within its territory, to maintain law and order, protect citizens, and defend the state against external threats. The state’s monopoly on the legitimate use of force is rooted in the idea that the state is the ultimate authority within its territory, and that it has a responsibility to maintain order and protect its citizens. This requires the state to have the ability to use force when necessary, but it also requires that this use of force be legitimate and in line with the principles of the rule of law. The legitimacy of the state’s use of force is derived from the idea that the state has been

granted the right to use force by its citizens. This means that the state must use force consistent with the values and principles of the society it represents. However, the state's monopoly on the use of force is not absolute. It is subject to legal and constitutional limitations, as well as the scrutiny of civil society and international actors. This means that the state must use force in a way that is consistent with international law and human rights standards, and that it must be accountable for any abuses of power.

The EU's emphasis on the rule of law and human rights also constrains the use of force by member states and the EU itself. The EU is bound by international law, including the United Nations Charter,⁶ which sets out principles governing the use of force by states. The EU also has its human rights framework, which includes the EU Charter of Fundamental Rights,⁷ and has established bodies such as the European Court of Human Rights⁸ to enforce these rights. Moreover, the EU's approach to security and defense is based on the principle of "civilian power", which emphasizes using non-military means to resolve conflicts and promote stability. This includes diplomatic efforts, economic incentives, and other non-coercive measures.

Within the EU, *recognition by other states* is an essential element of state sovereignty that underpins the legitimacy and independence of member states. Each member state is recognized as a sovereign entity with the right to make decisions and participate in the international system. This recognition allows member states to engage in diplomatic relations and trade with other states, as well as participate in international organizations and forums. Moreover, within the EU framework, recognition is also vital for ensuring the principle of solidarity among member states, which is central to the functioning of the Union. The EU is built upon the idea of collective decision-making and shared sovereignty, which means that each member state has a say in the decisions

⁶ United Nations Charter. <https://www.un.org/en/about-us/un-charter>.

⁷ Charter of Fundamental Rights of the European Union. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>.

⁸ European Court of Human Rights. <https://www.echr.coe.int/Pages/home.aspx?p=home>.

that affect the Union as a whole. Without recognition by other member states, this principle of shared sovereignty would be undermined, potentially leading to tensions and instability within the Union. In summary, recognition by other states is a crucial element of state sovereignty within the EU, as it underpins the legitimacy and independence of member states and allows for the functioning of shared sovereignty and solidarity within the Union. The importance of this aspect underscores the significance of sovereign states within the EU and their role in shaping the future of the Union.

Control over resources is an important aspect of state sovereignty, which refers to a state's ability to govern and regulate the natural resources within its territory. In the context of the European Union, member states are responsible for managing their natural resources, such as water, land, and forests. Still, they are also subject to certain EU regulations that aim to ensure the sustainable use of these resources. EU policies on natural resources aim to promote a balance between economic development and environmental protection. For instance, the EU's Common Agricultural Policy⁹ financially supports farmers while promoting environmentally sustainable farming practices. Similarly, the EU's Common Fisheries Policy¹⁰ aims to ensure the long-term sustainability of fish stocks and the preservation of marine ecosystems. Among these, it can be undoubtedly mentioned the European Green Deal,¹¹ which sets ambitious targets for the EU as a whole, but it also requires action and commitment from individual Member States. While the EU Green Deal provides a framework for action at the European level, it is ultimately up to individual Member States to implement the necessary reforms and investments to achieve a sustainable and climate-neutral economy. This requires significant changes in the way resources are used

⁹ Common agricultural policy. https://agriculture.ec.europa.eu/common-agricultural-policy_en#:~:text=The%20CAP%20is%20a%20partnership,27%20commenced%201%20January%202023.

¹⁰ Common fisheries policy. https://oceans-and-fisheries.ec.europa.eu/policy/common-fisheries-policy-cfp_en.

¹¹ European Green Deal. https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal_en.

and managed. However, tensions can arise between EU policies and member states' interests in managing resources. Moreover, control over resources also includes the ability to regulate and tax economic activities within a state's territory. In the EU, member states are responsible for setting their tax policies, but they are also subject to EU regulations on issues such as state aid and competition.

Population is one of the essential elements of state sovereignty. It refers to the people who live within a state's borders and are subject to its laws and governance. The population of a state is a crucial factor in determining its strength and ability to exert control over its territory and resources. Population growth and migration patterns can also have a significant impact on state sovereignty. Rapid population growth can lead to increased demand for resources and a strain on a state's infrastructure. At the same time, migration patterns can result in the movement of people across borders, affecting the demographics of a state's population and potentially creating cultural, economic, and political tensions. In the context of state sovereignty within the European Union (EU), population refers to the people who reside within a member state's territory and are subject to that state's governance. In the EU, member states are responsible for providing for the well-being of their populations, including issues such as education, healthcare, and social welfare. However, the EU also plays a role in promoting and supporting these efforts, particularly through the European Social Fund,¹² which provides funding for social and employment programs in member states.

Cultural identity or more precisely, *cultural sovereignty*, is a concept that relates to the idea that a nation or state has the right to protect and preserve its cultural heritage and identity. It refers to the ability of a people to define and maintain their cultural traditions, language, customs, and values without interference from external forces. Cultural identity can be considered an element of state sovereignty within the European Union framework. It refers to the shared beliefs, values, customs, and practices that define a society and distinguish it from others. In the EU, cultural identity is protected and promoted as a fundamental right.

¹² European Social Fund. <https://ec.europa.eu/esf/home.jsp>.

The Treaty on the European Union recognizes the cultural dimension of the European integration process, and the European Charter of Fundamental Rights affirms the right to cultural, religious, and linguistic diversity. However, the promotion and protection of cultural identity within the EU have also faced challenges. The increasing movement of people within the EU and the influx of immigrants from outside the EU have resulted in debates and tensions regarding cultural identity and its place in the EU. Some argue that promoting cultural identity on a Member State level can lead to exclusion and discrimination against those who do not fit the dominant cultural norms. In contrast, others argue that national cultural identity is essential to maintaining social cohesion and preserving national cultures, which represent the foundation on which the EU as a whole was built.

International relations – as the state’s ability to engage in foreign relations and diplomacy with other nations – in general, are a critical element of state sovereignty. The ability of a state to engage in foreign relations and diplomacy with other nations is essential for the protection and promotion of its national interests and values. In the context of the European Union, international relations of Member States are closely linked to the EU’s external action and foreign policy. The EU has a Common Foreign and Security Policy,¹³ which aims to promote the EU’s values and interests worldwide and ensure the coherence and effectiveness of the EU’s external action. While the EU has a common foreign policy, the Member States still retain a significant degree of autonomy in their foreign relations. Member States can maintain diplomatic missions and engage in bilateral relations with third countries. The interaction between the EU and its Member States in international relations can sometimes lead to tension or disagreement.

Decision-making autonomy refers to the state’s ability to make decisions and act independently without interference from external actors. In the context of the European Union, decision-making autonomy refers to the ability of Member States to make decisions and act independently

¹³ Common Foreign and Security Policy, https://fp.europa.eu/what-we-do/common-foreign-and-security-policy_en.

within their sphere of competence, as defined by the EU treaties. While the EU has significant competencies in certain areas, such as trade, competition, and environmental, member states retain a significant degree of autonomy in other areas, such as education, health, and social policy. The principle of subsidiarity is an important element of decision-making autonomy within the EU framework. This principle states that decisions should be made at the most appropriate level of governance, whether at the EU, national, or local levels. The EU is only supposed to act in areas where it can add value, and where action at the national level would not be sufficient to achieve the objectives of EU policy. In practice, however, a significant debate has been about the degree of decision-making autonomy member states retain within the EU framework. Some critics argue that EU regulations and directives can be overly prescriptive, leaving member states with little room to maneuver. Others argue that the EU's focus on market integration and competition policy can limit the ability of member states to pursue policies that prioritize social or environmental objectives.

In the realm of state sovereignty, legal supremacy plays a pivotal role in transmitting rules, norms, and values to individual Member States within the framework of the EU. *Recent developments in the EU indicate a shift towards a more centralized system*, extending beyond economic cooperation to encompass issues such as freedom of expression, gender equality, and the rule of law. Argumentation aimed at more federalized supremacy tends to state, that “*states have progressively transferred competences to the EU. This transfer has been so significant both qualitatively and quantitatively that we may hardly speak of complete sovereignty of states. If it is true – as the supporters of state sovereignty hold – that the states still haven’t disappeared and that they keep exercising governmental power, it is also true that they are still the masters of the treaties because they preserve the Kompetenz-Kompetenz. An argument that states are masters of the treaties because they have Kompetenz-Kompetenz, like the German Federal Constitutional Court claims today, resembles a legal fiction. Firstly, a number of State entities, all equal, rather than a single entity as in the federal theory, possess this function. It therefore becomes misleading to say*

*that Germany or France or England possess this function.*¹⁴ Consequently, the question of legal supremacy at both national and EU levels is a crucial one, given its potential as a tool for the EU to exert significant influence, potentially at the cost of national sovereignty.

3. Questions of legal supremacy as an opportunity and a challenge for Member States and the EU

The matter of a more centralized EU *refers to the trend towards greater centralized power and decision-making at the EU level.* This trend has been driven by several factors, including the increasing complexity of issues that the EU faces, the need for more efficient decision-making, and the desire for greater EU-wide policy coherence. At the heart of this trend is the “ever closer union” concept among the EU member states, which is enshrined in the EU treaties. This concept envisages a gradual deepening of integration among the member states, aiming to create a more closely united Europe. To achieve this goal, the EU has developed a range of institutions and policies that have the effect of centralizing power and decision-making at the EU level. These include the *European Commission, which has the power to initiate legislation and enforce EU law*; the Council of the European Union, which represents the member states in the legislative process; and the *CJEU, which has the power to interpret EU law and ensure its uniform application across the EU.* While this trend towards greater centralization has been driven by a desire for greater efficiency and coherence, *it has also raised concerns about the potential erosion of national sovereignty and the democratic legitimacy of EU decision-making.* Some member states have been particularly vocal in their opposition to this trend, arguing that it represents an overreach by the EU into areas that should be the member states’ exclusive preserve.

¹⁴ Raffaele, Bifulco – Alessandro, Nato: The concept of sovereignty in the EU – past, present and the future, 85 p. <https://ec.europa.eu/research/participants/documents/downloadPublic?documentIds=080166e5ceba74fo&appId=PPGMS>.

While the EU is built upon the principles of cooperation and solidarity among its member states, there have been concerns that these principles may undermine the sovereignty of individual member states. As stated above one of the main trends in recent years has been the increasing role of the EU in areas traditionally the domain of the member states. Another trend has been the increased use of supranational institutions, such as the CJEU, to enforce EU law and settle disputes between member states. This has led to concerns that member states may be forced to comply with EU policies and regulations that they disagree with, and that their sovereignty may be compromised as a result. At the same time, there has been a pushback against what some perceive as an erosion of state sovereignty within the EU. Several member states have challenged EU policies and regulations, arguing that they violate national sovereignty or are not in their national interest. This has led to tensions between the EU and some member states, particularly in areas such as immigration and fiscal policy.¹⁵

The Court of Justice of the European Union has consistently upheld the principle of the supremacy of EU law over national law since the 1960s. In the landmark case of *Costa v ENEL* in 1964,¹⁶ the CJEU established the principle of the direct effect of EU law, which meant that individuals could rely on EU law in national courts and that national courts had an obligation to ensure that EU law was applied over conflicting national law. Since then, the CJEU has repeatedly affirmed the principle of the supremacy of EU law in a series of cases. In the case of *Van Gend en Loos* in 1963,¹⁷ the CJEU held that EU law created rights and obligations for individuals and that those rights and obligations must be protected by national courts. The CJEU has also held that national courts must

¹⁵ In more detail see: Raffaele, Bifulco – Alessandro, Nato: The concept of sovereignty in the EU – past, present and the future. <https://ec.europa.eu/research/participants/documents/downloadPublic?documentIds=080166e5ceba74fo&appId=PPGMS> or Auer, Stefan (2022): *European Disunion: Democracy, Sovereignty and the Politics of Emergency*. Hurst, London, 288 pp.

¹⁶ Judgment of the Court of 15 July 1964. *Flaminio Costa v E.N.E.L.* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61964CJ0006>.

¹⁷ Judgment of the Court of 5 February 1963. *NV Algemene Transport- en Expeditie Onderneming van Gend & Loos v Netherlands Inland Revenue Administration*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61962CJ0026>.

interpret national law in a manner consistent with EU law, in accordance with the principle of conform interpretation. Furthermore, the CJEU has held that national courts must set aside conflicting national law in favor of EU law, in accordance with the principle of the primacy of EU law. Overall, the position of the CJEU on EU law primacy is clear and consistent: *EU law takes precedence over conflicting national law, and national courts have an obligation to ensure that EU law is applied over conflicting national law.* This position has significant implications for the sovereignty of EU Member States, as it limits their ability to act independently in areas where the EU has competence.

Hence, in general, national courts are required to give effect to EU law, even if it conflicts with provisions of their own constitutions. However, some Member States have sought to limit the application of EU law in certain areas through constitutional mechanisms, such as constitutional courts or provisions that require national courts to apply national law in certain circumstances. The CJEU has held that national constitutional provisions cannot be used to challenge the primacy of EU law. In the case of *Internationale Handelsgesellschaft mbH v. Einfuhr- und Vorratsstelle für Getreide und Futtermittel* (1970),¹⁸ the CJEU stated that if there is a conflict between EU law and a provision of a Member State's constitution, EU law takes precedence.

The CJEU's position is that the primacy of EU law is absolute and unconditional. This means that any source of EU law at any level takes precedence over national regulation, regardless of the date of entry into force. Furthermore, the CJEU has exclusive jurisdiction to examine the validity of EU law, and national courts cannot apply national law contrary to EU law in national proceedings before them.

The issue at hand is a fundamental one: the CJEU lacks the power to strike down a national law in any proceeding, nor does it have a legislative function through its decision-making process. Nonetheless, the court's decisions and legal interpretations can influence the application

¹⁸ Judgment of the Court of 17 December 1970. *Internationale Handelsgesellschaft mbH v Einfuhr- und Vorratsstelle für Getreide und Futtermittel*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61970CJ0011>.

of rules and even the legal system in the Member States. At the heart of this matter lies the unresolved question of the relationship between EU law and the constitutions of Member States. This relationship is also a substantive question as there may be principled and socio-political issues such as family protection, religious traditions, minority rights, the role of historical tradition in legal systems, child protection, etc., which could be approached differently in each Member State, resulting in different judicial interpretations and application practices. Some may argue that if the EU wishes to take a stance on value issues as an international entity, using the CJEU instead of political discussion and debate would be regrettable. Furthermore, while Declaration 17 of the Lisbon Treaty¹⁹ acknowledges the principle of primacy as established by the case law of the CJEU, it does not provide clear guidance on the scope and limits of the principle of primacy – states only that the primacy applies under the conditions laid down by the case law. While the CJEU’s case law supports a broad interpretation of the principle, several national constitutional courts have raised concerns about the supremacy of EU law over national constitutions. It is still uncertain whether EU legal norms take precedence over absolutely all national legislation.

The main critique of the approach of EU law supremacy over Member States’ constitutions is that it could undermine the principle of constitutionalism. Critics argue that by prioritizing EU law over national constitutions, the EU is weakening the sovereignty and democratic legitimacy of Member States. Some also argue that this approach could lead to a democratic deficit, as it allows unelected officials in the EU institutions and courts to make decisions that override the will of democratically elected national governments. In addition, critics contend that the EU’s emphasis on supranational governance and the harmonization of laws across Member States could lead to a loss of cultural diversity and

¹⁹ Declaration 17 annexed to the Lisbon Treaty recalls that “in accordance with well settled case law of the Court of Justice of the European Union, the Treaties and the law adopted by the Union on the basis of the Treaties have primacy over the law of Member States, under the conditions laid down by the said case law.” Cloos, Jim: The Debate about the Primacy of EU Law, <https://www.tepsa.eu/the-debate-about-the-primacy-of-eu-law/>.

national identity. Also, the EU's emphasis on EU law supremacy could lead to a lack of accountability and transparency, as it could limit the ability of Member States' courts to review and challenge EU decisions. Finally, it can be argued that this approach could lead to legal uncertainty, as it is often unclear how EU law interacts with national constitutions and legal systems.

From a legal point of view, the Polish Constitutional Court has issued a strong opinion on the relationship between EU law and national constitutions. This has been met with mixed reactions in academic circles, but the legitimacy and legal position of the Polish Constitutional Court is essentially a question of fact. Consistently, the Polish Constitutional Court has maintained the supremacy of the Polish Constitution. Article 4 of the Constitution emphasizes the principle of sovereignty, stating that the ultimate power in the Republic of Poland resides in the nation and that it is exercised by its representatives or directly. Article 5 guarantees the independence of the State and pledges that the Republic of Poland will safeguard its sovereignty and territorial integrity, secure the rights and liberties of its citizens, protect its national heritage and environment, and ensure sustainable development. When ruling on the primacy of EU law, the Polish Constitutional Court cites the sovereignty of the Republic of Poland explicitly, warning that accepting the interpretation of the European Union's Court of Justice would threaten this sovereignty.²⁰ In its decision, the Polish Constitutional Court stated the following main reasons:

- a) called that, per Article 87(1) of the Polish Constitution, the system of legal sources in the Republic of Poland *is hierarchical*. International treaties such as the Treaty on European Union (TEU) ratification made possible by law, are in this hierarchy below the Constitution, given that *the Constitution is at the top of the Polish legal hierarchy*. *The Treaty on European Union, like all other international treaties, must therefore comply with the Constitution;*

²⁰ Assessment of the conformity to the Polish Constitution of selected provisions of the Treaty on European Union, <https://trybunal.gov.pl/en/hearings/judgments/art/11662-ocena-zgodnosci-z-konstytucja-rp-wybranych-przepisow-traktatu-o-unii-europejskiej>.

- b) highlighted the cases²¹ in which it has already examined the constitutionality of international treaties and primary sources of EU law;
- c) stressed that it *does not interpret EU law* in its constitutional review and *respects the competence of the CJEU* in this respect. The examination by the Constitutional Court is *limited to determining the content of the rules* and their compatibility with the Polish Constitution;
- d) pointed out that the Constitutional Court had *not asked the CJEU* for a *preliminary ruling on the matter*, as it felt it was pointless and unnecessary to refer to the question of the compatibility of the TEU rules with the Polish Constitution to the CJEU. The CJEU retains exclusive competence to interpret EU law, but *the Polish Constitutional Court has the final say in determining whether specific rules*, including EU law, are compatible with the Polish Constitution;
- e) pointed out the essence of the Prime Minister's motion, which concerns the relationship between the Treaties and the *principle of primacy of the Polish Constitution, i.e., essentially Polish sovereignty*. The constitutional problem presented by the petitioner effectively stretches the constitutional limits of "*the ever-closer unity between the peoples of Europe.*" It is closely linked to the loyal (in fact, as honest as possible) implementation of the obligations imposed by the Treaties, as provided for in Article 4(3) TEU, in the so-called new phase of European integration;
- f) stressed as a critical point of the Prime Minister's motion that, although the nature of the competencies conferred on the Union means that *no Member State exercises its sovereignty in the absolute sense* (within the limits of the delegated powers), the Union, as the recipient of these competences, *must respect the national identities and constitutional identities of the Member States and*

²¹ Cases no.: K 18/04 (/s/k-1804), K 32/09 (/s/k-3209), SK 45/09 (/s/sk-4509), P7/20 (/s/p-7-20), P37/05 (/s/p-3705), U 2/20 (/s/u-2-20).

the framework provided by the principles of *proportionality* and *subsidiarity* under Articles 4(2) and 5(1) TEU;

- g) referred to the decision of the Polish Constitutional Court of 11 May 2005 (K 18/04),²² in which the Constitutional Court stated that the transfer of powers of the Member States to such an extent as to prevent the Republic of Poland from functioning as a sovereign and democratic state crosses the border of integration (i.e., close unity). In its decision, the Constitutional Court *stressed that this approach is essentially in line with* the Federal Constitutional Court of Germany and the Kingdom of Denmark Supreme Court. This Constitutional Court decision was also the starting point for the present decision;
- h) held that the first two sentences of Article 1 TEU were compatible with the Polish Constitution in so far as
- the bodies of the European Union operate within the framework of delegated powers;
 - the new, ever closer union (Article 1 TEU, second turn) does not deprive the Polish Constitution of its primacy, i.e., it remains the binding and applicable norm in the territory of the Republic of Poland;
 - the Republic of Poland retains the character of a sovereign and democratic state;
- i) pointed out that the TEU contains precise delegated powers, which do not include the organization and structure of the judiciary, and that there is no doubt that the Member States, as sovereign parties to the Treaties, *have not empowered the EU bodies to presume powers and to derive new powers from existing powers*;
- j) stressed that, in line with the case law of the Constitutional Court and Article 91 of the Polish Constitution, EU law is directly applicable and *takes precedence over the statutory law*;

²² Judgment of the Polish Constitutional Tribunal concerning the constitutionality of Poland's accession to the European Union, http://www.proyectos.cchs.csic.es/euroconstitution/library/documents/Polish%20Constitutional%20Tribunal_Judgment%20Polands%20accession%20to%20the%20EU.pdf.

- k) stressed that agreeing to allow any international organization (including the European Union and its bodies) to make rules that go beyond the delegated powers and which preempt not only the laws but also the Polish Constitution *would mean a loss of Poland's sovereignty. The Constitutional Court has firmly stated that no state body of the Republic of Poland can accept such a situation;*
- l) stressed that its conclusions in the decision were in line with Article 9 of the Constitution, which states that the Republic of Poland complies with the international law to which it is subject. The subject of "compliance" in the present case is the *law binding* the Republic of Poland. This *binding law, in this case, can only be the law that the European Union and its institutions establish within the competencies conferred on the Union by the Treaties* and which is determined by the obligation to respect the constitutional identity and essential functions of the State (within the limits of subsidiarity and proportionality). Rules established outside these limits are not binding international law norms for the Republic of Poland – under Article 9 of the Polish Constitution;
- m) emphasized that the *compliance of European integration with national constitutions is also a democratic legitimacy of the functioning of the EU bodies* (confirmed by the Constitutional Court in its 2005 decision). The democratic legitimacy of the EU bodies in the Republic of Poland to establish the norms in force exists only to the *extent that the Polish sovereign (nation) has consented to this*. It should be recalled that Polish citizens, like citizens of other Member States, generally do not influence the appointment of the executive bodies of the European Union and judges of the CJEU;
- n) stressed that the judgments of the CJEU are not sources of EU law in the light of the Treaties and that theories on their legal significance are divided. In the Constitutional Court's view, CJEU judgments *are hybrid in nature*, part continental in character and part Anglo-Saxon in character, is addressed to and enforceable by the courts, and, *as such, are subject to constitutional review;*
- o) stressed that the treaty provisions, which, according to the CJEU's interpretation, were the subject of the present constitutional

review, specifically concern the Polish judicial system, an area that *does not fall within the scope of the delegated competencies* under Article 90(1) of the Polish Constitution. The Polish judiciary is part of the Polish constitutional identity, as the Constitutional Court has pointed out in previous decisions;

- p) stressed that Article 1 TEU, from which the CJEU derives its powers to decide on the Polish court system, is an obligation for member states, which is not equivalent to transferring (even negative) powers to EU bodies, in particular the CJEU. The contractual obligation of the Member States *cannot be equated with the powers of EU bodies and institutions*. The CJEU is creating new competencies by divesting itself of the power to decide on the Polish judicial system;
- q) stressed that Article 2 TEU, which contains the EU's fundamental values, *should not be a source for creating additional competencies*. According to the Constitutional Court, Article 2 TEU has a purely axiological meaning; these values do not function as a legal principle. The administration of justice in the Member States does not belong to the member states' common constitutional identity since each member state's methods of appointing judges are very different. The rule of law does not determine the appointment method of judges *but requires their independence and impartiality*. Independence is not, however, inextricably linked to the judge's appointment method and *cannot be tested a priori and equally against all judges*. *The independence of a judge is linked to a specific case in which the judge is sitting*. The Polish Constitution, like previous constitutions, *provides a framework for legal guarantees of judicial independence*. *The CJEU's interpretative guidelines cannot replace these constitutional norms*;
- r) stated that in his view, the conclusions of the Polish Constitutional Court and the conclusions of the CJEU *should be the same as regards the interpretation of Article 2 TEU and the second indent of Article 19(1) TEU*. Furthermore, the Polish Constitution sets a much higher level of guarantees and standards regarding the independence and impartiality of the judiciary than the relevant European law. In this

respect, the Constitutional Court considers a basis for mutual and sincere cooperation between the EU and Poland;

- s) recalled that in *jurisprudence*, referring to the case law of the Constitutional Court, the thesis is sometimes put forward that *in the event of an irreconcilable conflict between EU law and the Polish Constitution*, the following scenarios are possible: (i) *changing the Constitution*, (ii) *changing European legislation* or (iii) *leaving the EU*. *These scenarios and claims are only acceptable in academic rhetoric. Primarily because irresolvable conflict rarely, if ever, occurs outside legal theory. In the event of a conflict of norms (to resolve it), there is a need for sincere mutual dialogue, which is an obligation derived from the principle of loyalty and is characteristic of European legal culture;*
- t) *stressed that the Polish Constitutional Court has a unique and privileged role in the system of supreme organs of public power. The Constitutional Court, as the guardian of the Constitution, the legal act which underpins the Polish normative system, maintains legal certainty and is thus also the depository of the sovereignty of the Polish State, at least in the normative dimension.*

To sum it up: according to the argumentation of the Polish Constitutional Court, the CJEU's jurisprudence is not only evolving but also contributing to the legal order of the EU and, consequently, of the Member States, including the Republic of Poland. Since all EU law (as a whole) is hierarchically subordinated to the Polish Constitution and, as such, subject to constitutional review, it must be concluded that not only the normative acts defined in the case law of the CJEU but also the jurisprudence itself, as part of the EU normative order, is subject to the highest legal act in the Polish hierarchy of legal sources, the Polish Constitution, and to constitutional review. As a rule, the Constitutional Court refrains from exercising these constitutional powers in the spirit of sincere cooperation, dialogue, mutual respect, and mutual support. At the same time, to the extent that the progressive jurisprudence of the CJEU constitutes an encroachment on the exclusive competence of Polish state bodies, it undermines the Constitution as the highest legal act of the Polish legal system and calls into question the universality of

the Constitutional Court's judgments, The Constitutional Court does not exclude the possibility that it will exercise the said powers and will directly assess the conformity of CJEU judgments with the Polish Constitution if necessary removing them from the Polish legal system.

Overall, however, it can be said that a satisfactory and long-term solution to the issue at hand requires a precise clarification of the relationship between EU law and the constitutions of the Member States, which above all, concerns the area of political decision-making and cannot be replaced by the interpretation of the law by the courts, either at the pan-European or at the Member State level. The ultimate question is, in the end, *how to achieve a long-term goal of European cooperation in accordance with a diverse attitude and plurality of opinions that has always been the hallmark of European tradition and development*. A more unified EU beyond a unified or uniform legal system necessarily assumes a more uniform social composition and a more unified value system among the EU population, as stable social support and a common value system are necessary for the long-term success of such a system. It is a question of whether the EU currently possesses these – the assessment is left to the reader, although it is questionable. Instead of wishful thinking, we must stay grounded in reality. Assuming that the social fabric of a Parisian suburb is largely similar to that of a rural village in East Hungary is a bold venture. Several distinguishing factors intuitively suggest significant socioeconomic differences among the Member States, which pose an obstacle to forming a unified legal system.

The law in itself is impartial as a system of rules governing behavior. However, its societal impact is shaped by the underlying social values reflected and enshrined in the legal framework. This concept is not new and has been recognized since the early days of written law. The issue of values in law and its moral implications is complex, but it is necessary to give it a clear direction and purpose in all cases. If the law has a value load not specific to a given community, it risks losing social acceptance. It is also worth noting that while social values play a crucial role in shaping the law, legal norms can influence and modify societal values and vice versa. Without social values, the law is an empty set of rules. Social values are decisive in defining the objective of the law and the mechanism by

which it operates. Essentially, the law's purpose and what it regulates are determined by these social values.

Social values are determined by a complex interplay of factors, including cultural traditions, historical experiences, religious beliefs, economic conditions, political ideologies, and social norms. These factors shape the values, attitudes, and beliefs of individuals and communities, and influence their perceptions of what is right or wrong, fair or unfair, just or unjust. Over time, social values can evolve and change in response to new social, economic, and political realities, as well as to shifts in cultural and intellectual trends. Social values contribute to the stability of the state by providing a shared set of beliefs and norms that guide behavior and create a sense of cohesion and unity within society. When individuals in a society share common values, they are more likely to cooperate and work towards common goals. This can lead to greater political stability, social cohesion, and a more functional and productive society. Additionally, social values can help to prevent conflict and promote a peaceful resolution of disputes, as individuals are more likely to respect and adhere to shared values and norms. Overall, a state with strong and widely shared social values by its population (as a prerequisite for a high level of social cohesion) is likely to be more stable and prosperous than one without.

Social cohesion is a multifaceted system with numerous interconnections and interactions that may not all be relevant to the issue of state sovereignty. As state sovereignty is a crucial tool for ensuring political stability, economic growth, and citizen welfare, it is essential to focus on those cohesive components that significantly impact achieving these objectives. The study's approach is negative in this regard, attempting to identify fundamental social structures that, if broken down, could lead to reduced social cohesion. By pinpointing these social structures' scope, it becomes possible to develop measures for protecting them through instruments of state sovereignty.

4. Disrupting social cohesion

Yuri Alexandrovich Bezmenov²³ (1939–1993) was a Soviet journalist and former KGB officer who defected to the West in 1970. After his defection, he worked as a consultant for the Central Intelligence Agency and spoke extensively about Soviet propaganda and disinformation techniques. In his lectures, he explained how the Soviet Union used ideological subversion to weaken and destabilize the West. He claimed that the KGB used a four-stage process to subvert a country: demoralization, destabilization, crisis, and normalization. Bezmenov argued that the KGB's goal was to create a society in which individuals would be unable to distinguish between truth and falsehood and would be willing to accept Soviet ideology by ideological subversion.

Ideological subversion is a strategy used by a group or state to undermine and weaken the beliefs, values, and institutions of a targeted society, with the ultimate goal of promoting a different ideology or system of governance. It involves a long-term (15–20 years) and deliberate effort to infiltrate and influence key institutions in the target society, such as education, media, and government, to gradually erode the population's faith in their values and institutions and replace them with alternative ones. The main aim of ideological subversion is to change the perception of reality of an entire population or country so that people no longer trust their own institutions and instead come to accept the values and ideas of the subversive group. In the case of the Soviet Union, this meant convincing people in the West to accept the communist ideology and reject the values of capitalism and democracy. The subversive group may use various tactics to achieve their goals, such as propaganda, disinformation, psychological manipulation, and the co-optation of key figures in the target society. The process of ideological subversion can take

²³ Paul Ratner: 39 years ago, a KGB defector chillingly predicted modern America. <https://bigthink.com/the-present/yuri-bezmenov/>. Bezmenov is best known for his book "Love Letter to America", <https://www.docdroid.net/h8U48ro/yuri-bezmenov-love-letter-to-america-pdf> and his lecture series titled "Soviet Subversion of the Free World Press", <https://archive.org/details/deception-was-my-job-or-soviet-subversion-of-the-free-world-press-yuri-bezmenov>.

many years to complete and requires a sustained effort by the subversive group. The ultimate goal of ideological subversion is to create a sense of moral and cultural confusion and disorientation in the targeted society, making it more susceptible to the subversive group's agenda. The effects of ideological subversion can be long-lasting and difficult to reverse, as the subversive group may have established a new ideological and institutional framework that replaces the existing one.

Bezmenov argued that ideological subversion was achieved through a long-term process of psychological manipulation, which involved creating confusion, breaking down traditional values and institutions, and replacing them with alternative beliefs and systems. The ultimate goal of this process was to create a society in which individuals were unable to distinguish between truth and falsehood.

The process of ideological subversion was described as a four-stage process: a) Demoralization: this stage involves destabilizing a society's moral and cultural values and replacing them with alternative beliefs and systems. The subversive group works to erode people's trust in their own institutions and leaders, and to promote the idea that the existing social order is fundamentally flawed; b) Destabilization: in this stage, the subversive group seeks to create a sense of political and economic instability in the targeted society. This could involve promoting protests, strikes, or other forms of unrest, and exacerbating existing social tensions and divisions; c) Crisis: the crisis stage involves a significant escalation of the destabilization efforts, leading to a breakdown of the social order and a sense of widespread panic and fear. The subversive group may seek to take advantage of this chaos to seize power or implement their own agenda; d) Normalization: in the final stage, the subversive group seeks to establish a new social and political order that reflects their own ideology and values. This could involve the imposition of new laws and regulations, the suppression of dissenting voices, and the establishment of a new ruling elite.

There are several critiques of Bezmenov's theory of ideological subversion. Some critics have pointed out that his claims about the extent and effectiveness of Soviet efforts to subvert Western societies were exaggerated and that he lacked concrete evidence to support many of

his assertions. Others have argued that his theory oversimplifies the complex processes that shape cultural and political change and that it fails to take into account the agency and resistance of individuals and groups within societies. Additionally, some have criticized this theory for being overly focused on the actions of external actors (such as the Soviet Union), and for failing to acknowledge the role of internal factors (such as domestic political and economic conditions) in shaping cultural and moral values. Some have also argued that the theory can be used to promote a simplistic and paranoid worldview, in which any disagreement or dissent is seen as evidence of a larger conspiracy to undermine the values of Western societies.

The essence of Bezmenov's approach is not the effectiveness of ideological subversion, but *rather the existence of certain structures and institutions in a given society that provide social cohesion, ensuring the survival and organic development of the society and the state*. The strengthening or weakening of these structures may occur due to external or internal factors. Still, their changes lead to social changes that can adversely affect the functioning of a given state. While there may be debated about whether these are truly the societal pillars that ensure this, upon careful consideration of each element, *it can be asserted that these elements are particularly significant* and, in a sense, indispensable for the functioning and development of a society. Therefore, their preservation is an elementary interest of any reasonably organized state.

5. Elements of societal instability

According to Bezmenov, ideological subversion involves *breaking down the values and institutions that formed the foundation of a society's cultural and moral identity*. Specifically, he believed that the subversive group needed the following key areas: *religion, family, education, media, politics and economics*. Bezmenov did not specifically mention the manipulation of politics and economics as one of the key areas of ideological subversion; his overall message was that subversive groups seek to undermine the existing social and political order to promote

their ideology however, these areas can be seen as a natural extension of his broader message.

On the subject of *religion*, Bezmenov argued that it is a pivotal aspect of a society's moral and cultural identity and that the subversive group needed to undermine people's belief in God or any form of spiritual faith. This could be achieved through promoting atheism or alternative spiritual practices. Religion is a fundamental aspect of a society's moral and cultural identity. It was therefore a key target of ideological subversion, undermining any form of spiritual faith, to weaken the society's cultural and moral foundations and make it more susceptible to their ideology. One way the subversive group could achieve this was by promoting atheism. This could involve spreading propaganda or using the media to promote atheistic ideas, such as portraying religious believers as ignorant or irrational. Another approach was to promote alternative spiritual practices that did not adhere to the traditional beliefs of the society. By encouraging people to adopt these alternative practices, the subversive group could weaken their attachment to their cultural and moral values and create a sense of moral and cultural confusion. In some cases, the subversive group might also use violence or persecution to attack religious groups or their leaders, in order to undermine their influence and credibility. This could involve labeling religious groups as "extremist" or "radical," or accusing them of promoting harmful practices or beliefs. Overall, the goal of attacking religion as part of ideological subversion was to weaken people's attachment to their cultural and moral values, and create a sense of moral and cultural confusion that would make them more susceptible to alternative ideologies and systems of governance.

The family unit was seen as a key building block of society. Bezmenov believed that the subversive group needed to weaken people's attachment to traditional family structures and promote alternative lifestyles and family models. The aim was to weaken people's attachment to traditional family structures and promote alternative lifestyles and family models, in order to further destabilize society's cultural and moral foundations and make it more susceptible to the subversive group's ideology. One way the subversive group could achieve this was

by promoting alternative lifestyles, such as promoting sexual promiscuity, homosexuality, or other non-traditional forms of relationships. The subversive group could weaken people's attachment to traditional family structures by normalizing these alternative lifestyles. Another approach was to attack the traditional gender roles within the family unit. For example, the subversive group might encourage women to pursue careers outside of the home and devalue the role of homemaking or promote the idea that traditional gender roles were outdated and oppressive. Bezmenov also argued that the subversive group could attack the family unit by promoting state control over children's education and upbringing and by weakening the authority of parents in the eyes of their children. By promoting state control over children, the subversive group could further erode the family unit and create a sense of disconnection between parents and their children.

On the matter of *education* Bezmenov argued that the subversive group needed to take control of the education system and use it to indoctrinate students with their ideology. This could involve rewriting history books or promoting a specific worldview in the classroom. One way the subversive group could achieve this was by rewriting history books or promoting a specific worldview in the classroom. By manipulating the information that students receive, the subversive group could shape their perception of the world and reinforce their ideological beliefs. Another approach was to promote political correctness and social justice ideology in the education system, which can often be used to stifle critical thinking and discourage dissenting opinions. This can be achieved by pressuring teachers and educators to promote a specific set of ideological beliefs, or by using censorship to suppress alternative perspectives. Overall, the goal of attacking the education system as part of ideological subversion was to shape the beliefs and values of future generations. By controlling the information that students receive and manipulating their worldview, the subversive group could gain significant influence over the direction of society.

The *media* was seen as a powerful tool for shaping public opinion. Bezmenov argued that the subversive group needed to take control of the media and use it to promote their ideology. This could involve using

propaganda, censorship, or manipulation to influence public perception. One way the subversive group can control the media is by buying up media outlets or exerting pressure on media owners to promote their ideology. Another way is infiltrating the media and promoting their views from within, using propaganda, censorship, or manipulation to influence public opinion²⁴. The subversive group can also use the media to create a sense of moral and cultural confusion in society by promoting alternative values and beliefs. They can do this by promoting alternative lifestyles, undermining traditional cultural norms and values, and portraying their ideology as a new and exciting way of thinking. Furthermore, by controlling the media, the subversive group can control the narrative and shape public opinion. This can be a powerful tool for promoting their ideology, discrediting dissenting voices, and creating a sense of cultural and moral confusion.

Bezmenov argued that the subversive group needed to infiltrate and influence the *political system* of the target society in order to create a favorable environment for their ideology to thrive. This could involve supporting sympathetic politicians or parties, or using subversive tactics to undermine the credibility of existing political leaders. In the context of ideological subversion, politics refers to the manipulation of political systems and processes in order to promote a specific ideology or agenda. This can take many forms, like: a) Infiltration: Subversive groups may try to infiltrate political parties, organizations, or government institutions to gain influence and promote their ideology from within. b) Polarization: Subversive groups may try to exacerbate existing political divisions or create new ones in order to further their agenda. This can involve targeted messaging or propaganda to stoke fear, anger, or resentment towards a specific group or idea. c) Discrediting: Subversive groups may try to discredit political opponents or other groups that do not align with their ideology. This can involve spreading false information or using ad

²⁴ Propaganda involves using persuasive techniques to promote a specific message or ideology. This can include using emotional appeals, repetition, and fear tactics to sway public opinion. Censorship involves suppressing information that does not fit with the subversive group's ideology. In contrast, manipulation involves using selective editing and framing to distort information in a way that supports their agenda.

hominem attacks to undermine their credibility. d) Election interference: Subversive groups may try to interfere in elections to sway the outcome in their favor. This can involve using propaganda, hacking, or other means to influence public opinion or manipulate the election process. Overall, the manipulation of politics is a key aspect of ideological subversion, as political systems and processes have a significant impact on society and can be used to promote or suppress specific ideologies and agendas. It is important to be aware of these risks and to work towards maintaining open, transparent, and democratic political systems that are resilient to manipulation and subversion.

The *economic system* was seen as another area where the subversive group could exert influence and promote their ideology. This could involve promoting a particular economic system, such as socialism or communism, or using economic levers to weaken the target society's economy and destabilize its political system. This could involve a range of tactics, including a) Economic sabotage: Subversive groups may use sabotage, strikes, or other forms of economic disruption to undermine the stability and functioning of the economy. This can create widespread dissatisfaction and can contribute to social unrest. b) Redistribution of wealth: Subversive groups may advocate for the redistribution of wealth as a means of promoting their ideology. This can involve calls for the nationalization of industries, the establishment of welfare programs, or other forms of state intervention in the economy. c) Undermining private enterprise: Subversive groups may seek to undermine private enterprise and promote state-controlled industries as a means of advancing their ideology. This can involve using propaganda to portray private enterprise as exploitative or oppressive or the creation of regulatory burdens that make it difficult for private companies to operate. d) Creating economic dependency: Subversive groups may seek to create economic dependency among the population as a means of advancing their ideology. This can involve the establishment of welfare programs or the creation of economic conditions that make it difficult for people to support themselves.

Together, these six areas formed the basis of Bezmenov's theory of ideological subversion, and he argued that the subversive group needed to attack each of them to achieve its goals. By attacking these key areas,

Bezmenov believed that the subversive group could gradually erode people's trust in their own cultural and moral values and replace them with alternative beliefs and systems.

Considering the above elements, it can be stated that the erosion of social cohesion, as described by Bezmenov, can lead to the deterioration of state sovereignty. The global assessment of the state of societies in former socialist countries, is left to the reader. However, it is a fact that the elements outlined by Bezmenov have undergone fundamental changes in these regions caused by the regime change in 1989–1990, as the characteristics of socialist systems have been replaced by Western value systems – which in itself was a significant turning point for society, for the better. Whether the ongoing social changes of recent decades represent the next form of social evolution or rather have a destructive impact is something that historical experience will reveal. Nonetheless, certain trends are visible and observable. The concept of family is changing, featuring alternative forms of family cohabitation and sexual self-determination of individuals. In the media sector, fundamental polarization is visible, which impacts society as well – alternative information sources have emerged alongside the mainstream media, and both media groups are highly selective in displaying news and opinions based on their own narrative. This is also evident at the societal level, where strong polarization occurs, and social media platforms play a reinforcing role. The EU Digital Services Package²⁵ aims to change this, but it remains questionable whether this regulation will be effective in everyday life. Concerning political systems, there has been a significant reduction in substantive dialogue and debate along political programs in post-communist countries. The atmosphere of distrust permeates the political systems of these countries, and it is characteristic that strategic issues affecting the country are rarely present in political debates. Regarding economic systems, COVID has posed significant challenges, further complicated by current energy crises.

²⁵ The Digital Services Package, <https://www.consilium.europa.eu/en/policies/digital-services-package/>.

Changes in the social environment shaped by religion, family, media, education, politics, economics, etc. (whether declining or developing) can be attributed to factors other than intelligence activities. However, in terms of results, there is no difference if a social value changes negatively in the long run, as rebuilding it may take a long period. The fundamental task of the state is to maintain its own order and existence, which means it is necessary to prevent, eliminate, or actively intervene in effects that adversely affect the given topic areas.

In the region, many challenges must be addressed within the social context of each country, which may vary from country to country, in accordance with the principle of subsidiarity. The individual Member States are best equipped to judge and strengthen the coherence of their own societies. To achieve this, it is necessary to strengthen the elements of cohesion specific to the given nation or country, which necessarily implies responsible and sovereign action in its affairs. One important cornerstone of state sovereignty is the constitutional order of the given country, which cannot be relegated to a secondary level of EU law, particularly not without adequate social discourse through legal supremacy, mere modifications of legislation, or judicial interpretation. Since EU law and the interpretation of the Court of Justice of the European Union are fundamentally capable of deeply intervening in the legal systems and even in the social value systems of the individual Member States, it is reasonable to expect that, to strike a balance individual Member States must have effective means to translate their social values and interests into practice. The fundamental task of the EU is to promote the development of the individual Member States, which cannot be achieved to the detriment of their social structures or against their will.

6. Considerations: how should the values of the EU and Member States be defined?

The Polish example above illustrates a fundamental standpoint regarding the relationship between national constitutionalism and EU law. The essence of this standpoint is that there exists a level of national

regulation left to the discretion of the Member State and that this level represents the basic regulation of social relations, without which we can essentially talk about a significant erosion of national sovereignty. A similar example can be found in the practice of the Romanian Constitutional Court²⁶, which essentially also distinguishes between the application of EU law and constitutional rules and other laws, with the exception that the Romanian Constitutional Court reserves the right to declare internal laws that conflict with EU sources unconstitutional, but it does so under strict conditions. In other words, the basic theoretical approach is very similar to the Polish example in that a conflict with EU law may also constitute unconstitutionality, but the interpretation of the concept of unconstitutionality is the exclusive jurisdiction of the national constitutional court. In the case of the Czech Republic²⁷ and Slovakia²⁸, for example, their constitutional judges and doctrinal approaches demonstrate a more euro-conformist approach concerning EU law, but in both legal systems, it can be observed that there is a constitutional level that can be attributed to central values related to state sovereignty. This is important because, in both countries' approaches, a part of the Member State's sovereignty was "borrowed" through EU accession, and this process can also be reversed. If changes in the European Union endanger the sovereignty of or the fundamental principles of the democratic rule of law, it should be insisted that the national authorities withdraw

²⁶ DECISION No 390 of 8 June 2021, https://www.ccr.ro/wp-content/uploads/2021/07/Decizie_390_2021_EN.pdf.

²⁷ See Constitutional Court decisions: ÚS 50/04, <http://nalus.usoud.cz/Search/GetText.aspx?sz=pl-50-04>; ÚS 19/08, http://nalus.usoud.cz/Search/GetText.aspx?sz=Pl-19-08_1; ÚS 5/12, http://nalus.usoud.cz/Search/GetText.aspx?sz=Pl-5-12_1; Sehnálek, David – Stehlík, Václav – Hamulák, Ondrej: National Report. In Botman, M.R., Langer, J. National Courts and the Enforcement of EU Law: The Pivotal Role of National Courts in the EU Legal Order. Den Haag: Eleven International Publishing, 2020.

²⁸ Iveta MACEJKOVÁ: Právo Európskej únie v rozhodovacej činnosti Ústavného súdu Slovenskej republiky, https://www.ustavnysud.sk/documents/10182/0/Presentation-Ms_Macejkova.pdf/c4af38fe-b1d4-4fd2-957c-35f28a321717; PL. ÚS 3/09–378, https://www.ustavnysud.sk/ussr-intranet-portlet/docDownload/4ffd5bc7-7d78-42c5-aa1d-5caeo2ca0395/Rozhodnutie%2520-%2520Rozhodnutie%2520PL.%2520%25C3%259A%25203_09.pdf+&cd=4&hl=de&ct=clnk&gl=sk.

these powers (thou, at the current time, only a theoretical approach). The various arguments and directions show a high degree of diversity from country to country. However, what they have in common is that *they determine a central level of state sovereignty, a set of core structures and values*. The question is which social structures and values belong to this core and what kind of constitutional protection they should receive.

The approach of Bezmenov can guide what social structures and values can be those that form the minimum guarantees of the sovereignty of the state in terms of the destabilization of the state's stability. Hence can be considered core structures and values. According to this approach, these structures are religion, family, education, and media, or, in other words: *the basic moral values, family and child protection, education and scientific freedom, and freedom of expression specific to the given country*. These social structures can be considered the most fundamental issues of the functioning of the state and society. The designation of this core sovereignty should be a matter for the Member States, given that it is the Member States that are best aware of the specific national characteristics of each country. In this way, fundamental social stability can be ensured, which can maintain balance in the face of the changing challenges of the world and provide a framework for the reasonable manner and extent of social development – all while taking into account the peculiarities of the given member state. *The determination and constitutional fixation of these national peculiarities would therefore be the responsibility of the Member State's constitutional assembly (parliament, national assembly), as the highest representative body of the member states, with interpretation being the responsibility of the respective member state's courts or the constitutional court (or a corresponding body) in the protection of the constitutional values of sovereignty*. The changes in society are unavoidable. However, no change occurs in a vacuum outside of a social context. Therefore, there is a need for a reference point that, historically, proved successful in ensuring the survival of the given society and country but also provides an opportunity for meaningful social change.

In the broader context of pan-European cooperation, the success and foundation of the EU are based on social diversity, meaning that societies with different national identities have been able to apply various

approaches, cooperate, and thus provide appropriate responses to civilizational challenges throughout history. *Europe's historical traditions typically relied on cooperation while respecting national characteristics.* A centralized EU cooperation that undermines the national characteristics and sovereignty of the member states seems currently impracticable. Furthermore, it has to be acknowledged that the social context of EU member states differs significantly, often even within a single country. It is important to emphasize that long-term, close, and sustainable cooperation within the EU can only be envisaged if its social acceptance is high across Europe. Therefore, if the EU wants to move towards closer cooperation, it needs to strengthen this acceptance across the Member States, achieved by greater transparency and clear communication and social discourse in this matter.

Connected to a more centralized EU, the issue of national identity arises in the Member State but on the EU level also. The question of whether the European Union has a national identity is a debated one. While the EU has common institutions, policies, and symbols such as the flag and anthem, it does not have a single language, history, or culture shared by all its member states. Some argue that the EU's shared values and goals, such as democracy, human rights, and the rule of law, are enough to constitute a sense of European identity. Others argue that national identities are too deeply ingrained in European societies and that a European identity can only complement but not replace national identities. In this respect, the conflict in Ukraine has clearly shown that national identity and values are not outdated phenomena. The major powers involved or touched in the conflict, be it the US, Russia, China, or India, are pursuing well-defined national interests – national identity is still a powerful force in today's world, and it will continue to shape political and social life for the foreseeable future. The EU, as a whole, lacks this cohesive force at the moment.

Defending national identity within the context of the EU can be a delicate balancing act. On the one hand, member states must respect the shared values and principles of the EU, including democracy, human rights, and the rule of law. On the other hand, member states must also be allowed to preserve their unique cultural identities and traditions.

In recent years, the tension between defending national identity and adhering to EU norms has been particularly acute in areas such as immigration and national security. Some member states have argued that they must be able to control their borders and determine their own immigration policies in order to protect their cultural and social values. Others have argued that the EU must take a more unified approach to these issues in order to maintain the integrity of the Schengen Area and the free movement of people within the EU. Ultimately, the relationship between national identity and state sovereignty in the context of the EU is complex and multifaceted. While it is important for Member States to defend their unique cultural and social values, they must also be willing to work together in order to achieve common goals and uphold shared values and principles. Balancing these competing demands is one of the key challenges facing the EU in the years ahead.

MAGDALENA BAINCZYK

Germany's policy towards the Central European countries

Ultimately, the Central European perspective not only opens up the possibility of speculation, but also provides a glimpse of reality.

K. Schlögel

In lieu of an introduction – Central Europe, Eastern Europe

Already at the start of the analysis, we come across a problem of a methodological nature. It stems from the fact that this paper pertains to Germany's attitude to Central European countries, while the very term "Central Europe" is only rarely used by public authorities in Germany, aside from historical tradition, which we discuss briefly below, considering the predominance of the term 'Eastern Europe' up to this point.

Central Europe (German: Mitteleuropa) is, however, not a foreign concept to German political and scientific circles,¹ and one of its best-known theories was created by Friedrich Naumann.² In a nutshell, its premise is that the reception of German culture and German economic solutions will, on the one hand, ensure the prosperity of the buffer zone between Germany and Russia, and on the other hand, guarantee Germany's influence and control in the region.

It appears that the concept of Mitteleuropa took various forms after World War II. In the late 1980s, Wolf-Powęska wrote about the renaissance of this theory in West Germany as a protest against the division of Germany, and the anticipated results of its implementation at that time

¹ B. Koszel, *Mitteleuropa rediviva? Europa Środkowo-Wschodnia i Południowo-Wschodnia w polityce Zjednoczonych Niemiec*, Instytut Zachodni, Poznań 1999, pp. 13 et seq.; P. Eberhardt, *Geneza niemieckiej koncepcji „Mitteleuropy”*, "Przegląd Geograficzny" 2005, no. 4, pp. 77 et seq.

² F. Naumann, *Mitteleuropa*, Verlag von Georg Reimer, Berlin 1915.

sound very current to this day: “Establishing in the center of Europe a zone free of any obligations towards the superpowers as a bridge integrating the East and the West, on the basis of a united Germany or a German confederation.”³

The subsequent decades of Germany’s presence in this part of Europe prove that both F. Nauman’s theory in its practical aspect and F. Naumann himself have not been forgotten. Its creator is the patron of the German political foundation associated with the FDP, which, through its offices in Prague, Sofia, Belgrade and Bucharest, can put its patron’s assumptions into practice. The Friedrich-Naumann-Stiftung is one of the few organizations, by the way, to make use of the term ‘Mitteleuropa’ – the office responsible for this part of the continent and the Baltic states is located in Prague.

In the case of the FDP, the operations undertaken by its foundations are relatively modest compared to, for instance, the CDU-affiliated foundation: Konrad-Adenauer-Stiftung, which has offices in eight Central European countries.⁴ It should be noted that all of these foundations are funded from the German federal budget, with amount which are many times greater than those received by German political parties, and the foundations themselves play a key role in German diplomacy.⁵

Terminologically speaking, however, the term “Eastern Europe” (German: Osteuropa) is well-established in the German doctrine, thanks in part to the German Association for East European Studies (German: Die Deutsche Gesellschaft für Osteuropakunde, DGO), which celebrates its 110th anniversary of its operation in 2023. K. Schlögel, a well-known German historian specializing in Eastern European history (German: Osteuropahistoriker) – this was the term used to refer to university departments established after 1989, for instance at the Universities of

³ A. Wolff-Powęska, *Mitteleuropa – ziemia obiecana?*, “Przegląd Zachodni” 1988, no. 4, p. 20.

⁴ The analysis, as per the suggestion of the volume’s editor, pertains to nine Central European countries: Bulgaria, Croatia, the Czech Republic, Estonia, Lithuania, Latvia, Slovakia, Slovenia, Hungary.

⁵ A.L. Phillips, *Power and Influence after the Cold War: Germany in East-Central Europe*, Rowman & Littlefield, Lanham 2000, pp. 119 et seq.

Konstanz and Frankfurt an der Oder – summed up the 100 years of the Association, which still to this day publishes its scientific journal “Osteuropa”, in this way⁶:

“The German Association for East European Studies, originally established in 1913 for the purposes of analyzing Russia, is a child of science and politics. The study of Eastern Europe reflects the attitude of Germans toward their eastern neighbors. It is marked by fascination and hostility, rapprochement and distinction, empirical analysis, but also participation in war and genocide. Only after 1989, the East has begun regaining its voice. The Eastern European studies, seeking to keep up with changing circumstances, remains as fascinating as these transformations themselves: unpredictable and full of surprises.[...]”⁷ To compare with the German unified approach towards Eastern Europe, the following departments were recognized in structure of the Polish Ministry of Foreign Affairs in 1921: the Western Department, the Northern Department, the Central European Department, the Eastern Department.⁸

This short text raised a number of important topics. These include the link between science and politics. The Association, like many other foreign

⁶ This magazine is not focused, however, solely on the Eastern Europe. No. 9–10 in 2022 was devoted to “A German-Polish community of conflict”: *Ächtungserfolg Deutsch-polnische Konfliktgemeinschaft*, „Osteuropa” 9–10/2022, while no. 8–9 in 2021 pertained to “The arc of crises – Russia, Belarus and Poland”, *Krisenbogen Russland, Belarus, Polen*, „Osteuropa” 8–9/2021, or no. 4–6 in 2021 which concerned the Czech Republic: *Schlüsselland Tschechien Politik und Gesellschaft in der Mitte Europas*, „Osteuropa” 4–6/2021.

⁷ K. Schlögel, *Den Verhältnissen auf den Spur. Das Jahrhundert des Osteuropaforschung*, „Osteuropa” 2013, vol. 63, no. 2–3, p. 7. All texts are in German; when quoted in the study, were translated by the author.

⁸ K. Szczepanik (ed.), *Odrodzenie polskiej służby zagranicznej 1917–1921*, Ministerstwo Spraw Zagranicznych, Warszawa 2018, p. 110.

relations entities, is funded from the federal budget and connected with the Federal Foreign Office.⁹

Another interesting issue is the role of Eastern European studies (German: Osteuropaforschung) during the Third Reich, as well as the lack of accountability of researchers who collaborated with the Nazis as well as material and personal continuation of research in this field in Federal Republic of Germany.¹⁰ Last but not least, it is significant how the term “Eastern Europe” is understood – i.e. as Germany’s eastern neighbors. This simplistic vision of Europe still operates in many areas of German policy, as will be discussed below. At this point, however, we must do justice to K. Schögl himself, who, unlike many public administration authorities, as early as 2001 not only recognized the return of Central Europe, but also its importance and meaning not from the point of view of Germans, but of interested parties:¹¹ “Central Europe’ – the term itself is already a provocation targeted at the wall which is present in our heads. From a Central European perspective, something that seemed immovable begins to move; from a Central European perspective, something that looks so natural becomes artificial. Isn’t Central Europe older, more strongly bound together than the transformations after 1914, 1938 and the end of the war? [...] Ultimately, the Central

⁹ *Grüßwort von Staatsminister Link anlässlich des 100-jährigen Jubiläums der Deutschen Gesellschaft für Osteuropakunde*, Auswärtiges Amt, [accessed on: 16.02.2023], <<https://www.auswaertiges-amt.de/de/newsroom/130307-stm-link-dgo/253922>>.

¹⁰ A. Rybicka, *Instytut Niemieckiej Pracy Wschodniej, Kraków 1940–1945*, Wydawn. DiG, Warszawa, 2002; T. Bałuk-Ulewiczowa, *Wyzwolić się z błędnego koła. Instytut für Deutsche Ostarbeit w świetle dokumentów Armii Krajowej i dokumentów zachowanych w Polsce*, Arcana, Kraków 2004; M. Burleigh, *Germany Turns Eastwards: A Study of Ostforschung in the Third Reich*, Cambridge University Press, Cambridge 1990; K.-H. Roth, *Heydrichs Professor. Historiographie des „Volkstums” und der Massenvernichtungen. Der Fall Hans Joachim Beyer* [in:] P. Schöttler, *Geschichtsschreibung als Legitimationswissenschaft 1918–1945*, Suhrkamp, Frankfurt am Main 1997, pp. 262–343.

¹¹ K. Schlögel, *Die Mitte liegt ostwärts. Europa im Übergang*, Carl Hanser Verlag, München Wien 2002; K. Schlögel, *Środek leży na wschodzie. Europa w stadium przejściowym*, Oficyna Naukowa, Warszawa 2005.

European perspective not only opens up the possibility of speculation, but also provides a glimpse of reality.¹²

An even broader understanding of the East can be found in the approach of another organization, which, admittedly, celebrated a slightly less round 70th anniversary, but plays an important role in shaping economic relations – the German Eastern Business Association (German: Ost-Ausschuss der Deutschen Wirtschaft, OA).¹³ The then President of the Association established in 1952, Otto Wolff von Amerongen, signed trade agreements in the 1950s with China and Romania. Since 1970, the Committee has been involved in gas pipeline interests with the USSR.¹⁴ The scope of activities of the German Eastern Business Association covers areas from Poland to Tajikistan.



Map no. 1. The area of activities of the German Eastern Business Association, source: *Länder, Ost-Ausschuss der Deutschen Wirtschaft*, [accessed on: 14.02.2023], <<https://www.ost-ausschuss.de/lander>>

¹² K. Schlögel, *Środek leży na wschodzie...*, p. 15.

¹³ S. Jüngerkes, *Diplomaten der Wirtschaft. Die Geschichte des Ost-Ausschusses der Deutschen Wirtschaft*, fibre Verlag, Osnabrück 2012.

¹⁴ *70 Jahre Ost-Ausschuss der Deutschen Wirtschaft*, Ostauschuss, [accessed on: 14.02.2023], <<https://www.ost-ausschuss.de/de/oa70>>.

Undoubtedly, considering the pragmatic approach of business to the changing reality, the German Eastern Business Association was one of the first German organizations to take note of the changes taking place in the 'East.' This was proven during a press conference which was held on 22 February 2023 under the motto – which is very telling in light of the topic of this paper – “The economy in Central and Eastern Europe is restoring itself.”¹⁵ The conference presented very favorable data for Germany's economic interests in the region.

In the studies undertaken by Germany's largest think tank in the area of international politics, Stiftung Wissenschaft und Politik (SWP), which is funded by the German Chancellery,¹⁶ the topic of Central Europe is only rarely raised, and SWP analysts sometimes use the hybrid term of eastern Central Europe (German östliches Mitteleuropa).¹⁷ Meanwhile, in the tab on the SWP website entitled “Russia, Eastern Europe, Central Asia” (sic!), we can find some remarks about Poland, Hungary, or the Baltic States¹⁸ – this is, by the way, in line with the methodology adopted by German public authorities.

¹⁵ *Frühjahrspressekonferenz des Ost-Ausschusses: Wirtschaft in Mittel- und Osteuropa sortiert sich neu*, Pressemitteilung Berlin, 22. Februar 2023, Ost-Ausschuss der deutschen Wirtschaft, [accessed on: 24.02.2023], <https://www.ost-ausschuss.de/sites/default/files/pm_pdf/2023-02_22%20PM%20Fr%C3%BChjahrespressekonferenz%20OA.pdf>.

¹⁶ *Finanzierung der SWP*, Stiftung für Wissenschaft und Politik, [accessed on: 17.02.2023], <<https://www.swp-berlin.org/die-swp/ueber-uns/grundlegendes/finanzierung>>.

¹⁷ K.-O. Lang, *Eine neue Visegrád-Gruppe? Perspektiven der ostmitteleuropäischen Kooperation in der größeren EU*, SWP-Aktuell 2004/A 27, 15.06.2004, Stiftung für Wissenschaft und Politik, [accessed on: 15.02.2023], <https://www.swp-berlin.org/publications/products/aktuell/aktuell2004_27_lng_ks.pdf>; K.-O. Lang, *Die Visegrád-Staaten und der Brexit. Im östlichen Mitteleuropa herrscht Sorge angesichts des britischen EU-Austritts*, SWP-Aktuell 2016/A 53, 02.08.2016, Stiftung für Wissenschaft und Politik, [accessed on: 15.02.2023]: <https://www.swp-berlin.org/publications/products/aktuell/2016A53_lng.pdf>.

¹⁸ K.-O. Lang, G Swistek, D. Schottner, *SWP-Podcast Spezial: Was der Ukraine-Krieg für Polen und das Baltikum bedeutet*, SWP-Podcast 2022/P 09, 11.03.2022, Stiftung für Wissenschaft und Politik, [accessed on: 8.02.2023]: <https://www.swp-berlin.org/publications/products/Podcast/2022P09_KriegUkraineSpezial3.mp3>; M. Overhaus, *Überall Krieg? Warum die Krise an der polnisch-belarussischen Grenze kein hybrider Angriff ist*, Stiftung für Wissenschaft und Politik, [accessed on: 12.02.2023],

Central/Eastern Europe in the policy of the government of Chancellor O. Scholz

German foreign policy is defined on the one hand by reference to multilateralism – in this regard, we can mention the UN¹⁹, the G7, global challenges²⁰ and the strategic partnership with the United States²¹, and European policy, which as a matter of fact for many years was primarily deemed to mean EU policy and the EU Neighborhood Policy²². This approach can be seen, for instance, in the main policy document for Germany's current ruling coalition – the SPD/Greens/FDP coalition agreement for 2021–2025²³. Part VII of the agreement is devoted to the main premises of Germany's foreign policy for the next four years, and bears the title which is very telling when it comes to self-awareness of political elites of that country, namely “Germany's responsibility for the world and Europe” (Deutschlands Verantwortung für Europa und die Welt)²⁴, while as per the provisions of the agreement, Germany has

<<https://www.swp-berlin.org/themen/forschungsgebiete/russland-osteuropa-zentralasien?researchfield%5Bfilter%5D%5B%5D=type%3Apublication&researchfield%5Bfilter%5D%5B%5D=researchField%3ARussland%2C+Osteuropa%2C+Zentralasien&researchfield%5Bpage%5D=12>>.

¹⁹ J. Dobosz-Dobrowolska, *Niemcy na forum Organizacji Narodów Zjednoczonych* [in:] K. Janoś et al., *Interesy -Wartości -Kompromisu. Polityka Zagraniczna Niemiec w erze Angeli Merkel*, Instytut Zachodni, Poznań 2022, pp. 215 et seq.

²⁰ Cf. T. Morozowski, *Współkształtowanie globalizacji. Polityka Republiki Federalnej Niemiec wobec mocarstw wschodzących po 2004 r.*, Instytut Zachodni, Poznań 2022, pp. 171 et seq.

²¹ K. Kiwerska, *Niemcy we wspólnocie transatlantyckiej* [in:] K. Janoś et al., *Interesy -Wartości -Kompromisu. Polityka Zagraniczna Niemiec w erze Angeli Merkel*, Instytut Zachodni, Poznań 2022, p. 157 et seq.; J. Kiwerska, *Sojusz w kryzysie. Prezydentura Donalda Trumpa i relacje transatlantyckie*, Instytut Zachodni, Poznań 2022.

²² Cf. the substantive division of the German Federal Foreign Office activities into foreign policy and European policy, *Außen- und Europapolitik*, Auswärtiges Amt, [accessed on: 10.02.2023], <<https://www.auswaertiges-amt.de/de/aussenpolitik>>.

²³ *Koalitionsvertrag zwischen SPD, Bündnis90/Die Grünen, FDP*, Bundesregierung, [accessed on: 10.02.2023], <<https://www.bundesregierung.de/resource/blob/974430/1990812/1f422c60505b6a88f8f3b3b5b8720bd4/2021-12-10-koav2021-data.pdf?download=1>>.

²⁴ Por. S. Brunstetter, *A Changing View of Responsibility? German Security Policy in the Post 9/11 World* [in:] T. Lansford, B. Tashev, *Old Europe, New Europe and the US Renegotiating Transatlantic Security in the Post 9/11 Era*, Routledge, New York 2017, p. 21.

the right to assume this responsibility thanks to the power it holds as the world's fourth largest economy and the largest EU Member State.

The biggest portion of the document is devoted to Europe, and more precisely to the European Union. Central and Eastern Europe appear as a matter of fact only in three contexts: NATO's deterrence policy – the ruling coalition declared that it “takes seriously the concerns [about security – author's note] of our Central and Eastern European partner states in particular”;²⁵ the EU Neighborhood Policy, and in the context of bilateral relations; and, interestingly in this case, in connection with Russia. The parties of the ruling coalition assured of deep and diverse relations with Russia, but at the same time declared that, in the framework of German-Russian relations, they would take into account “the interests of European neighbors, especially our partners in Central and Eastern Europe.”²⁶ Furthermore, the section on bilateral relations refers to certain Central and Eastern European countries that, for various reasons, occupy a more prominent spot in German foreign policy – in the order specified in the agreement: Ukraine, Belarus, Russia. Poland and the Western Balkan states were listed alongside France in another subsection of the coalition agreement, entitled “European Partners.”²⁷ The document made no reference to either the Visegrad Group or the Three Seas Initiative; however the Weimar Triangle was indeed mentioned. It seems that German policymakers are aware of a certain commonality of interests among the countries in the region, but this does not mean that it is in FRG's interest to merge the region and institutionalize it.

The propositions concerning Central and Eastern Europe made in the introduction and in the subsection referred to above are also confirmed by the organizational structure of the German Chancellery with regard to Department 2 ‘Foreign, Security and Development Policy’, as part of which Referat 211 covers, *inter alia*, bilateral relations with the US, Canada, Northern, Western and Southern Europe and Turkey, while Referat 212 covers bilateral relations with the countries of Central,

²⁵ *Koalitionsvertrag zwischen SPD, Bündnis90/Die Grünen, FDP*, p.145.

²⁶ *Koalitionsvertrag zwischen SPD, Bündnis90/Die Grünen, FDP*, p. 154.

²⁷ *Koalitionsvertrag zwischen SPD, Bündnis90/Die Grünen, FDP*, p. 136.

Eastern and Southern Europe, as well as Central Asia and the South Caucasus.²⁸ Although the countries of Central Europe have been singled out in the organizational structure of the Chancellery, they are still stuck in the tradition established by the German Association for East European Studies, or the German Eastern Business Association, according to which, at least according to this organizational division, Central Europe is definitely closer to the South Caucasus than to Western Europe.

The substantive division of European policy adopted by the Germany's Federal Foreign Office, which in practice implements the provisions of the coalition agreement, does not distinguish either the countries of Central Europe or Central Europe. Relations with European states are classified as: regional cooperation among European countries, bilateral relations with EU Member States or cooperation with Eastern Europe.

One could expect that cooperation with Central European countries, taking into account the structures they belong to, would be included in the framework of regional cooperation among European countries. However, this has not been the case. The Federal Foreign Office defines regional cooperation primarily as cooperation between German border regions: the German-French, German-French-Swiss, and Alpine regions on the basis of EU funds. Furthermore, the EU North Sea Region Strategy and the EU Strategy for the Danube Region are mentioned on this regard.²⁹ As part of cooperation among European countries, the Federal Foreign Office distinguishes the following forms of regional cooperation: German-French cooperation, German-Polish cooperation, the Weimar Triangle and North Sea cooperation.³⁰ Thus, no modes of cooperation

²⁸ *Organisationsplan des Bundeskanzleramtes*, 2. Januar 2023, Bundesregierung, [accessed on: 17.02.2023] <<https://www.bundesregierung.de/resource/blob/974430/773044/2584393908a312e73262cd7db8a87420/druckversion-organigramm-bkamt-data.pdf?download=1>>.

²⁹ *Regionale Zusammenarbeit in Europa*, Auswärtiges Amt, [accessed on: 20.01.2023] <<https://www.auswaertiges-amt.de/de/aussenpolitik/europa/zusammenarbeit-staaten/zusammenarbeit-ueberblick-node>>.

³⁰ *Zusammenarbeit zwischen Staaten in Europa*, Auswärtiges Amt, [accessed on: 20.01.2023], <<https://www.auswaertiges-amt.de/de/aussenpolitik/europa/zusammenarbeit-staaten?view=>>>.

among Central European countries such as the Visegrad Group or the Three Seas Initiative have been mentioned in this scope.

The organizational structure of the Federal Foreign Office does not distinguish either Central Europe or Central Europe was, and in the scope of bilateral relations with EU Member States, Central European countries were distributed among various Sub-Divisions: E 21 Ireland, Sweden, Finland, Denmark, Estonia, Latvia, Lithuania, North Sea Policy; E 22 Poland, the Czech Republic, Austria, Slovakia, Hungary, Slovenia, Croatia, the Weimar Triangle, Visegrad cooperation; E 23 Portugal, Spain, Italy, Greece Cyprus, Malta, Bulgaria, Romania, Andorra, San Marino, Vatican City.³¹

Judging by the documents examined above, Central Europe constitutes a separate object of German foreign policy *in statu nascendi*. The reasons for this state of affairs are manifold and will be subject to an analysis to be carried out below. However, it should be stressed that, as a result of Russia's aggression against Ukraine, this state of affairs, at least in the political area, is slowly changing.

Germany's bilateral relations with Central European countries

Considering Central Europe is not seen as a separate entity in FRG's policy, FRG primarily manages bilateral relations with the countries of the region, using an extensive network of outposts which are involved in cultural diplomacy and in the expansion of the German economy.

³¹ *Organisationsplan des Auswärtigen Amtes*, Auswärtiges Amt, [accessed on: 20.01.2023], < <https://www.auswaertiges-amt.de/blob/215270/e80179c76941315fcbf-50b9e38e76830/organisationsplan-data.pdf> >

Table no. 1. Own work based on information found on websites of Germany's Federal Foreign Office and German political foundations and Eurostat *Trade in goods by top 5 partners, European Union, 2021*, <https://ec.europa.eu/eurostat/de/web/international-trade-in-goods/visualisations> as well as data from the Eastern Association of 22.02.2023 concerning Germany's leading foreign trade partners for 2021.

Central European country	FRG as an economic partner of the country based on Eurostat data, place and percentage share, data for 2021	FRG as an economic partner for the country (according to the website of the Federal Foreign Office of FRG)	Characteristic features of FRG's relations with the country (according to the website of the Federal Foreign Office of FRG)	German/joint institutions involved in bilateral relations (according to information from the Federal Foreign Office of FRG)
Bulgaria	Export (1) 15% Import (1) 12%	Germany is Bulgaria's largest trading partner. There are circa 3800 companies with German involvement in Bulgaria.	Friendly and diverse relations. Germany is a strategic partner for Bulgaria. Bulgaria has a large German minority of 413,000 people.	<ul style="list-style-type: none"> – Deutsch-Bulgarische Industrie- und Handelskammer · Goethe-Institut · DAAD · Bulgarisch-Rumänisches Interuniversitäres Europazentrum (BRIE) – Deutsche Abteilung am Prof. K. Galabov-Gymnasium in Sofia – Deutsch-Bulgarische Begegnungsstätte – Deutsche Schule Sofia – Deutscher Volkshochschulverband-International – Büro Sofia – Friedrich-Ebert-Stiftung – Konrad-Adenauer-Stiftung – Hans-Seidel-Stiftung · Friedrich-Naumann-Stiftung – KfW Entwicklungsbank
Croatia	Export (2) 12% Import (1) 12%	Germany is Croatia's biggest trading partner, in terms of foreign direct investment it ranks third after the Netherlands and Austria.	Traditional friendly and close relations. There are 426,000 Croatian citizens living in FRG.	<ul style="list-style-type: none"> – Deutsch-Kroatische Industrie- und Handelskammer – Goethe-Institut – DAAD – Deutsche Internationale Schule in Zagreb – Friedrich-Ebert-Stiftung – Hanns-Seidel-Stiftung – Konrad-Adenauer-Stiftung – Rosa-Luxemburg-Stiftung

Central European country	FRG as an economic partner of the country based on Eurostat data, place and percentage share, data for 2021	FRG as an economic partner for the country (according to the website of the Federal Foreign Office of FRG)	Characteristic features of FRG's relations with the country (according to the website of the Federal Foreign Office of FRG)	German/joint institutions involved in bilateral relations (according to information from the Federal Foreign Office of FRG)
Czech Republic	Export (1) 33% Import (1) 25% The Czech Republic is Germany's 10th biggest foreign trade partner (as of 2022)	No mention in any official documents.	Very close relations (German: sehr enge Beziehungen)	<ul style="list-style-type: none"> · Die Deutsch-Tschechische Industrie- und Handelskammer · Deutsch-Tschechische und Deutsch-Slowakische Historikerkommission · Deutsch-Tschechische Zukunftsfonds · Deutsch-Tschechisches Gesprächsforum · Deutsch-Tschechischer Jugendaustausch – Tandem · Goethe Institut · DAAD · Friedrich-Ebert- Stiftung · Konrad-Adenauer Stiftung · Heinrich-Böll Stiftung · Hans-Seidel-Stiftung · Friedrich-Naumann-Stiftung
Estonia	Export (6) 6% Import (3) 10%	Germany is among Estonia's most important partners. About 400 companies with German involvement are registered in Estonia.	Close and friendly relations	<ul style="list-style-type: none"> – Deutsch-Baltische Handelskammer – Kooperation International (BMBF) – Goethe-Institut – DAAD – Ostsee-Jugendsekretariat – Friedrich-Ebert-Stiftung – Konrad-Adenauer-Stiftung
Lithuania	Export (3) 8% Import (1) 13%	“Germany continues to be one of Lithuania's most important trading partners and a vital important investor.”	“Lithuania regards Germany as an important EU country, as a major economic power and as a close and friendly partner.”	<ul style="list-style-type: none"> – Deutsch-Baltische Handelskammer – Goethe-Institut – DAAD – Kooperation International (BMBF) Konrad-Adenauer-Stiftung

Central European country	FRG as an economic partner of the country based on Eurostat data, place and percentage share, data for 2021	FRG as an economic partner for the country (according to the website of the Federal Foreign Office of FRG)	Characteristic features of FRG's relations with the country (according to the website of the Federal Foreign Office of FRG)	German/joint institutions involved in bilateral relations (according to information from the Federal Foreign Office of FRG)
Latvia	Export (5) 7% Import (2) 10%	Germany is among Latvia's most important trading partners. Also in terms of direct investment, Germany holds one of the first places. Nearly 1,200 companies with German involvement operate in Latvia.	Close and friendly relations	<ul style="list-style-type: none"> - Deutsch-Baltische Handelskammer - Goethe-Institut - DAAD - Konrad-Adenauer-Stiftung - Friedrich-Ebert-Stiftung
Slovakia	Export (1) 22% Import (1) 19% Slovakia is Germany's 22nd biggest foreign trade partner (as of 2022)	Germany is Slovakia's most important trading partner. Nearly 500 German companies have invested in Slovakia, thus creating 160,000 jobs. Germany is among the largest direct investors in Slovakia.	Friendly and close relations. At the present time, both countries are cooperating closely in an "in-depth dialogue" between the two governments.	<ul style="list-style-type: none"> · Deutsch-Slowakische Industrie- und Handelskammer · Deutsche Schule Bratislava · Deutsch-Tschechische und Deutsch-Slowakische Historikerkommission · Goethe-Institut · Alexander von Humboldt-Stiftung · DAAD · Hans-Seidel-Stiftung · Konrad-Adenauer-Stiftung · Forschungsinstitut für die Geschichte Tschechiens und der Slowakei
Slovenia	Export (1) 16% Import (1) 13%	With a share of 19% in foreign trade, Germany is Slovenia's most important trading partner, significantly ahead of other countries. In terms of foreign direct investment, the Germans also holds the first place.	Relations are very good, characterized by mutual trust	<ul style="list-style-type: none"> - Deutsch-Slowenische Industrie- und Handelskammer - Goethe-Institut - DAAD Konrad-Adenauer-Stiftung (biuro w Chorwacji)

Central European country	FRG as an economic partner of the country based on Eurostat data, place and percentage share, data for 2021	FRG as an economic partner for the country (according to the website of the Federal Foreign Office of FRG)	Characteristic features of FRG's relations with the country (according to the website of the Federal Foreign Office of FRG)	German/joint institutions involved in bilateral relations (according to information from the Federal Foreign Office of FRG)
Hungary	Export (1) 27% Import (1) 24% Hungary is Germany's 14th biggest foreign trade partner (as of 2022)	Germany and Hungary have close economic links. Germany ranks first (with a share of about 27%) among Hungary's trading partners. There are about 3,000 German companies operating in Hungary.	NO INFORMATION ABOUT GENERAL DIPLOMATIC RELATIONS	<ul style="list-style-type: none"> · Deutsch-Ungarische Industrie- und Handelskammer · Deutsche Schule Budapest · Andrassy Universität Budapest · Ungarndeutsches Bildungszentrum · Goethe Institut · DAAD · Humboldt Stiftung · Hanns-Seidel-Stiftung · Konrad-Adenauer-Stiftung

Study of the data contained in the table demonstrates that relations with Central European countries are based on the following characteristic features:

1. Strong economy, which ensures that Germany remains the “largest” or “one of the largest” trading partners of Central European countries in terms of exports and imports. Countries with exceptionally strong economic ties to Germany, both in terms of exports and imports, include the Czech Republic, Slovakia and Hungary.³² German has been developing its financial and economic diplomacy for decades in a very conscious and effective manner.³³

2. Political relations, with the exception of Hungary, are described as close and friendly. Germany emphasizes its role as a promoter of these countries’ “return” to the West, both by advocating their membership in NATO and the EU, and by supporting the transformation of their political system – cf. “Germany granted assistance to Latvia on its path to the

³² Deutscher Außenhandel 2022: Top 25, Ost-Ausschuss, [accessed on: 24.02.2022], < https://www.ost-ausschuss.de/sites/default/files/pm_pdf/Top%2025%20Au%C3%9Fenhandelspartner%202022_F.pdf >

³³ S. Wood, *Germany and East-Central Europe. Political, Economic and Social-Cultural Relations in Era of EU Enlargement*, Routledge, New York 2018, p. 9.

EU and to joining Euro-Atlantic structures, and helped Latvia transform its economy, administration and judiciary.”³⁴ In addition, historical ties between the countries are also noted in relation to, for instance, Lithuania: “Through Lithuania’s (Memelland) former affiliation, together with the cities of Klaipėda (Memel) and Šilutė (Heydekrug), with the German Reich, the country is historically linked with Germany.”³⁵

3. Germany boasts a well-developed network of state-linked organizations that directly support German foreign policy in the economic dimension – chambers of commerce and industry; in the political dimension – German foundations associated with political parties: Konrad-Adenauer-Stiftung (affiliated with the CDU), Friedrich-Ebert-Stiftung (affiliated with the SPD), Hanns-Seidel-Stiftung (affiliated with the CSU), Rosa-Luxemburg-Stiftung (affiliated with Die Linke), Friedrich-Naumann-Stiftung (affiliated with the FDP), Heinrich-Böll-Stiftung (affiliated with The Greens); in the political, cultural and scientific dimension – Goethe Institut, DAAD, Humboldt Stiftung, as well as schools or even universities with German language instruction. The foundations, the Goethe Institute and DAAD are funded from the federal budget. We can infer interesting associations between the institutions referred to in the text from the open letter sent in September 2022 by the German Association for East European Studies, the Association of German Historians of the East (German: Verband der Osteuropahistorikerinnen und -historiker) and the Association of Southern Europe (German: Südosteuropa-Gesellschaft) which protested against the German Federal Foreign Office reducing the funding for DAAD, the Goethe Institut and

³⁴ *Deutschland und Lettland: Bilaterale Beziehungen*, Auswärtiges Amt, [accessed on: 11.02.2023], < <https://www.auswaertiges-amt.de/de/aussenpolitik/laender/lettland-node/bilateral/200578?view=>> B. Koszel, *Mitteleuropa rediviva?*, pp. 95 et seq.; B. Koszel, *Rola zjednoczonych Niemiec w procesie integracji europejskiej* in: J. Kiwerska et al., *Polityka zagraniczna zjednoczonych Niemiec*, Instytut Zachodni, Poznań 2011, p. 113; Critically about aid in systemic transformation A. Nußberger, *Verfassungsrechtstransfer vom West nach Ost. Illusion, Desillusion, Neubeginn*, “Osteuroparecht”, 2010, vol. 60, no. 6, pp. 81 et seq.

³⁵ *Deutschland und Litauen: bilaterale Beziehungen*, Auswärtiges Amt, [accessed on: 11.02.2023], < <https://www.auswaertiges-amt.de/de/aussenpolitik/laender/litauen-node/bilateral-litauen/200582?view=>>.

the Humboldt Stiftung. We should also mention the scale of funding received by these institutions. In 2021, DAAD was granted 201.5 million euros, while the reduced budget for 2023 amounts to 191 million euros.³⁶

In Germany, annual funding for political foundations exceeds by almost 3 times that of political parties. Between 1999 and 2019, spending on foundations increased by 110%, reaching nearly 590 million euros a year (as of 2021), not including funds paid by the Ministry for Education on scholarships for the particularly gifted, and awarded by foundations. Meanwhile, political party funding from the federal budget in the same year amounted to only 200 million euros.³⁷

It raises serious doubts on the grounds of constitutional law that there is no law that would clearly define the criteria and amount of grants awarded to political foundations from the federal budget, as well as the objectives of spending the funds and the manner of accounting for their settlement.³⁸ To date, it is the Bundestag that makes the decision which foundation and in what amount will be awarded a donation from the budget prepared by the budget committee on the basis of a government bill. For several years now, the German Taxpayers Federation (German: Bund der Steuerzahler Deutschland e.V, BdSt) has been postulating to stop the gigantic increase in spending on political foundations, to pass a law that would regulate the financing of these foundations, to include an obligation of transparent spending of the funds.³⁹ On 22 February 2023, the German Federal Constitutional Court ruled that the AfD's omission from the distribution of funds in the area of political education

³⁶ *Fachverbände kritisieren Kürzungen des Bundes*, „Forschung&Lehre“, [accessed on: 12.02.2023], <<https://www.forschung-und-lehre.de/politik/fachverbaende-kritisieren-kuerzungen-des-bundes-5017>>.

³⁷ H. Roßbach, R. Roßmann, *Üppiger Geldregen*, „Süddeutsche Zeitung“ (24.05.2022), [accessed on: 10.11.2022], <<https://www.sueddeutsche.de/politik/bunder-steuerzahler-parteinaher-stiftungen-1.5590564>>.

³⁸ Cf. Opinion of the Legal Service of the Bundestag of 3.12.2021, *Zur Finanzierung parteinaher politischer Stiftungen*, WD 3 – 3000 – 194/21, [accessed on: 7.11.2022], <<https://www.bundestag.de/resource/blob/880176/aacae18e504e6f8f29d578e2b3527foo/WD-3-194-21-pdf-data.pdf>>.

³⁹ *542 Mio. Euro für die parteinahen Stiftungen*, 09.06.2020, Bund der Steuerzahler Deutschland e.V., [accessed on: 8.11.2022], <<https://www.steuerzahler.de/aktuelles/detail/542-mio-euro-fuer-die-parteinahen-stiftungen/>>.

activities without a statutory basis violates the party's right to a level playing field vis-à-vis political competitors, and therefore the Bundestag will have to pass a law on the financing of political foundations.⁴⁰ However, this would only be a small step toward transparency in the funding of various foreign undertakings by entities affiliated with the German state.

Countries where the FRG has developed a particularly extensive network of organizations include Croatia, the Czech Republic, Slovakia and Hungary. In the case of the last three countries, the scale of institutional links corresponds to the scale of economic ties.

Germany's dominant economic position, related to a well-developed and funded network of political-cultural-scientific organizations, as well as fact that German interests are exceptionally well embedded in European institutions, implies that Germany has reason to believe that the countries of Central Europe/Eastern Europe are among the entities that are already within the sphere of German influence, and what is more, they consider it natural, desirable and unchangeable.

“Zeitenwende” and Central Europe

An important date for redefining the place and role of Central European countries is Russia's aggression against Ukraine that started on 24 February 2022, which, due to the fact Germany carried out, for many decades, a misguided policy toward Russia, one of whose guiding ideas was the transformation of Russia through trade (German: Wandel durch Handel), forced, admittedly reluctantly and with delay, a certain adjustment of German foreign policy.⁴¹ This correction was presented as a “landmark success” for Germany. Political marketing was based on two terms-spells: the supposed German responsibility, as referred to above, for the world

⁴⁰ Judgment of the German Federal Constitutional Court of 22 February 2023, case no. 2 BvE 3/19, ECLI:DE:BVerfG:2023:es20230222.2bve000319.

⁴¹ S. Źerko, *Niemcy wobec Rosji – Zarys historii niemieckiej Rossländpolitik*, IZ Policy Papers no. 40, Poznań 2022, [accessed on: 29.01.2023], <<https://www.iz.poznan.pl/plik,pobierz,4735,833a0166bafabcf6fcb147e745c08ef/IZPP402022Niemcy%20wobec%20Rosji%20-%20Zarys%20historii%20niemieckiej%20Rossländpolitik.pdf>>.

and Europe, and on the notion of changing times (German: *Zeitenwende*). The latter term forms a part of Germany's crisis management after the image crisis caused first by its erroneous policy towards Russia and then by its erroneous policy toward Ukraine after 24 February 2022. The use of the term '*Zeitenwende*' allows to shift the focus from aspects which were detrimental for Germany to aspects of positive or neutral character; in short, these were not mistakes and errors of German policy, but merely a change of times. This can be exemplified by a quasi-definition of "change of times" proposed by Chancellor O. Scholz: "We are experiencing a change of times. This means: the world after is no longer the same world. Basically, the question is whether power can violate laws, whether we will allow Putin to turn back the clocks to the superpowers of the 19th century, or whether we will step up to show war-mongers like Putin that there are limits. This means we have to be strong."⁴² Characteristically, what is absent from O. Scholz's speech is a deeper analysis of the reasons that led to this "change of times"; on the other hand, it contains a call for a show of force, which was very controversial in light of Germany's policy since February 2022. We can therefore ask: has the attitude toward Central European countries fundamentally changed as a result of this "landmark change"?

The answer to this question can be found, *inter alia*, in Chancellor O. Scholz's speeches on the "change of times" (German: *Reden zur Zeitenwende*), which were published by the federal government⁴³, and which include three speeches: 1. Government statement from the emergency meeting on the war against Ukraine before the Bundestag on 27 January 2022 in Berlin; 2. the *European speech at Charles University in Prague on 29 August 2022*, 3. the speech commemorating the 77th General Debate of the United Nations General Assembly on New Year's Day, of 20 September 2022.

⁴² *Government statement from the emergency meeting on the war against Ukraine before the Bundestag on 27 January 2022 in Berlin* [in:] *Reden zur Zeitenwende. Bundeskanzler Olaf Scholz*, Berlin 2022, Auswärtiges Amt, [accessed on: 13.02.2023], <<https://www.bundesregierung.de/resource/blob/975292/2138164/52b9c090014da412b44fe160f2c24308/bundeskanzler-olaf-scholz-reden-zur-zeitenwende-2-auf1-download-bpa-data.pdf?download=1>>, p. 8.

⁴³ *Reden zur Zeitenwende. Bundeskanzler Olaf Scholz*.

Central and Eastern Europe – because the two terms are used jointly in the documents – although the region is very important for the course and end of the war, appear very rarely. In a federal government statement of 27 February 2022, O. Scholz stated that some of the fundamental challenges of the outbreak of war included preventing its spread, and assured the countries of Central and Eastern Europe that they would fulfill their NATO alliance obligations. Countries of the region, but also of Central Europe play a much more prominent role in the speech given by the German Chancellor in Prague on 29 August 2022. This was, of course, understandable in the context of the location where the speech was delivered – this speech, it should be added, was given a special place among O. Scholz's other foreign lectures – it was dubbed the “European Speech” – due to Germany's unequivocal adherence of further EU federalization.⁴⁴

“One of the many prominent minds created by this University, Milan Kundera, reminded us of this in 1983, back in the Cold War era. “The Tragedy of Central Europe,” namely when the Poles, Czechs, Slovaks, Balts, Hungarians, Romanians, Bulgarians and Yugoslavs after World War II “woke up [...] and found that they were in the East”, that “they had disappeared from the map of the West.” We have to face this legacy as well – including those of us on the western side of the Iron Curtain, not only because this legacy is part of European history, and therefore part of our common history as Europeans, but also because the experience of Central and Eastern European citizens – that feeling of being forgotten and abandoned behind the Iron Curtain – which remains to this day in our memory moreover and also in discussions about our future, about Europe [author's emphasis].” [...] These days, the question of where the dividing line between a free Europe and a neo-imperial autocracy will be in the future arises again. I spoke of the changing times after the assault on Ukraine in January. Putin's Russia wants to demarcate a new frontier using violence – something we never want to experience again in Europe. The brutal assault on Ukraine is therefore an attack on the European order of security. We are all vehemently opposed to it. For this

⁴⁴ M. Bainczyk, Czy RFN może współtworzyć państwo europejskie?, Bulletin of the Institute for Western Affairs, no 21(503)/2022, [accessed on: 29.01.2023]. <https://www.iz.poznan.pl/plik.pobierz,5374,bccc7723a368e8e63d20d57484559eco/503.pdf>.

reason, we need our own strength – as individual states, in an alliance with our transatlantic partners, but also as the European Union (EU) [author’s emphasis].”⁴⁵

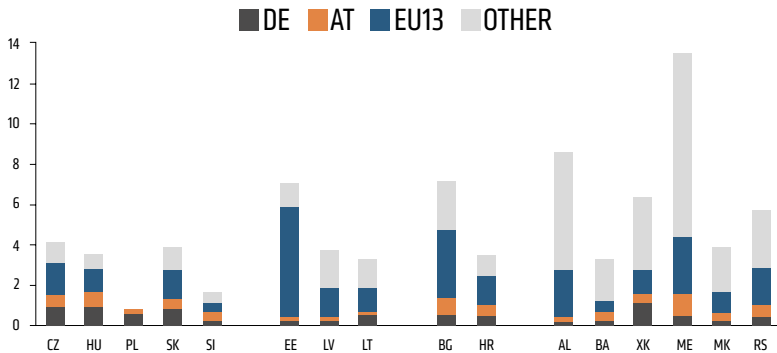
As we can see in August 2022, O. Scholz in Prague still operates in dichotomies: Western Europe and Eastern Europe, with the latter having once again acquired, after a period of a “taming” of sorts, rather negative connotations. And thus Chancellor O. Scholz understands that the citizens of Central Europe are united by tragic historical experiences, but also by dreams of being a part of Western Europe, or even a European federal state, as a kind of crowning achievement of the transformation processes.

While from the perspective of German political authorities, the emancipation of Central Europe progresses slowly, it most certainly deviates from the model of German economic environment definitely, although even in this case there is no coherent concept of the region to speak of. At a spring press conference, the chairman of the German Eastern Business Association, M. Harms, stated that Germany’s trade with Central and Eastern European countries reached a new record in 2022 of 562 billion euros. Exchange with these countries accounts for more than 18% of total foreign trade and once again exceeds the total balance for Germany’s foreign trade with China and the United States. Under the much telling subtitle, “Shifting focus in trade,” the German Eastern Business Association reported that Poland, surpassing Italy, with a trade volume of 168 billion with Germany, became the country’s fifth largest trading partner, while the Czech Republic overtook the UK and is among the top ten, and Hungary is in 14th place. “The trade indicators also show how the international supply chain and trade directions are being rearranged. The central corridor through the South Caucasus and the Caspian Sea is becoming more and more important, both in terms of raw material supplies from the direction of Azerbaijan and Central Asia, as well as transit from China. [...] German trade with Southern Europe

⁴⁵ European speech at Charles University in Prague on 29 August 2022 [in:] *Reden zur Zeitenwende. Bundeskanzler Olaf Scholz*, p. 23.

and Social Impacts of FDI in Central, East and Southeast Europe,⁴⁷ the president of the board of the German Eastern Business Association Ph. Haußmann (Ernst Klett AG) stated that “The German economy has benefited like no other from the opening of markets in the East beginning from 1989. [...] Our close economic ties to the region significantly contribute to Germany’s global competitive advantage. Without Central and Eastern Europe, our situation would not be so good.” By the end of 2020, German companies had invested no less than 109 billion euros in 17 countries, while Austrian companies – 76 billion euros.⁴⁸

Chart no. 1. Average flow of direct investment to Central, Eastern and Southern European countries by country of origin: Germany, Austria, and 13 EU states, other countries for 1993–2020 (% of GDP). Romania not included due to lack of data. Source: Economic and Social Impacts of FDI in Central, East and Southeast Europe, p. 17.



⁴⁷ Ost-Ausschuss, [accessed on: 11.01.2023], <https://www.ost-ausschuss.de/sites/default/files/pm_pdf/Studie_economic-and-social-impacts-of-fdi-in-central-east-and-southeast-europe-dlp-6407.pdf>.

⁴⁸ *Ausländische Direktinvestitionen stärken Mittel- und Osteuropas Volkswirtschaften*, Ost-Ausschuss, [accessed on: 11.01.2023], <<https://www.ost-ausschuss.de/de/auslaendische-direktinvestitionen-staerken-mittel-und-osteuropas-volkswirtschaften>>.

Economic indicators not only indicate Germany's economic domination in the region, but also the political potential of the region which has real economic power, as well as the fundamental importance of opening the economies of the region countries to one another, and thus to the potential for regional economic integration which may help offset the deficits created by the dominance of East-West economic relations.

Conclusions

So far, the Central European countries have been seen as states aspiring to join the West, as “young democracies”. Due to the costs of World War II, almost 45 years of communism and decades of strenuous transformation, these countries were susceptible to the expansion of the German economy, accompanied by the skillful promotion of German political interests with the help of a developed network of German organizations and institutions. Today, S. Wood's statement that Germany in Central and Eastern Europe applies a method of informal coordination is still accurate, with German “para-public” institutions and independent “non-governmental” organizations participate in practice in achieving the general and particular goals of the German foreign policy.⁴⁹

However, Central European countries have not been previously regarded as a collective entity of German policy. This statement has a negative aspect as well – countries of the Central Europe are seen as a zone that is already “under the influence” of the German policy. Furthermore, Germany is somewhat correct in perceiving these countries as integrated only to a very limited extent. From the perspective of Germany, which undoubtedly strives to be the most important player in Europe, such integration is not desirable at all. The emergence of a new European actor which would, even if *ad hoc*, present its own position would disrupt the existing system of decision-making at the EU level. This is also what could explain the opinions that emerge in Germany stating that, as a result of the Russian invasion against Ukraine, the importance

⁴⁹ S. Woods, *Germany and East-Central Europe...*, p. 11.

of Central European countries as such has increased, but not of Central Europe which does not exist in the political sense.

However, this raises the fundamental question of whether the creation of such a bloc is even necessary? Shouldn't the countries of Central Europe be satisfied with "acquiring" accession to Western Europe at the turn of the 21st century? This line of reasoning also leads to a dichotomy, promoted by opponents of such regional undertakings as the Three Seas Initiative: you either belong to Western Europe or dabble in regional integration; and whoever promotes regional cooperation destroys the unity in EU.

The argumentation described above takes advantage of the peculiar complex of some Central European societies that "they are not the West". The Russian war against Ukraine, however, has shown that the autonomy of Central Europe has many aspects, not only negative ones, and that EU integration should be, paradoxically, deepened – not, as before, in the form where more and more competencies are transferred to the EU level, but in a horizontal dimension. This time around, the deepening that we discussed above should imply a regional integration, in accordance with the principle of subsidiarity as provided for in Article 5(3) of the TEU⁵⁰. In the medium to long term, such regional integration would result in infrastructural, economic, and perhaps even partly political synergy along the North-South axis, not just East-West, which is clearly not FRG's priority.

The latter, however, are slowly deviating from the more than a century-old tradition of "Eastern European" politics in favor of a more nuanced treatment of their "eastern neighbors". One can therefore tentatively proclaim the political return of Central Europe. Economically, Central Europe has played a major role for a long time now, at least for

⁵⁰ According to the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall take action only if and only to the extent that the goals of the intended measure cannot be achieved in a sufficient manner by the Member States, whether at the central, regional or local level [underlined by the author], and if, by reason of the scale or effects of the proposed measure, they can be better achieved at Union level.

Germany.⁵¹ It is up to the interested parties if economic indicators and historical momentum can be discounted and if essays on 24 February 2022 will, in a few years' time, contain a claim that “the citizens of Poland, the Czech Republic, Slovakia, the Balkans, Hungary, Romania, Bulgaria, Slovenia, Croatia and Serbia have woken up and found themselves once again in Central Europe”.

⁵¹ Cf. seminar organized on 2 February 2023: *Die Bedeutung Mitteleuropas für die EU – Gemeinsame Europäische Verteidigungs- und Außenpolitik*, [English: The significance of Central Europe for EU – the common European Defense and Foreign Policy], Konrad Adenauer Stiftung, [accessed on: 18.02.2023], <<https://www.kas.de/de/web/kroatien/veranstaltungsberichte/detail/-/content/die-bedeutung-mittleuropas-fuer-die-eu-gemeinsame-europaeische-verteidigungs-und-aussenpolitik-1>>; *Wirtschaft in Mittel- und Osteuropa sortiert sich neu...* 22 February 2023, press conference of the Commission East in Berlin; November 2022 report. “Economic and Social Impacts of FDI in Central, East and Southeast Europe”.

VÍT DOSTÁL

The Czech Republic: a Small State with Pragmatic Ambitions

The Czechs are a small Central European nation that inhabits a closed, formerly very inaccessible country (Bohemia) and an open, passable country adjacent to it (Moravia); there are times when the rest of Europe takes little or no notice of them, and then they become the topic of conversation again, when dramatic tensions arise around them, but they calm down again, and there is silence again, usually accompanied by a certain shame.

Jan Patočka, What are the Czechs:
A Small Overview of Facts and an Attempt at Explanation¹

Introduction

This study will address the question of how the Czech Republic, as a medium-sized state in the European Union and a small state on a global scale, deals with the possibilities of promoting its priorities in the post-Lisbon EU.

The Czech Republic has often been perceived as an opponent of deepening of the European integration. This has manifested itself, for example, in its reluctance to sign the Lisbon Treaty, its rejection of the so-called fiscal compact, its failure to accept the common currency, its rejection of new rules on asylum and migration policy, and its cautious stance on European climate ambitions. What is more, the aforementioned aspects of the Czech approach emerging over the last 13 years have been manifested by governments of the liberal-conservative, left-wing and populist variety.

This raises the question of whether the Czech approach to European integration is based on the political preferences of actors, driven more

¹ J. Patočka, *Co jsou Češi? Malý přehled fakt a pokus o vysvětlení*, Panorama, Praha 1992, p. 7.

by economic or security preferences, or whether it reflects ideological patterns in society. Alternatively, how and in what ways these two factors intersect, whether they compete or reinforce each other.

The second set of questions addressed in this study seeks to identify the key dilemmas of European integration for the Czech Republic. This is an attempt to say what issues will be the focus of the Czech debate on European integration in the coming years, why this will be the case, and what factors may contribute to their particular resolution or development.

Thirdly, the study asks whether the Czech Republic will be inclined to further deepen European integration in the future or whether it will want to face these processes together with other medium-sized EU countries, for example. Since the answer is unlikely to be entirely clear, I will look for areas where coalition building is feasible.

To answer these questions, the text will be structured in four parts. First, I will offer an overview of the evolution of Czech EU membership from the entry into force of the Lisbon Treaty to the end of the second Czech EU Council Presidency. This descriptive part aims to identify the main milestones of the last 13 years of Czech EU membership and the country's position in the post-Lisbon institutional system.

Secondly, I will present the attitudes of the Czechs towards the EU and explain how society is segmented in its approach to European integration. I will indicate what issues are emphasized and what topics have a chance to be reflected in the political debate.

The third part will be dedicated to identifying the key dilemmas of European integration that Czech politics will have to deal with. Their enumeration will be based on the current trends in the EU political system and the demand in Czech society.

Finally, the last part will be devoted to the possibilities of forming broader coalitions within the EU and the question whether the Czech Republic will be willing to form like-minded coalitions with other countries even at the cost of clashing with mainstream of the European institutions or with the most important European states.

1. The Czech Republic in the post-Lisbon European Union

The Czech Republic entered the post-Lisbon years with a reputation of being an actor on which the fate of the EU depended twice in 2009, both times with hard-to-read and unpredictable signals coming from Prague.

Firstly, the first Czech Presidency of the EU Council took place in the first half of 2009. After its successful start and the fruitful quest for a European response to the global economic crisis, the conflict in Gaza and, in particular, the halt in Russian gas supplies to the EU via Ukraine came a shock at the end of March. Mirek Topolánek's government², which had led the Presidency, lost confidence in the Chamber of Deputies. It was not understood in the EU capitals or in the EU institutions why such a step was taken and what the consequences might be. The Presidency was eventually completed by the caretaker government of Prime Minister Jan Fischer.³ Although everything went smoothly from an organisational and diplomatic point of view, the taste of political fiasco remained.⁴

Secondly, the Czech Republic was the last country to ratify the Lisbon Treaty itself, after a series of obstructions and the coercion of symbolic concessions at the European level. The prolongation of ratification was mainly the responsibility of the President, Václav Klaus, who was aided in particular by senators elected on behalf of the Civic Democratic Party (ODS) sympathetic to his views.⁵

The years 2009 and 2010 brought a chain of crises to the European Union, when the financial crisis became an economic crisis. The economic

² Mirek Topolánek was Prime Minister from 2006 until 2009.

³ Jan Fischer government served from May 2009 until the general elections in May 2010.

⁴ P. Kaniok, *České předsednictví Rady EU. Most přes minulost*, Masarykova univerzita a Mezinárodní politologický ústav, Brno 2010.

⁵ V. Bacovský, V. Dostál, M. Thim, ed. *Agenda pro českou zahraniční politiku* 2010, Asociace pro mezinárodní otázky, Praha 2010, p. 17–24, https://www.amo.cz/wp-content/uploads/2015/11/amo_agenda_pro_czp_2010.pdf. V. Beneš, M. Braun, *Evropský rozměr české zahraniční politiky*, [in:] *Česká zahraniční politika v roce 2009. Analýza ÚMV*, ed. M. Kořan, Ústav mezinárodních vztahů, Praha 2010, p. 61–90, <https://www.dokumenty-iir.cz/Knihy/CZPo9.pdf>.

crisis then became a debt crisis, which posed a serious threat to the Eurozone due to the growing problems of some countries with the sustainability of their fiscal policies.

The Czech approach on these issues has been aloof. On the one hand, Prague agreed that a spontaneous collapse of the eurozone was not in its interest. On the other hand, it did not engage in common solutions and considerations of the euro area and did not participate in new instruments that were supposed to bring about convergence of economic or fiscal policies within the EU. The Czech Republic therefore did not join the Euro Plus Pact or the so-called fiscal compact. Similarly, it negotiated certain exemptions from the banking union. In some areas, such as the refusal to ratify the amendment to Article 136 of the Treaty on the Functioning of the EU, the Czech approach was completely uncooperative.⁶

The eurozone crisis has brought into the public arena the belief that the common currency is unreliable and that joining the eurozone would mean for the Czech Republic mainly liability for the debts of the southern countries. Support among the population for adopting the Euro fell to around 20%, and has remained at that level ever since.⁷

From that moment on, the Czech Republic ceased to realistically aspire to join the euro area. Although at the time there was a party in government that supported the adoption of the euro (TOP 09), the move became impossible due to opposition from other coalition parties, the President and the public. The same was true in the following years and in subsequent governmental constellations up to the present day. Although there were parties in government that nominally supported joining the eurozone (or had a majority in government), this never led to any preparations for this step.

⁶ V. Dostál, T. Karásek, M. Thim, ed. *Agenda pro českou zahraniční politiku* 2011, Asociace pro mezinárodní otázky, Praha 2011, p. 15–24 https://www.amo.cz/wp-content/uploads/2015/11/amo_agenda_2011-web.pdf.

⁷ *Podpora našeho členství v Evropské unii prošla krizovým obdobím, napříč sociálními skupinami zůstávají velké rozdíly*. STEM, Praha, 2018, [online: 26 II 2023]: <https://www.stem.cz/podpora-naseho-clenstvi-v-evropske-unii-prosla-krizovym-obdobim-napric-socialnimi-skupinami-zustavaji-velke-rozdily/>.

The approach of the government of Petr Nečas in 2010–2013 was interesting because the ODS did not fear the emergence of a multi-speed Europe in which the Czech Republic would find itself on the margins of EU economic decision-making.⁸ With the final resolution of the eurozone crisis with the last package for Greece in July 2015, it was confirmed that although the eurozone was at the centre of European decision-making for five years, it did not mean the creation of new fundamental institutions or a kind of “union within a union”.

Another notable side-effect of the Czech approach to the eurozone crisis has been its affinity with the United Kingdom, which at the same time took a similarly detached approach and also did not join the fiscal compact. The Czech Republic, on the other hand, was becoming increasingly distant from other Central and Eastern European countries. Either they were already members of the eurozone, were working hard to join, or they feared that Central and Eastern Europe’s neglect of the eurozone problem might just mean the emergence of a multi-speed Europe. This was also the view of the Polish government of the time.

In 2015, the European Union experienced an unprecedented migration crisis that required a swift European response. In this situation and in the years that followed, the Czech Republic took a position in which it was willing to support border protection in the Schengen area. However, it rejected any efforts to introduce an ad-hoc or permanent relocation mechanism for asylum seekers.⁹ The Czech Republic reiterated that it was necessary to address the crisis outside the European Union. However, this rhetoric did not mean increasing the amount the Czech Republic spends on development cooperation. In this respect, the Czech Republic remained at the bottom of the EU and OECD rankings.

In its approach, the Czech Republic was very close to some other Central and Eastern European countries, in particular Hungary, Slovakia

⁸ V. Beneš, M. Braun, *Evropský rozměr české zahraniční politiky*, [in:] *Česká zahraniční politika v roce 2011. Analýza ÚMV*, ed. M. Kořan, Ústav mezinárodních vztahů, Praha 2012, p. 67–95, <https://www.dokumenty-iir.cz/Knihy/CZP11.pdf>.

⁹ V. Beneš, *Evropský rozměr české zahraniční politiky*, [in:] *Česká zahraniční politika v roce 2015. Analýza ÚMV*, ed. M. Kořan, Ústav mezinárodních vztahů, Praha 2015, p. 43–64, https://www.dokumenty-iir.cz/Knihy/CZP_2015_web.pdf.

and, since autumn 2015, Poland. The attitudes of these countries have also led to the failure to find a consensus on the reform of European asylum and migration policy so far. The real policy towards migration coming from the south is then implemented to some extent along the lines of what these countries have demanded. The backbone of preventing migration to Europe is tough border protection, an agreement between the EU and Turkey that keeps migratory pressures out of the EU, and other agreements with other, mainly African, countries.

It is true, however, that it was the Czech approach to refugees in 2015 and the common position of the Visegrad Group countries on this matter that damaged the image of the Czech Republic in the eyes of some political currents, as Prague's approach was completely at odds with the European mainstream at the time.

European energy and climate ambitions have been part of Czech European policy debates since 2015. The 2030 and 2050 targets presented first by the Juncker Commission and then by the Ursula von der Leyen-led Commission have often been viewed with apprehension from the Czech perspective. Prague emphasised three aspects in particular. Firstly, there was concern about whether the Czech carbon-intensive industry would be able to adapt to these targets. Secondly, there was the fear of the impact on households. This social aspect of the climate-energy transition became particularly important during the discussions on the New Green Deal. Thirdly, the Czech Republic has traditionally sought to maintain the position of nuclear sources in the real energy mix.¹⁰

The pragmatic Czech approach to this agenda was particularly evident during the Czech Presidency of the EU Council from July to December 2022. The Czech Republic pushed forward to complete as many legislative proposals as possible from the Fit for 55 climate package. On the one hand, it was fulfilling the obligations assigned to the Presidency. But on the other hand, it wanted to ensure that the next Presidencies would

¹⁰ V. Dostál, J. Eberle, *Agenda pro českou zahraniční politiku 2015*, Asociace pro mezinárodní otázky, Praha 2015, p. 30–31, https://www.amo.cz/wp-content/uploads/2015/11/amocz_agenda2015_cz.pdf.

not try to reach an agreement that would be even more ambitious in meeting climate targets.

In both budget debates and negotiations on the multiannual financial frameworks in the period under consideration, the Czech Republic behaved very pragmatically, although in the early stages of the negotiations governments also brought a certain ideological line into the debates.

In 2010–2013, the Czech Republic on the one hand demanded a reduction in the overall EU budget. On the other hand, it called for robust funding for cohesion policy. Prague was also part of two cooperating groups of member states, which otherwise had very conflicting interests. The group of frugal countries wanted cuts, among other things, in cohesion policy. The Friends of Cohesion group could not imagine a budget of 1% of the EU's GNI and demanded a larger one. Thus, the Czech Republic at this time was also clashing with its traditional allies from Central and Eastern Europe, as they saw it as a state whose position was beginning to resemble that of a net contributor to the EU budget.

In the negotiations on the Multiannual Financial Framework in 2018–2020, the situation was even more complicated. This is because, in addition to the regular long-term European budget, member states decided to negotiate a new Next Generation EU mechanism to help the European Union with the post-covid economic recovery.

For the Czech Republic, the volume of funds and flexibility in handling them became a key issue. The Czech Republic succeeded in meeting these objectives. Initially, the government was sceptical about the formation of the new mechanism and the EU's joint debting, but after winning some concessions on its design, it eventually agreed to its introduction.¹¹

Unlike Poland and Hungary, the new *acquis* on the rule of law that has emerged in the context of the latest budget debate has not posed a problem for the Czech Republic.

The overall Czech position on this issue is neutral. Prague is of the opinion that conflicts between the European institutions and Warsaw

¹¹ V. Dostál, P. Havlíček, P. Janebová, *Agenda pro českou zahraniční politiku 2021*, Asociace pro mezinárodní otázky, Praha 2021, pp 20–28, https://www.amo.cz/wp-content/uploads/2021/09/AMO_Agenda_2021_CZ_2.pdf.

or Budapest should be resolved along these lines, without the need for other countries to interfere in the matter. Again, this is a very pragmatic approach where the Czech Republic does not want to antagonise either Poland or Hungary, but neither do the European institutions or the Member States who wish to discipline the governments in Budapest and Warsaw.

For the time being, the Czech Republic has managed to avoid expressing a clear position, which was the situation during the Czech Presidency of the EU Council in the second half of 2022, when, as an honest broker, it was able to hide behind the proposal put forward regarding the sanctioning of Hungary, expressing the majority position of the EU Council. On the other hand, it is true that, especially in the context of Budapest's behaviour towards Ukraine, the Czech position is also becoming more nuanced and the attitude towards Hungary is becoming sharper, at least on a rhetorical level. This is not the case with Poland, and Prague is increasingly differentiating between the two countries.

The Czech Republic's recurring priority is the internal single market. However, the emphasis on this aspect of European integration is somewhat peculiar. It is true that the common market is a fundamental prerequisite for the Czech Republic's prosperity as an export-oriented country located in the middle of Europe. However, it is not a priority in itself. Some proposals relating to the internal market may become a priority, but not the area as a whole.

The Czech Republic also reiterates that it wishes to deepen it. However, in the traditional areas of the free movement of goods, services, people and capital, this is happening only very rarely. The market is opening up – or rather, common rules are being set – for example in the digital area. By contrast, regulation in the social area is increasing, but making the common market more transparent. But these steps cannot be described as liberalising it.

In the post-Lisbon EU, the Czech Republic has rarely come into significant conflict on this issue. A special situation was, for example, the revision of the Posted Workers Directive, where Prague eventually joined a compromise version of the proposal, but which was fundamentally rejected by some Central and Eastern European countries.

Even in the post-Lisbon system, the Czech Republic was an active player in the field of the EU's common foreign and security policy. In this respect, it had several priority areas in which it did not shy away from entering into conflict with some strong Member States or European institutions.¹²

Prague has traditionally been pro-transatlantic. The alliance with the United States is a Czech foreign policy and security priority. This has not changed even during Donald Trump's presidency, when, on the contrary, many countries have stressed the need for greater emancipation of the EU. The Czech Republic has not rejected new European ambitions – such as PESCO – but has argued that actions should come first, by which Europe proves that it can act autonomously on the US.

Second, the Czech Republic is considered Israel's closest ally in the EU. As a result, the Czech Republic has been able to influence common European positions on Israel's conduct.

Thirdly, the Czech Republic supports the enlargement of the European Union in a wide sense. It advocates the continuation of accession talks with candidate countries and, in the long term, the accession of all Western Balkan countries to the EU. Similarly, the Czech Republic has long promoted the EU's Eastern Partnership policy.

Of course, the Czech involvement in European foreign policy gained new impetus with Russia's aggression on Ukraine in 2022. Prague has become one of the most vocal advocates of Ukraine in the EU and the most important supporters of its European ambitions.

In all of these areas, the Czech Republic was better at attracting allies in Central and Eastern European countries than in other parts of the EU. However, it was also true that if the Czech Republic wanted to make a positive contribution to the Common Foreign and Security Policy, it could not rely solely on partners from this region.

¹² T. Weiss, *Promoting National Priorities in EU Foreign Policy. The Czech Republic's Foreign Policy in the EU*. Routledge, Abingdon 2017. M. Neuman, *Too Small to Make an Impact? The Czech Republic's Influence on the European Union's Foreign Policy*, Peter Lang GmbH Internationaler Verlag der Wissenschaften, Frankfurt am Main 2015.

From the above overview of the main milestones of Czech engagement in the post-Lisbon EU, it can be said that the Czech Republic has become a truly pragmatic player in pursuing its own political goals in the EU. Especially in recent years, the agenda that was brought to the European level by the individual ambitions of individual political players has diminished. How these interests reflect the attitudes of Czech society will be discussed in the following part of the study.

Interesting findings can be drawn on the question of whether and to what extent Czech interests coincided with those of other Central and Eastern European countries. Although it was possible to find considerable overlaps, for example in foreign or migration policy, especially in economic or budgetary matters, they were not so pronounced.

2. The Czechs in the post-Lisbon EU¹³

The previous overview section showed that any possibility of leaving the EU was not under consideration, though the Czech Republic was not over-enthusiastic with the introduction of the Lisbon Treaty and with the post-Lisbon EU development. However, the “Czexit” is not inconceivable as there are political movements with parliamentary representation in the Czech Republic that are calling for a referendum on leaving the EU, such as the Party of Direct Democracy.

For the Czech Republic itself, it is absolutely essential to keep itself in the EU and the European project viable. It brings peace and the market. This is, in simple terms, the position of the majority of the political representation. The Czech Republic should also keep the seeds of a possible disintegration of the EU down and quiet so that they do not grow into acts that bring political and economic disaster.

¹³ The sections 2 and 3 of the text explore theses published originally by the author in V. Dostál, *Opravdu si za to můžeme úplně sami? O naší krizi Evropanství, jejích příčinách, dopadech a cestě z toho ven*, [in:] *Česko. Německo. V kontextu*, ed. P. Janebová and K. Schovánková, Asociace pro mezinárodní otázky and Heinrich Böll Stiftung Prag, forthcoming.

Since 2015, we have faced an atmosphere of the so-called east-west divide in Europe. This has been characterised, firstly, by the different views on the so-called refugee crisis after 2015 vociferously expressed by some countries in the eastern and western parts of the European Union. Secondly, the entry of national-conservative forces into governments in parts of Central Europe. These have openly articulated that the future of the European project is not predetermined and that the path of further unification can or should now be halted or reversed.¹⁴ It should be added that in both cases such voices were heard from the West, East, North and South of Europe, but only in Central and Eastern Europe in 2015 and 2016 were they heard from government leaders.

But the roots of this dispute must be sought deeper. Central European societies have, to a large extent, rightly felt themselves to be the agents of change in the CEE region since 1989. Regime transition was led by them, although the nature of the process and its assessment quickly became a matter of political dispute. But the process of integration into the partly open world was already taking place on terms set elsewhere. Of course, joining the European Union was a huge success, a guarantee of peace, a precondition for prosperity and development, and an overcoming of the division of Europe. On the other hand, it was the result of an asymmetrical process in which the principal and the agent were clearly defined. Western Europe and the European institutions were in the role of principal, the accessing countries in the position of agent. The enlargement process was largely based on imitation and xeroxing. According to some authors, it took the states that joined the EU to a state of psychological postcolonialism.¹⁵

¹⁴ T. Valášek, *Why Can't the EU's West and East Work as One*, „Carnegie Europe“ [online: 26 II 2023], <https://carnegieeurope.eu/2019/11/08/why-can-t-eu-s-west-and-east-work-as-one-pub80300>.

¹⁵ E.M. Thompson, *Je Polsko postkoloniální země?* [in:] *Pravým okem. Antologie současného polského politického myšlení*, ed. M. Ruczaj and M. Szymanowski, Centrum pro studium demokracie a kultury, Brno 2010, pp. 21–36. D. Karłowicz, *Modernizaci nelze okopírovat*, [in:] *Pravým okem. Antologie současného polského politického myšlení*, ed. M. Ruczaj and M. Szymanowski, Centrum pro studium demokracie a kultury, Brno 2010, pp. 37–44.

The values set by Western Europe, as well as their further progression, had to be emphasised by the Central European states themselves to ensure their own acceptance in the wider European family, and to do so while still appearing as authentic as possible.¹⁶ The political debate on this issue has been very difficult. Only the extremists questioned the basic goal of achieving peace and prosperity through the reunification of Europe. And to bring the question of how this European reunification was to be achieved into the wider social debate was again considered to be at least non-tactical, given the asymmetry in the negotiations mentioned above. It could have delayed the process and put the finality of EU membership in doubt.

This aspect is very important for the Czech Republic's behaviour as a medium-sized state within the EU. The bubble of imitation and pretended catching up had to burst and it did so in 2015. The asymmetrical and not deliberative process of the Central European countries' accession to the EU has brought also a considerable group of those who did not participate or only partially participated in the "Westernisation". Either they understood what the process consisted of and rejected it, or they just let everything flow and had to clumsily enter into the conflict with the new reality only when they felt that it touched their values.

The voice of the aforementioned uninvolved became Euroscepticism, which the political competition in the Czech Republic has always calculated with. Widespread Czech Euroscepticism explains the success of the ODS, the popularity of Václav Klaus's views on the EU, the eclectic approach to European integration of his successor Miloš Zeman and Andrej Babiš's rhetoric towards the EU.

The Czech paradigm of European politics, formed after the EU accession and even more accentuated after 2009, has thus included two seemingly contradictory but in fact complementary approaches. On the one hand, Czech politics continued to accept the fact that the Czech Republic was catching up with Western Europe. It still ranks among the poorer countries, which is why it asks for a "pay-off" in the form of cohesion

¹⁶ I. Krastev, S. Holmes, *The Light That Failed. Why the West Is Losing the Fight for Democracy*. Pegasus Books, New York and London 2020.

funds. It is still not part of the eurozone, but it pretends that it is still heading there. But alongside catching up, it is also trying to hold back European integration in a number of areas, which is the second approach. Recognising that Czech society considers membership itself to be on the edge of acceptability, politicians fear that any further too-visible integration progress will bring an irreversible obstacle to the country's remaining in the EU in the eyes of the public.

The zigzag between these two approaches is filled for the domestic audience by the constant repetition that "EU must reform itself". It must be added that such words hit fertile ground. Only 7% of Czechs say that the EU is working well and should not change. Up to 54% say that changes are necessary, but that the Czech Republic should definitely stay in the EU. Just over a quarter of citizens (27%) believe the Czech Republic should leave the EU if it does not reform and only 11% insist on leaving immediately.¹⁷ At the same time, the Czechs are not clear on how the EU should be reformed. It is a shared and intense feeling that something is wrong and needs to change. But the difficulty for the Czech perception of the EU is that in practice reform will only mean either more or less integration. Less integration would be problematic for fundamental Czech (mainly economic) interests, while more integration would in turn clash with crucial parts of Czech society.

Thus, if questions about Czech membership and satisfaction with the state of European integration are asked more openly, Czech society is also willing to give the EU another chance; provided it changes. On the other hand, if we ask how Czechs would vote again in the event of a hypothetical referendum on EU accession, the results have been around 50% since 2011. The lowest figures were measured during the peak of the so-called refugee crisis in 2015 and 2016, when only 38% of Czechs would have voted to join.¹⁸

¹⁷ *Czechs and the EU Brand: How do Czechs feel about the EU and what could change their mind?* Behavio Labs, STEM Institute, EUROPEUM Institute for European Policy, [online: 26 II 2023], p 16, <http://www.europeum.org/data/articles/znacka-eu-summary-report-final-december-2019.pdf>.

¹⁸ *Postoj veřejnosti k předsednictví ČR Evropské unii – zima 2022*, STEM, [online: 26 II 2023], https://www.vlada.cz/assets/evropske-zalezitosti/predsednictvi-cr-v-rade-eu/aktuality/STEM_pro_UV_predsednictvi_EU_II_final.pdf.

However, as presented above, simply dividing Czech society into two groups of supporters and opponents of EU membership is not sufficient to understand what Czechs expect from the EU. In 2018, the Institute of Empirical Studies STEM divided Czech society into several segments that can be more accurately characterised in terms of their attitude towards European integration.¹⁹

According to the latest surveys, 16% of the population are convinced supporters of European integration. These people believe that European integration makes sense, perceive its development positively and often defend it in their environment. While lukewarm supporters of the EU (20%) would vote in a clear majority to remain in a referendum and perceive the benefits of membership, on the other hand they can be critical of the EU in some respects and deeper integration raises a number of issues that are not well settled for them.

Active opponents of Czech EU membership are very few. They make up only 1% of the population, yet they are able to create a negative discourse about the EU through their exposure. A more significant group are the passive opponents, who make up 32% of society. They are a group of citizens who are critical both of developments in the Czech Republic after 1989 and of the EU. They are convinced that they are on the losing side and feel that they are losing further. It is precisely European integration that is becoming a symbol of their failure. They are also less politically active than other segments.

However, the society is not limited to those who have a positive and negative view of the EU. Another segment – the critics (10%) – are quite satisfied with the development of the Czech Republic, but have a critical view of the EU. Just under a third of them would vote to remain in the EU. They have a positive attitude towards the idea of Europeanism and can be persuaded to stay by pragmatic arguments. The distrustful group (22%), on the other hand, does not have a clear position and is hesitant and undecided about the EU. They do not think that the European issues affect them and are more likely to be guided by the opinion of those around them when deciding in the referendum.

¹⁹ *Vztah veřejnosti k EU: Výzkumná zpráva*, STEM, Praha 2018.

Czech society is therefore not divided into two groups regarding EU membership, but into three groups – supporters, opponents and a third part of the population, actively or passively undecided.

3. The Czech interests in the post-Lisbon EU

The simple approach of combining the catching up of some kind of integration core on the one hand, and holding back European integration on the other, does not bring anything innovative to the public debate. On the contrary, it degrades it, as it is merely another reproduction of the same old theses. Even at European level, then, the Czech Republic cannot then show off strong ideas of its own, and thus continues to adopt the established mainstream to a large extent.

Moreover, at the very least, efforts to hold back are unprecedentedly unsuccessful. Despite the rhetoric of the Czech political mainstream about the already uncomfortably shackled integration, the EU has seen an unprecedented deepening of cooperation in several areas – e.g. in climate and energy policy, the digital agenda or consumer protection – since 2004 alone. This is confirmed by the overview in the first part of the study.

These topics are then more or less discussed in the public sphere. Czech society is aware that major changes are taking place and is trying to understand their nature. At the same time, it is increasingly aware that the nature of these changes is being decided mainly at European level, although this fact is perceived by a significant part of the public with discomfort.

However, Czech society and politics will have to go through several more disputes about the future of European integration. So far, unfortunately, they have been rather overlooked, but in order to maintain and strengthen the Czech position in the EU, it will have to deal with them confidently. From their conclusions, it will have to find a new paradigm for the Czech approach to the EU, replacing the exhausted concept of catching up and holding back.

The first question is the extent to which positive integration, i.e. harmonisation and the introduction of common standards, should be further deepened. On the one hand, by establishing uniform rules in different spheres of life, the EU can reduce transaction costs or even set international regimes and thus maintain a good position in global economic relations.²⁰ On the other hand, further integration in the social sphere, for example, may reduce the competitiveness of parts of the Czech economy. It may now face both major shocks associated with the pressure to automate work and opportunities arising from the EU's efforts to shorten supply chains in key sectors.

Likewise, it is walking on thin ice to unify any rules that citizens would perceive as interfering with their own values and cultural identity. This may bring reminiscences of the asymmetric accession to the EU. The course and outcome of these controversies will affect the attitudes of particularly critical and distrustful segments, which may be decisive constituencies.

Secondly, Czech society will continue to struggle with the debate on European solidarity. Already in the next programming period of the European budget, i.e. from 2028, the Czech Republic may cease to be a net recipient of European funds. The fact that 44% of citizens do not know that the Czech Republic receives more money from the EU than it puts into it may give the impression that this is an unnecessary concern. However, the classification of the Czech Republic as a net contributor may open up space for a new kind of criticism of the EU, for which the proponents of membership must be prepared. The question is whether the other benefits of membership outweigh the more straightforward calculations in the eyes of society. The results of this controversy may affect segments of critical and lukewarm supporters.²¹

²⁰ A. Bradford, *The Brussels Effect: How the European Union Rules the World*, Oxford University Press, New York 2020.

²¹ M. Kořan, *Dvě dekády české zahraniční politiky a bezvýhodnost internaciona- listické hegemonie*, „Politologický časopis“ 2012, vol 19, issue 3, pp. 205–213. V. Dostál, *Marné hledání vizí pro Evropu a cesta vstříc českému eurosurrealismu*, [in:] *Desať rokov v Únii. Slovenská a česká cesta*, ed. G. Mesežnikov, Z. Bútorová, M. Kollár, Inštitút pre verejnú otázku, Heinrich-Böll-Stiftung, Bratislava 2014, p. 180–182.

The third controversy that the Czech Republic must prepare for concerns the costs of further enlargement. Whatever form it takes – full membership or simply opening up the single market – it will bring changes that will affect Czech society. Although the Czech Republic has long advocated EU enlargement, society is not asking for any such thing. According to surveys, only 27% of Czechs think the EU should give it priority attention. Although such a process will bring positive effects, such as opportunities for the Czech export economy or the expansion of the sphere of security and stability in Europe, it will also bring with it negative social perceptions. These will affect the Czech attitude towards the EU. Even the 2004 enlargement had an impact on the views of Western European societies on the EU, which did not absorb this moment very well. On a political level, the phenomenon has translated into enlargement fatigue, which subsequently became the seed for a more acute east-west divide. Labour migration, the relocation of production or a more rapid transition to the group of net contributors to the European budget may also introduce a new unease among the Czech population, which it will have to cope with. Ultimately, the handling of Ukrainian wartime immigration may indicate how the Czech Republic will cope with such a challenge in the future.

4. The Czech Republic and likeminded member states in the post-Lisbon EU

Can the above problems be addressed in concert with similarly sized countries like the Czech Republic, especially in Central and Eastern Europe? And will the Czech Republic be willing to assert its positions even against the European institutions mainstream. The last part of the text deals with these questions.

Firstly, it will be important for the Czech Republic as well as for other countries of Central Eastern Europe to maintain the unity of the West against aggressive actors in the international environment, especially Russia and China. The Russian threat is immanent to the region. In the global game, then, the West must face the rise of China. Given the above

dilemmas, this priority takes precedence over others. Or – in other words – if we take this foreign policy direction as the starting point, other questions can be answered more clearly.

Equally, however, if a potential ally does not perceive the Russian and Chinese danger (as Hungary does today, for example), it will be difficult to find agreement with it in other areas.

Further convergence of standards and harmonisation of policies at the European level is inherently desirable for the Czech Republic and other states if it strengthens the common European, and even better transatlantic, position in a multipolar or polycentric world. Global standards will be set by the West, and the West will only set them jointly, or by China. Other countries will then follow.

However, this process must not be at the expense of the smaller EU countries and their societies. Any negative effects associated with, for example, decarbonisation, digitalisation or robotisation must be compensated to them. In other words, this transformation will either be socially sensitive or it will not be successful.

Similarly, efforts to strengthen European or transatlantic competitiveness should not hide behind efforts to over-unify cultural or social policies. Such attempts are more likely to fracture the European Union. In the case of the Czech Republic, it could mobilise those parts of society that are dissatisfied with EU membership or view it with distrust or criticism. The centrifugal tendencies within the EU would only be strengthened by this move and the West would only be less united in the face of the Russian and Chinese challenge.

The real test for countries such as the Czech Republic will be the issue of European solidarity as it seeks to expand the European area of economic and political cooperation to include other countries; in particular, Ukraine. Ukraine's entry into the EU will be rather incremental, with the gradual removal of more and more barriers. These steps will bring new costs to the European Union and may have a negative impact on some parts of society that are already at risk.

Again, EU enlargement will either be socially sensitive to EU societies or it will not be successful. The Czech Republic and other Central and Eastern European countries can learn from the mistakes of Western

European countries here. While for some parts of society EU enlargement will bring additional benefits or hardly be noticed, for others the negative effects will bring additional burdens. Phenomena such as the relocation of production, the arrival of less skilled workers or the influx of cheap products may have a negative impact on some societies that may find these changes difficult to digest. The case of the United Kingdom is illustrative in this respect, and the weak support for membership in some Member States – for example, the Czech Republic in particular – may pose a risk to the further cohesion of the West in this context.

The answer, of course, is not to give up on enlargement. On the contrary, it needs to be designed to have as many supporters as possible. This will also be a common interest of the countries of Central Eastern Europe, which they can already advocate within the EU already in the next European Commission. Indeed, the College formed after the 2024 European Parliament elections will be preparing the next EU Multiannual Financial Framework for 2028–2035. This budget should take into account Ukraine's incremental integration into the EU and create a sufficient cushion for its safe implementation.

Conclusion

It is evident from the presented study that the Czech Republic is in the position of a state in the post-Lisbon EU that is ready to stand against the EU mainstream and defend its identified national interest. This concerned economic policies, asylum and migration policy, budgetary issues, institutional affairs and the common foreign and security policy. The only exception was in the area of the rule of law, where the Czech Republic did not feel the need to enter into disputes with EU institutions or other Member States.

The potential for cooperation with other medium-sized countries therefore exists and the possibilities for its development were identified in the last two parts of the study. In particular, these are topics related to the EU's further economic development, its role at global level, issues of broad solidarity between Member States and the issue of future EU enlargement.

TAMÁS ORBÁN

Sovereignty, Subsidiarity, and Small State Interests in the EU

The case of Hungary

I. Introduction

Never in such a way before in its history have the European integration project been facing such a challenge from within than in the past decade. Some of the peripheral member states and relative newcomers to the club, who has been the greatest champions of integration thirty years ago, now not only oppose the political direction of European integration but use every instrument at their disposal to alter its course – or at least, to secure different outcomes for themselves. The internal opposition of these countries – mainly comprising of Central Europe, with Poland and Hungary at its helm – is viewed by many as an “existential threat” to the entire integration project.¹ However, the governments in question argue that their ‘rebellion’ came to be not because they deviated from the established path of liberal democracy but because the European Union strayed from its founders’ original Christian democratic principles.²

Regardless of which perspective is believed to be true, the widening rift in the middle of Europe inevitably causes political, ideological, and administrative conflict. But for a small European state to simultaneously fight the policies it perceives as harmful for its people as well as the course of deepening integration that enables those policies – all against the will of the majority of EU powers – takes considerable effort

¹ N. Brack, R. Coman, A. Crespy, *Sovereignty conflict in the European Union*, “Les Cahiers du Cevipol” 2019, vol. 4, issue 4, p. 3.

² B. Orbán, *The Hungarian Way of Strategy*, MCC Press, Budapest 2021, pp. 135–140.

and political maneuvering. Nonetheless, the harder the battle seems to be, the greater the domestic support for pursuing more subsidiarity in EU decision-making and for striving for increased sovereignty against the EU institutions.

In the following chapters, I will showcase several policy examples related to the sovereignty debate between Hungary and the European Union, to demonstrate the different ways a small EU member state can pursue its own interests, especially when they don't align with those of the majority. Before going through the examples, I will also provide a short theoretical overview of the sovereignty debate, both in general terms and from the Hungarian perspective, then at the end, I will look at whether regional cooperation of like-minded governments can make a significant difference during such conflicts.

II. Theoretical overview

II. 1. Federalism, functionalism, sovereigntism

The history of the original concept debate regarding the preferred trajectory of European integration goes back to the 1950s, to the foundation of the European Economic Community (EEC). In its preamble, the Treaty of Rome (which established the EEC) famously included the phrase: “*Determined to lay the foundation of an ever closer union among the peoples of Europe.*”³ This identification of the nature of European integration as a continuous development towards an arguably *federalist* future⁴, replicated thereon in all successive EU treaties, is the foundation

³ *The Treaty of Rome*, 25 March 1957 – Preamble, p. 2, [online: 21 X 2022]: <<https://netaffair.org/documents/1957-rome-treaty.pdf>>.

⁴ In literature, the term ‘federalism’ can be interpreted as a political *structure*, a *process*, or both (S. Dosenrode, *Federalism Theory and Neo-Functionalism: Elements for an analytical framework*, “Perspectives on Federalism” 2010, vol. 2, issue 3, p. 11). In the context of the European Union, federalism is understood as the “application of federal principles to the process of European integration where the term ‘integration’ refers to the sense of a coming together of previously separate or independent parts to form a *new* whole.” (M., Burgess, *Federalism*, [in:] *European integration theory*,

of all theoretical debates around the contemporary sovereigntist movement in Europe. Jean Monnet, one of and perhaps the most important founding fathers of the European integration project wrote as early as 1943, that there was no chance of lasting peace in Europe if the countries “reestablished themselves on the basis of national sovereignty with all this implies by way of prestige politics and economic protectionism.” Instead, Monnet argued, that the European countries “must form a *federation* [...] which will make them a single economic entity.”⁵ Since proponents of the federal approach were always the majority in the early debate,⁶ the only question that remained, therefore, was whether to adapt Monnet’s vision to this federalisation or Altiero Spinelli’s, another renowned integrationist of the time. Spinelli favoured a federalised EU – a ‘United States of Europe’ – as soon as possible, while in Monnet’s vision, “the ultimate goal of political integration is implicit and he would try to realize it through step-by-step integration.”⁷ This gradual approach, which was eventually adopted, continued to bear the support of every generation of EU leaders – largely due to the mounting resistance of certain political elites at each step of the integration process. Officially, Europe is committed to the *process* of deepening integration, and not the end goal of federalism.⁸

However, this approach still gathered countless intellectual critics over time. One of the earliest and most significant critics of the ‘ever closer union’ was David Mitrany, founder of *functionalism* in international relations, who believed international organizations should only have limited, well-defined, and highly specific, technical responsibilities,

ed. A. Wiener and T. Diez, Oxford University Press, New York 2009, p. 30). In this sense, a gradually deepening integration process must be regarded as a federalist approach, regardless of the successful realization of its end goal.

⁵ J. Monnet, *Memoirs*, Doubleday, Garden City 1978, p. 222.

⁶ For more discussion on the original concept debate on the European integration process, see Keeler (1990); Devuyst (2000); and Dinan (2010).

⁷ A. Hayrepetyan, *Federalism, Functionalism and the EU: The visions of Mitrany, Monnet and Spinelli*, “E-International Relations” [online: 26 X 2022], <<https://www.e-ir.info/2020/09/21/federalism-functionalism-and-the-eu-the-visions-of-mitrany-monnet-and-spinelli/>>10

⁸ J. De Ruyt, *Is there an escape from ‘Ever Closer Union’?*, Egmont Royal Institute for International Relations, 2018 (European Policy Brief, 49), pp. 1–2.

assigned to them by the express instruction of the governments of their member states.⁹ In this sense, functionalism envisaged regional organisations more akin to the United Nations (regarding the functioning of its specialised agencies) than any federation. This concept would also make sure that the legitimacy of the decisions made by international organisations cannot be questioned, since it naturally derives from the national governments that continuously oversee them. Understandably, Mitranyi was quite sceptical about the gradually deepening federalist approach within the European Communities, arguing that the wider the range of activity of a certain organisation – and the longer its reach into previously domestically decided policy areas – the less likely member states will entrust it with more freedom and responsibility.¹⁰ Mitranyi also addressed the core problem within the current overreaching power of the European judiciary, or rather, the problematic nature of acquiring such power. Decades before Maastricht, Mitranyi wrote that the process of federalism can easily take an unwanted trajectory, as “any addition to the central function alters the balance with cumulative and permanent effect.”¹¹ Furthermore, Mitranyi frequently brought up the issue of widely differing historical experiences and competing narratives of European countries that could fuel tensions within a federal structure,¹² as well as how the interests of smaller states within such a structure will always be to limit the central power lest they would risk being dominated.¹³

Now, the term *sovereignism* in a contemporary sense is harder to define because of the apparent lack of clear literary consensus and the greatly differing use of the word ‘sovereignty’. As a concept in

⁹ R. McLaren, *Mitranean functionalism: possible or impossible?*, “Review of International Studies” 1985, vol. 11, issue 2, p. 139.

¹⁰ A. Hayrepyan: *Federalism, Functionalism and the EU...*

¹¹ D. Mitranyi, *The Prospect of Integration: Federal or Functional*, “Journal of Common Market Studies” 1965, vol. 4, issue 2, p. 141.

¹² The events after the fall of the Soviet Union and the dissolution of the Warsaw Pact, as well as the EU’s subsequent enlargements, proved this line of reasoning ultimately correct. The difference in lived historical experiences on the opposing sides of the Iron Curtain contributes much to the ideological cleavage currently existing between many of the Western and Central European member states (in addition to the historical narratives that go back centuries before the Cold War).

¹³ D. Mitranyi, *The Prospect of Integration...*, pp. 135–139.

international relations, sovereignty dates back to the Treaty of Westphalia in 1648. Since then, its meaning has been profoundly expanded to cover at least five contesting interpretations by the mid-20th century, from the absolute and indivisible power of the ruler through various forms of legitimacy stemming from the constitutional understanding of the state to the legal sovereignty of the individual human being.¹⁴ The common understanding of political sovereignty that emerged from all interpretations in the era of nation-states after the First World War was based on “the principle of the undisputed supremacy of norms, values, and interests within the confines of a territory controlled by the government of a sovereign state”¹⁵, and manifested in sovereigntist policies viewed as a “commitment to territoriality, national politics [...] and resistance to comity or international law.”¹⁶

The onset of the multipolar world and the dawn of globalisation after the fall of the Soviet Union exacerbated political sovereigntism worldwide. In this post-bipolar context, Alles and Badie (2016) identified three distinct conceptions of sovereigntism coexisting today, all challenging different aspects of the current international order based on the specific position each country occupies within it.¹⁷ The type of sovereigntism that’s relevant to the scope of this study – as in, according to the authors, mostly manifests in the discourse of European national conservative parties such as the National Rally in France, the Lega in Italy or the governing parties of Poland and Hungary (PiS and Fidesz respectively) – is labelled ‘*archo-sovereigntism*’ and is characterised as being centred around national identity, is the most strongly oriented against globalisation as well as frequently contesting the leading powers’

¹⁴ M. Minakov, *The sovereigntist turn: sovereignty as a contested concept again*, “Ideology and Politics Journal” 2021, vol. 17, issue 1, pp. 88–89.

¹⁵ *Ibid.*, p. 90.

¹⁶ H. Koh, *International Law as Part of Our Law*, “American Journal of International Law” 2005, vol. 98, issue 1, p. 52.

¹⁷ D. Alles, B. Badie, *Sovereigntism in the international system: From change to split*, “European Review of International Studies” 2016, vol. 3, issue 2, pp. 16–18.

globalised orientation, and “is well received as an emblem by all those suffering from the transformations of the world.”¹⁸

II. 2. Hungarian sovereigntism – goals and characteristics

Hungary is always one of the first nations to come up in international discourse about sovereigntism within – or against – the European Union, and usually portrayed in a bad light, implying that its pursuit of national interests is a semi-deliberate hindering of the functioning of EU institutions.¹⁹ Instead, I would argue that the policies with national identity at their core have organically emerged from Hungarian political history and the country’s pre-ordained geopolitical position, and the governing Fidesz party²⁰ has not been in power for so long *in spite* of acting upon these sovereigntist policy initiatives but largely *because* of it. In this next segment, we need to shortly address the historical and ideological narratives that define the Hungarian approach to foreign policy as well as briefly examine the particular motives behind the ruling party’s unique form of sovereigntism, often mistakenly portrayed as Euroscepticism.

Some authors posit that the Hungarian ruling party – Fidesz – could have been considered Eurosceptic from the early stages of the country’s

¹⁸ Ibid., p. 18. Contemporary sovereigntism’s two other types include ‘*conservative sovereigntism*’, which typically refers to great or formerly great powers (such as Russia or France) who entertain a post-colonial idea of having a special responsibility or ‘mission’ within their spheres of influence and thus their preferred sovereignty reserves the right to intervene to a certain extent (p. 16); as well as ‘*neo-sovereigntism*’ which refers to rising powers (such as China, Brazil or India) and manifests in self-affirmation, anti-hierarchy assertion, and an expectation of firm international rules to contain established powers while at the same time advocates for soft and flexible norms for itself (pp. 16–18).

¹⁹ See for instance J. Dempsey, *Is the EU Too Soft on Hungary?*, “Carnegie Europe” [online: 10 I 2023], <<https://carnegieeurope.eu/strategieurope/87921>>.

²⁰ Fidesz – MPSZ (*Hungarian Civic Alliance of Young Democrats*) is a Christian-democratic, national-conservative, centre-right party, that has been in government for the first time between 1998 and 2002. After eight years of socialist governments, Fidesz rose to power in a landslide in 2010 again and has been in government ever since, winning its fourth consecutive term in 2022.

European integration,²¹ however, others argue differently. The Fidesz, both as a governing party (1998–2002) and as leader of the opposition block (2002–2010), consistently argued for EU membership, even if sometimes raised questions related to possible erosion of sovereignty. Nonetheless, the party organised one of the strongest pro-EU campaigns ahead of the accession referendum in 2003, was among the loudest in parliament to hasten the ratification of the constitutional treaty (2004) and later the Lisbon Treaty (2007), and ahead of the 2009 national elections, the Fidesz campaign put an emphasis on strengthening the European Union, another sign of the party rejecting conventional Eurosceptic norms.²²

Rifts between Hungary and the EU institutions only started after Fidesz took power for the second term in 2010, as the Commission and certain factions within the European Parliament criticised the government's internal reform policies (financial policies, media reform, new constitution of 2011). Yet, neither in this period nor later did the Fidesz turn toward a truly Eurosceptic position, but continued to maintain a solid stance for a strong and united Europe (as testified to by the Orbán government's foreign policy strategy and can be seen in many of the prime minister's speeches) and even started to advocate for a joint European army.²³ One difference in the government's EU rhetoric, however, was the appearance of alternative suggestions to the integration discourse, which gradually became stronger over time.²⁴ This meant the propagation of the 'Europe of nations' idea, which argued for, on an institutional level, less vertical integration going forward and the preservation of subsidiarity in the power-sharing structure between the EU and the national governments.

²¹ See for instance Á. Batory, *Euroscepticism in the Hungarian Party System: Voices from the Wilderness?* [in:] *Opposite Europe? The Comparative Party Politics of Euroscepticism Vol. I*, ed. P. Taggart and A. Szczerbiak, Oxford University Press, Oxford 2008, pp. 263–276.

²² J. Dúró, *Ellenzők, kritikusok, kétkedők: A pártalapú euroszepticismus arcai*, Századvég Kiadó, Budapest 2017, pp. 165–167.

²³ *Ibid.*, pp. 168–169.

²⁴ Z.G. Szűcs, *A magyar politikai gondolkodás nemzetközi horizontja*. [in:] *A Magyar politikai rendszer – negyedszázad után*, ed. A. Körösiényi, Osiris, Budapest 2015, p. 366.

The strong sovereigntist rhetoric that the Fidesz government has been associated with only came to the forefront after 2015, in the wake of the European migrant crisis, and has been at the center of Hungarian foreign policy toward the EU ever since. To be clear, both the government and public opinion generally maintain a very pro-EU position as far as membership is concerned, nonetheless, the sovereigntist confrontations are more visible as they mostly play out along the ideological cleavages surrounding certain, highly divisive policy areas (border control, traditional family values, Christianity). It must be noted, therefore, that Fidesz' sovereigntism at the level of 'anti-EU' public rhetoric should not be confused with Euroscepticism – as the party remains strongly pro-EU membership and only criticises the 'ever-growing' aspect of it – as well as that it appeared organically *in response* to deepening EU integration that led the European institutions attempting to take over policy areas that previously belonged to national legislations (rule-of-law debate, more on that later).

This foreign policy approach against the EU's supposed overreach ensures that Fidesz remains widely popular among the Hungarian public – and for clear historical reasons at the core of national identity. In his latest book, Balázs Orbán, the highest-ranking strategic advisor in the current Fidesz government,²⁵ set out to explain the unique success of the 'Hungarian model' (as in acting contrarian to the liberal democratic zeitgeist yet maintaining a surprisingly high level of stability and popularity). As part of its main thesis, *The Hungarian Way of Strategy* posits that both the internal and foreign policies of a nation state need to be based on organically evolved national characteristics in order to be successful. Orbán “identifies episodes in our nation's history that are descriptive of the Hungarian character, to ultimately produce a list of qualities on which to base his strategy later. The author divides Hungarian history into two parts: the first (11th–15th century) is mainly characterized by responsible statesmanship, well-balanced

²⁵ Balázs Orbán, after earning his PhD in law, previously worked in prominent positions at top Hungarian think tanks and research institutes. In 2018 he became state secretary for strategic issues in the fourth Orbán government. Since 2021, he has been working as the political director of Prime Minister Viktor Orbán, overseeing the work of the highest-level advisory board in Hungarian public life.

legal development, internal stability and peaceful expansionism for the sake of Central European security; the second (16th–20th century) is marked by the endless struggle for sovereignty and self-determination in the shadow of empires.²⁶ This stark contrast illuminates the message perfectly: Hungary flourishes when left alone and thus will never accept foreign yoke – whether literal or metaphysical – again. Therefore, this love of freedom, among others,²⁷ is an inherently Hungarian trait that cannot be overlooked when devising a Hungarian strategy.²⁸

Two things are clear, therefore. One is that Fidesz remains firmly committed to the European Union and the idea of a United Europe, the other is that – while being portrayed as bent on disrupting its functioning – it only argues against over-centralization in areas that it deems counterproductive in the realization of small state – Hungarian – interests.

The current Hungarian governing party neither was, nor is Eurosceptic in the primary sense of the word, as it never questioned the country's EU membership, but quite the contrary. In Prime Minister Viktor Orbán's words, "Hungary's EU membership is unshakeable. [...] Hungary is a Christian country with a western mindset. For this reason, our natural place is in Europe."²⁹ At the same time, precisely because

²⁶ Collective historical experiences of foreign invasions resulting in a Hungary integrated into larger imperial structures (Ottoman Empire, Habsburg Empire, Nazi Germany, Soviet sphere of influence), as well as the heroic revolutions and uprisings, regardless of success (against Austria in 1703 and 1848, against the Soviets in 1956) to reclaim sovereignty occupy a special place in Hungarian national consciousness and are among the most integral parts of Hungarian identity (B. Orbán, *The Hungarian Way of Strategy...*, pp. 105–114).

²⁷ For instance, Orbán's list of elements of 'Hungarianness' (B. Orbán, *The Hungarian Way of Strategy*, p. 118.) also includes scepticism of foreign ideas and the ability to reshape them in its own image; being a cultural blend between East and West; being eternally divided over certain issues yet remarkably united when facing external threats; or the inclination to give Christianity an important role in political life.

²⁸ T. Orbán, *The Flight of the Bumblebee: A Review of 'The Hungarian Way of Strategy'*, "Hungarian Conservative" [online: 10 I 2023], <<https://www.hungarianconservative.com/articles/reviews/the-flight-of-the-bumblebee-a-review-of-the-hungarian-way-of-strategy/>>.

²⁹ *Interview with Prime Minister Viktor Orbán in the newspaper Passauer Neue Presse*, "Hungary Today" [online: 16 I 2023], <<https://abouthungary.hu/prime-minister/interview-with-prime-minister-viktor-orban-in-the-newspaper-passauer-neuer-presse-full-text-in-english>>.

Hungary's political weight is relatively small compared to the economic powerhouses of Western Europe, it has realized that its prospects of successfully defending its interests largely depend on the future trajectory of European integration, the debate of which – after Brexit – has started to lean towards a more federalist structure. In a 2022 interview with the German *Cicero* magazine, Orbán outlined the Hungarian position as follows:

If the British hadn't left the European Union, the internal dynamism of the EU that has prevailed for the past thirty years would have been maintained, because together with the V4 the British never accepted a federal conception for the European Union. You Germans and the French wanted a federal Europe and we didn't – along with the British. And this was more or less in balance, more or less in equilibrium. And if we wanted to come to an agreement, neither side was dominant and we had to agree. Now the British have left, and so the federalists – the Germans and the French – have gained the upper hand and the dynamics have changed. If the British had stayed in, there would never have been a rule-of-law procedure in the EU, there would never have been a conditionality procedure, there would never have been a debt community. All these are national rights that are being taken away: what used to be national law is now being transferred to Brussels.³⁰

In the next chapters, I am going to present instances of sovereigntist pursuit of interests by showcasing the most important examples of Hungary taking the opposite position to the EU mainstream.

³⁰ Panel discussion involving Prime Minister Viktor Orbán and the directors of the monthly magazine *Cicero*, “Miniszterelnök – Cabinet Office of the Prime Minister” [online: 16 I 2023], <<https://miniszterelnok.hu/panel-discussion-involving-prime-minister-viktor-orban-and-the-directors-of-the-monthly-magazine-cicero/>>.

III. Hungarian political positioning within the EU

As mentioned above, the general tone of Hungarian public discourse regarding the European Union began to shift after 2010, under the second Orbán government. Prior to that shift, public discourse was dominated by what Szűcs (2015) calls 'integration discourse' which was replaced – as a reaction to the EU's criticism of the reforms implemented by the new government – by a 'sovereignty discourse'. Whereas the central element of the integration discourse in the relationship with the West is the coincidence of the interests of the West and Hungary, the core tenet of the sovereignty discourse is the actual or at least potentially possible conflict between the West and Hungary. The reason why Hungarian sovereignty must be defended and strengthened is that it is the only way to ensure that Hungarian interests are pursued.³¹ As newer conflict points between Hungary and the EU arose, sovereignty discourse gained considerable momentum, especially after 2015. In the period thereafter, the three arguably most influential debates were prompted by Hungary's response to the European migration crisis, the EU's use of the rule-of-law mechanism as well as the Fidesz government's ongoing policies related to the war in Ukraine.

III. 1. The migration crisis

The 2015–2016 migration crisis in Europe was a seminal moment in the bloc's recent history, probably even more so for Hungary. The country, directly situated on the Balkan migration route, was particularly affected in the early stages of the crisis and the response of the Hungarian government to the crisis was both controversial and consequential within and outside Hungary. During the summer of 2015, 160 thousand illegal crossings were registered (a more than ten-fold increase from the average of the previous five years) through the southern border of Hungary.³²

³¹ Z.G. Szűcs, *A magyar politikai gondolkodás...*, p. 365.

³² E. Csobolyó, *A határőrizeti célú ideiglenes határzár, mint kritikus infrastruktúra*, "Hadtudományi szemle" 2017, vol. 10, issue 3, p. 484.

Domestically, the most significant action taken by the government was the construction of a 175 km long barbed-wire border fence along its southern frontier with Serbia, which – completed in September 2015 – virtually stopped illegal crossings overnight, reducing it from 20–30 thousand a week to double digits.³³ In international discourse, the government proffered the justification that the fence was essential for the preservation of the country's security and sovereignty, however, the European Union, as well as numerous human rights organizations, decried the fence for its inhumane nature and for the violation of migrants' rights.³⁴

While the border fence quickly became the foremost political symbol of the government's increasingly popular position on immigration within the country, the key issue to set the tone between Hungary and the EU was another one, namely Brussel's proposed refugee quota system. In September 2015, the EU proposed a plan to distribute 160,000 refugees among its member states, however, Hungary, along with the Czech Republic, Poland, and Slovakia, rejected this plan³⁵, claiming that it impinged on their sovereignty and that the EU had no authority to impose such a system on them. While the Visegrad Group had negotiated together successfully on numerous issues before, the migration crisis was the first time it joined forces based on an explicitly ideological, sovereigntist standpoint, highlighting the deepening rift in the middle of the EU. Previously a strictly interest-based, specialized policy cooperation, now presenting a unified front in defiance of an EU decision citing national

³³ Ibid.

³⁴ F. Bender, *Why the EU condones human rights violations of refugees in Hungary*, "Open Democracy" [online: 18 I 2023], <<https://www.opendemocracy.net/en/can-europe-make-it/why-eu-condones-human-rights-violations-of-refugees-in-hungary/>>.

³⁵ Poland initially accepted the EU's migrant relocation scheme, but upon facing harsh criticism from the other members of the Visegrad Group, it finally agreed to take part in the common effort to resist the quota system. This also demonstrates the apparent disparity between the V4 members in political influence within the EU, as the three other members clearly need Poland's negotiating power more than Poland needs theirs.

sovereignty, the V4 suddenly appeared as the “castle where a Central European bloc was born.”³⁶

Seeing the Visegrad countries’ commitment to opposing the relocation scheme, the Council of the European Union decided to use (otherwise rare) qualified majority voting on the issue instead of the usual unanimity, thereby bypassing the V4’s veto power.³⁷ Even so, backed by popular support in all four cases,³⁸ the V4 countries continued to reject the quota system. Hungary and Slovakia (with Poland’s official support) even sued the Council at the Court of Justice of the EU for pushing through the decision without unanimous support and asking for its annulment, although the Curia dismissed the case in September 2017.³⁹ Later that month, the European Commission initiated the infringement procedure against Poland, Hungary, and the Czech Republic for non-compliance with the decision. However, Hungary and the others remained committed to their initial positions on the resettlement scheme, under which Budapest and Warsaw still haven’t accepted a single refugee.⁴⁰ The case dragged on for years until eventually, the European Parliament agreed to adopt a new migration reform pact by 2024, under which the failed compulsory resettlement scheme is to be replaced by voluntary action on behalf of the member states. The need for a new Pact on Migration and Asylum which includes a ‘voluntary solidarity mechanism’ arose precisely because the EU “tried and failed to

³⁶ N. Thorpe, *Visegrad: The castle where a Central European bloc was born*, “BBC” [online: 20 I 2021], <<https://www.bbc.com/news/magazine-35613206>>

³⁷ I.P. Karolewski, R. Benedikter, *Europe’s Migration Predicament: The European Union’s Refugees’ Relocation Scheme versus the Defiant Central Eastern European Visegrad Group*, “Journal of Inter-Regional Studies: Regional and Global Perspectives” 2018, Vol. 1, Issue 1, p. 44.

³⁸ E. Zgut (et al.), *V4 egységfront a kötelező kvóták ellen*, „Political Capital – Átlátszó” [online: 20 I 2023], <<https://pcblog.atlatszo.hu/2018/07/19/v4-egységfront-a-kotelezo-kvotak-ellen/>>.

³⁹ I.P. Karolewski, R. Benedikter, *Europe’s Migration Predicament...*, p. 49.

⁴⁰ Slovakia and the Czech Republic made only symbolic gestures by accepting a few dozen migrants, still far from their target numbers of thousands under the plan.

persuade the EU governments to agree to resettlement quotas,”⁴¹ which can be largely viewed as a long-term diplomatic victory for the defiant V₄ countries.⁴²

During the lengthy diplomatic dispute, the Hungarian government perfected the use of its previously established ‘national consultation’ system, an institutionalized series of informal referenda used for measuring public support behind important policy directives. The first national consultation on migration was held in 2015 and asked Hungarians whether they supported the government in imposing stricter measures to combat illegal immigration, even if that meant going against EU policy recommendations. With 89.65% fully supporting stricter measures and another 7.55% somewhat behind them, a total of 97.2% essentially reaffirmed the Fidesz’ sovereigntist position, a fact that was used frequently as an argument in both Brussels and Budapest.⁴³ In 2017, two more consultations focused on the subject. In the first poll, launched in April 2017 and dubbed “Stop Brussels!”, the government targeted issues that could potentially cause conflict with the EU, such as energy policies, tax policies, immigration, and international NGOs. The results clearly showed that the popularity of the Fidesz’ sovereigntist stance within the EU had solidified since the beginning of the crisis, as 99% of participants voted for the continuation of strict border control policies and for clamping down on international NGOs aiding illegal migration.⁴⁴ The same results were replicated in the following consultation in late 2017, in which the government specifically asked voters about the EU’s refugee resettlement

⁴¹ B. Fox, *Migration reform to be approved by 2024, say parliament leaders and diplomats*, “Euractiv” [online: 20 I 2023], <<https://www.euractiv.com/section/politics/news/migration-reform-to-be-approved-by-2024-say-parliament-leaders-and-diplomats/>>.

⁴² Other countries’ failure to meet their required numbers also contributed to the re-evaluation of the plan, as more than half of the member states initially accepting the quotas fell short of their targets.

⁴³ D. Deák, *Már 15 éve sikeres kapcsolatteremtési eszköz a nemzeti konzultáció*, „XXI. Century Institute” [online: 24 I 2023], <<https://www.xxiszazadintezet.hu/mar-15-eve-siker-es-kapcsolatteremt-es-eszkoz-a-nemzeti-konzultacio/>>.

⁴⁴ Ibid.

scheme.⁴⁵ As expected, 99% of the voters rejected the migrant quotas as well as the EU's plan to penalize the countries that don't comply in the form of withholding funds.⁴⁶

The outcome of the Hungarian government's response to the migration crisis was multifaceted. On the one hand, the border fence was successful in reducing the number of migrants crossing into Hungary illegally. Secondly, through continuously opposing the resettlement scheme, Hungary (and the rest of the V₄) was able to stay out of it and score a diplomatic victory, solidifying Fidesz' position in the government. On the other hand, however, the hardline stance on immigration and the hostile political rhetoric against Brussels have damaged Hungary's relationship with the EU in the long term, setting the scene for a series of conflicts to come.

Regardless, the migration issue is the clearest example of Hungary's sovereigntist position, underlying the basic premise of it: member states' sovereignty within the framework of the European Union should still retain the right to decide on policy areas that fundamentally threaten the nation's cultural identity as well as that the democratic will of the people must take precedence in any such question. Foreign Minister Péter Szijjártó summarized the Hungarian position clearly in an interview with CNN:

⁴⁵ The national consultation "On the Soros-plan" is the most controversial poll to date, despite attracting the highest number of voters ever. The EU and several NGOs have criticized the Hungarian government for associating mass immigration with the American billionaire George Soros – and even accused Fidesz of antisemitism, despite the government's excellent relationship with Jewish advocacy groups (T. Orbán, Zs. Tóth-Bíró, *Introduction*, [in:] *Anti-Semitism in Hungary: Appearance and Reality*, Vol. 2, ed. J. Kaplan (et al.), Helena History Press, Reno 2022, pp. 9–14). According to the government's reasoning, Soros was picked as the figurehead of the consultation because he was the founder of *Open Society Foundation*, which in turn funded a massive network of partner NGOs that aided refugees throughout the crisis and lobbied on their behalf in Brussels (R. Metz, *Határok nélkül? – Orbán Viktor és a migrációs válság*, [in:] *Viharban kormányozni: Politikai vezetők válsághelyzetben*, ed. A. Körösnéyi, MTA-TK-PTI, Budapest 2017, p. 248).

⁴⁶ M. Vaskor, *Nemzeti Konzultáció: ismertették az eredményeket, "24"* [online: 24 I 2023], <<https://24.hu/belfold/2017/12/10/nemzeti-konzultacio-ismertettek-az-eredmenyeket/>>.

We have been a Christian country for a millennium, and I don't really understand why is it bad news that we don't want to change that. And I don't understand why is it bad or why is it unacceptable that we would like to stick to our history, to our culture, to our heritage, to our religion. [...] We never judged other countries which had a different kind of policies. [...] Let's leave it to us to make a decision, whether we think multiculturalism is more valuable than a homogeneous society. [...] I respect that you have a different position [...] and I will never judge you. But I expect the same. Please, let's leave it to a sovereign decision of a nation on how it would like to continue its life in its own country. Yes, we think that a country sticking to its heritage, its culture, its religion is as valuable as another one which thinks that multiculturalism is better than that.⁴⁷

III. 2. Rule-of-law debate

The rule-of-law conflict between Hungary and the European Union has also been ongoing for several years, and it centers around concerns about the alleged 'erosion' of democratic values and the rule-of-law in Hungary. In particular, the problems relate to the independence of the judiciary, the media, and civil society, as well as issues regarding the legal treatment of LGBT communities in more recent years. The EU has taken several steps to address these concerns, and various EU institutions have been involved in the conflict. From the Hungarian government's perspective, these steps are regarded as a clear violation of Hungarian sovereignty. Especially considering Fidesz' unwaning popularity at the ballots, the rule-of-law conflict is seen in Hungary as just another battleground of identity politics, an instrument of the EU to impose a Western style

⁴⁷ FM: *Why is it unacceptable that we would like to stick to our history, to our culture, to our heritage, to our religion?*, "Hungary Today" [online: 16 II 2023], <<https://about-hungary.hu/news-in-brief/fm-why-is-it-unacceptable-that-we-would-like-to-stick-to-our-history-to-our-culture-to-our-heritage-to-our-religion>>.

of government and policy directives on Hungary instead of the current national-conservative system.⁴⁸

The rule-of-law conflict started as early as the second Fidesz government approved the new constitution in 2011, as criticism coming from the EU institutions began immediately. In 2013, the European Commission launched an investigation into the independence of the judiciary in Hungary, and in 2014, it opened its first infringement procedure against the country. However, the EC did not take any further action on the issue. In 2016, the EC launched a new infringement procedure against Hungary over the country's treatment of refugees and migrants, which was also later closed without any significant action.

In 2017, the European Parliament (EP) passed a resolution calling for the activation of Article 7 of the EU Treaty against Hungary, which allows for the suspension of a member state's voting rights in the EU if it is found to be in breach of EU values. The EP cited concerns about the independence of the judiciary, freedom of the press, and the rights of minorities – particularly those belonging to LGBT groups⁴⁹ – in Hungary. In 2018, the EC launched a new infringement procedure against Hungary over a new law that targeted foreign-funded NGOs. In the same year,

⁴⁸ B. Gát Ákos, *Time to End Rule of Law 'Impressionism'*, "Hungarian Conservative" [online: 27 I 2023], <<https://www.hungarianconservative.com/articles/politics/time-to-end-rule-of-law-impressionism/>>

⁴⁹ In relation to the LGBT question, the most criticised step was adopting Hungary's "Anti-Pedophilia and Child Protection Act" (2021), because of its allegedly anti-LGBT provisions. Apart from increasing the severity of legal punishment for sexual abuse of minors or possession of child pornography, the bill also banned the promotion of gender transition and homosexuality in sex education classes as well as limited the media exposure of minors to such topics, for the sake of protecting children from premature sexual influence (T. Orbán, *About Hungary's New Anti-pedophilia Bill*, "Hungarian Conservative" [online: 4 II 2023], <<https://www.hungarianconservative.com/articles/opinion/about-hungarys-new-anti-pedophilia-bill/>>). The government also prohibited the legal transition of transgender individuals a year prior (meaning, restricting their ability to change their names on legal documents). On a referendum held in early 2022, Hungarian voted overwhelmingly in favour (94.5%) of the problematic provisions of the child protection act, albeit with a lower turnout than expected (L. Zemlényi, *The Child Protection referendum*, "Hungarian Conservative" [online: 4 II 2023], <<https://www.hungarianconservative.com/articles/current/the-child-protection-referendum/>>).

the EP passed another resolution calling for the activation of Article 7 against Hungary, while the Commission considered launching another procedure, this time because of the banning of gender studies courses of the Central European University (forcing it to partially relocate to Vienna). In 2019 the EC referred Hungary to the European Court of Justice over a law that criminalized the work of foreign-funded NGOs that provide assistance to asylum seekers. In 2020, the ECJ ruled that the law was incompatible with EU law.⁵⁰

The conflict appeared to have reached a breaking point in April 2022, when the European Commission finally fulfilled years of threatening with triggered Article 7 of the TEU based on the rule-of-law violations, a procedure that allows the Union to suspend certain rights or withhold funds from a member state.⁵¹ The timing of the move only confirmed the Hungarian suspicions that the EU does not punish Hungary for actual violations, but rather than because of having a strong national-conservative leadership, as it was announced right after Fidesz won its fourth consecutive term in the parliamentary elections with a record number of votes.⁵²

Regardless, the decision had one imminent consequence for Hungary: the freezing of €13 billion worth of EU funds (€7.5 billion in cohesion funds and €5.8 billion in Covid recovery funds). Budapest was given until December 2022 to improve on 27 issues across several key policy areas

⁵⁰ G. Dobozi, *A jogállamiság úttörői – így lett Magyarország Brüsszel állatorvosi lova*, “Mandiner” [online: 27 I 2023], <https://mandiner.hu/cikk/20220921_a_jogallamisag_uttoroi>.

⁵¹ Hungary was not the first country in this regard, as Article 7 was triggered before by the European Commission against Poland in 2017, however without significant consequences until 2022 when the Commission froze the Polish recovery funds over concerns about the independence of the judiciary (M. Michelot, *The “article 7” proceedings against Poland and Hungary: what concrete effects?*, “Notre Europe – Jaques Delors Institute” [online: 28 I 2023], <https://institutdelors.eu/en/publications/__trashed/>).

⁵² With 54.1% of the total votes (in a hybrid electoral system comprised of both first-past-the-post and proportional representation), Fidesz was able to expand on its two-thirds supermajority in the 199-seat National Assembly with 135 seats (T. Orbán, *A Victory ‘Visible Even from the Moon’ – Lessons and Challenges of Securing a Fourth Term for Fidesz*, “Hungarian Conservative” 2022, Vol. 2, Issue 3, p. 31).

recommended by the Commission (including the judiciary, asylum laws, educational laws, and the treatment of LGBT individuals) and implement widespread reforms. The Hungarian reforms were deemed insufficient in the end, which meant that Budapest faced permanently losing most of the frozen funds if no new agreement was reached in Brussels before the end of the year.⁵³

In December 2022, a compromise was reached eventually, which was hailed as a diplomatic victory for both Brussels and Budapest, depending on the report. The negotiation and its outcome also provide an excellent example of using limited inventory when pursuing national interests as a small European state against a (nearly) unanimous EU bloc. The Hungarian strategy, namely, to tie in two key issues that were crucial for the European Union (the €18 billion aid package for Ukraine and the 15% ‘global minimum tax’ for international corporations, both of which Hungary vetoed continuously for weeks⁵⁴) into its negotiations on the rule-of-law violations, turned out successful. In the end, a final ‘package agreement’ was reached, in which “everybody walked away with something: Ukraine will get its aid, the minimum corporate tax will be implemented, and Hungary now has a pathway to unblocking all of its frozen funds. [...] Hungary lifted both of its ‘vetoes’, but not before negotiating slight modifications. The Ukraine aid will be financed from the EU budget instead of a loan and Hungary received an opt-out from the global minimum tax. In turn, the EU decided to unlock a portion of the cohesion funds (keeping only €6.3 billion frozen instead of €7.5 billion) and tied the eventual release of the remaining funds (as well as of the Covid recovery funds) to concrete rule of law reforms to be implemented

⁵³ T. Orbán, *Hungary – EU Compromise: Reason over Senseless Moralising*, “Hungarian Conservative” [online: 28 I 2023], <<https://www.hungarianconservative.com/articles/opinion/hungary-eu-compromise-reason-over-senseless-moralising/>>.

⁵⁴ Hungary had its reason for both vetoes. In the case of the Ukrainian aid package, Hungary opposed using a joint EU loan to acquire the money (and thus increasing the bloc’s public debt). In the case of the global minimum tax, as a country that’s heavily reliant on foreign industrial investments, Hungary sought to keep its competitiveness.

starting [2023]. In essence, the most important thing Hungary gained was the time needed to fully unlock the total €13 billion.”⁵⁵

The compromise also included the renegotiation of the reform criteria needed to unblock the remaining funds. Three of the four reform areas (asylum laws, higher educational structure, LGBT rights) are now tied to only certain portions of the blocked cohesion funds, while only one (judicial reform) is tied to unblocking the entirety of the funds. The details of the implementation of these reforms have already been agreed upon by the representatives of the Commission and Hungary, and the new deadline was set as March 31, 2023.⁵⁶ At the time of writing (February 2023), the Hungarian government already announced the reform package (which mostly strengthens the power and independence of the constitutional court) and is working in close cooperation with the EU institutions on its implementation.⁵⁷

Now, regardless of the outcome of this agreement, the rule-of-law debate (and especially its child protection or LGBT factor) will remain the most persistent driver of sovereigntist rhetoric in Hungary and the primary cause for Budapest to continue to oppose deeper integration. The reason behind this is that attacks on Hungarian rule-of-law – interpreted as ideologically driven political moves – serve as a symbol of the potentially negative effects of European federalism, a tangible representation of the otherwise vague sovereigntist cause of rejecting the West’s cultural hegemony and protecting Europe’s ideological pluralism. Every such attack not only underlines but justifies the basic Hungarian argument, in Foreign Minister Péter Szijjártó’s words: “the liberal mainstream is incapable of accepting that, in Hungary, the patriotic government,

⁵⁵ T. Orbán, *Hungary – EU Compromise...*

⁵⁶ A. Weinhardt, *Karácsonykor is megy az üzengetés a magyar EU-pénzeokről – Most akkor mi a valós helyzet?*, “Portfolio” [online: 1 II 2023] <<https://www.portfolio.hu/unios-forrasok/20221226/karacsonykor-is-megy-az-uzengetes-a-magyar-eu-penzekrol-most-akkor-mi-a-valos-helyzet-587144>>.

⁵⁷ D. Szabó, *A kormány szép csendben közzétette az uniós forrásokhoz szükséges törvénymódosításokat*, “Portfolio” [online: 1 II 2023] <<https://www.portfolio.hu/unios-forrasok/20230119/a-kormany-szep-csendben-kozzetette-az-unios-forrasokhoz-szukseges-torvenymodositasokat-591592>>.

which operates on the basis of the mandate of the Hungarian people, makes the national interest a priority.”⁵⁸

III. 3. The war in Ukraine

The Russian invasion of Ukraine caused several previously unforeseen developments in the European security structure. Whereas prior to the war NATO was seen as being on its way to becoming obsolete on the continent and European members were regularly criticised for falling short of their defence spending targets, the outbreak of the war immediately made them reconsider their position. Previously neutral countries applied for NATO membership (Finland and Sweden), existing members began extensive military modernisation programmes, and for the first time in decades, all members of the Atlantic Organisation seemed to be united under a common understanding of the most important strategic goals: supporting Ukraine’s war efforts and pushing back Russian expansion. All but a few members, in fact, including Hungary, whose pragmatic, realist, and more or less neutral stance toward the war in Ukraine rendered it the biggest outlier and, therefore, subject to much criticism from within the bloc.

The Hungarian position was (and still is, at the time of writing) more aligned with the *realpolitik* approach to the conflict of Henry Kissinger⁵⁹ and, in particular, John Mearsheimer.⁶⁰ Both giants of Western geopolitical thought have been advocating for diplomatic measures that seem to be contrarian to Europe’s mainstream strategic directive by denouncing endless military support for the Kyiv regime to avoid pushing Russia closer to a humiliating defeat and, thus, risking further escalation with

⁵⁸ FM Szijjártó: *Hungary Target of ‘Global Fake News’ Attack*, “Hungary Today” [online: 15 II 2023], <FM Szijjártó: Hungary Target of ‘Global Fake News’ Attack>.

⁵⁹ T. Orbán, *The Realpolitik of De-escalation*, “Hungarian Conservative” [online: 5 II 2023], <<https://www.hungarianconservative.com/articles/current/the-realpolitik-of-de-escalation/>>.

⁶⁰ Á. Bráder, *John J. Mearsheimer on International Conflicts and Their Effects*, “Hungarian Conservative” [online: 5 II 2023], <<https://www.hungarianconservative.com/articles/current/john-j-mearsheimer-on-international-conflicts-and-their-effects/>>.

potentially disastrous consequences. Instead, Kissinger and Mearsheimer presented the alternative for Europe of focusing on the diplomatic front and ‘forcing’ both Moscow and Kyiv into a negotiation process accompanied by a ceasefire, even if the end result may include certain concessions to Russia – as the post-Ukraine rules-based international order will have to reintegrate Russia one way or another or risk the power vacuum left in its place cause the downfall of it eventually.

This line of thinking explains the strategic layer of the Hungarian position regarding the war in Ukraine. The Hungarian government – although committed to NATO and the sovereignty of Ukraine, admitting refugees⁶¹ and sending financial and defensive aid – did not join most EU members in their effort to supply weapons to Ukraine to avoid general escalation (and to protect its minority in southwest Ukraine),⁶² and instead repeatedly called for negotiations with Russia, including the active participation of Washington and Brussels. According to PM Viktor Orbán,

There are two camps in Europe today: the war camp and the peace camp. And I stand for an immediate ceasefire, I stand for immediate negotiations. [...The Ukrainians] fight with extraordinary heroism. But they’re only able to engage in open warfare because we’re backing them up with unlimited amounts of money, weapons, information and everything we can supply. This is why they can’t bring this war to an end. [Only] America can bring this to an end. And this is the

⁶¹ By January 31, 2023, Hungary has admitted over 2.15 million Ukrainian refugees through its border, offering aid and asylum for all, although only a small portion (33.6 thousand) registered for asylum, the rest traveled further west or have already returned to Ukraine (*Ukraine refugee situation*, “UNHCR” [online: 5 II 2023], <<https://data.unhcr.org/en/situations/ukraine>>).

⁶² Budapest does not supply arms to Ukraine, nor does it let foreign shipments intended for Ukraine through its territory. Apart from the broader strategic view, there is a pragmatic reason for this: any weapons shipment coming from the direction of Hungary – once in Ukraine – would have to travel through the Hungarian-populated parts of Transcarpathia and, as a military target, threatening the security of the local community.

essence of the trap. The US president has gone too far [and] has said things that are very difficult to walk back. If Putin is a mass murderer, if he's a war criminal, [...] then Putin must fall, and there must be regime change. So if you say things like that, then afterwards it's very difficult for this president to make peace.⁶³

The other dimension of Hungary's unique position on Ukraine – and the one where Hungarian sovereigntism against the EU comes into question – is regarding the economic aspect of the war and, in particular, the anti-Russian sanctions imposed by the European Union. To date (February 15th), the European Union has passed 9 sanctions packages against Russia, with a tenth currently waiting for approval. It is important to note, that Hungary immediately joined all EU sanctions against Russia – except those related to energy imports: gas, oil, and uranium.

The ongoing debate about energy sanctions is perhaps the most problematic issue at the moment, as the European Union believes that banning energy imports, and of carbohydrates especially, could be the most vital element of ending hostilities in Ukraine through sanctions since they are the single largest source of Russia's foreign revenue. However, while many, mostly Western European member states have ample options to replace Russian energy sources in their domestic mix,⁶⁴ others face a more complicated challenge. Hungary – with a number of other Central European countries – has been championing energy diversification initiatives for decades (mostly through the Southern Gas Corridor connecting to the Azeri gas fields), but with little to no results mainly because of competing Western corporate interests.⁶⁵ And even though Hungary

⁶³ *Panel discussion involving Prime Minister Viktor Orbán...*

⁶⁴ Theoretically, Western Europe can be supplied from the Norwegian oil and gas fields, among others, and so does Southern Europe via the Southern Gas Corridor's existing infrastructure (TAP and TANAP), while LNG terminals are being built all over the European coastline to accommodate shipments from America and the Gulf region (although landlocked countries are in considerable disadvantage).

⁶⁵ The proposed Nabucco pipeline, connecting the Southern Corridor to Central Europe, had the potential to eliminate the region's dependence on Russian gas, but after years of negotiations, the project was cancelled at the intervention of British

is actively building new import routes to gradually reduce dependence on Russian hydrocarbons since the start of the war,⁶⁶ at the beginning of the Russian invasion it had almost no alternative infrastructure, and therefore it was a crucial national interest to negotiate a way out of participating in the EU's energy sanctions.

Hungary's disapproval of the EU sanctioning Russian energy is based on two reasons: first is the aforementioned energy security issue, most prominent in Central Europe, while the second is that even if some countries manage not to partake in them, the sanctions affect energy costs continent-wide, hurting the economy of the entire bloc. Prime Minister Viktor Orbán explained the Hungarian position:

In this form, these sanctions are killing us: they'll destroy the German economy and they'll destroy the Hungarian economy. [...] So sanctions must be imposed in a different way. When I was in Brussels I said this: "My friends, Hungary is a land-locked country, oil cannot be transported by sea, only by pipeline. One end of the pipe is in Russia, the other end is in Hungary, and there's no other pipe. So if you formulate the oil embargo, the Hungarian economy will shut down the next day, and I'll have no alternative. We didn't do this, we inherited this East-West infrastructure from communist times. What am I supposed to do about this?" In reply, they said: "Find a solution." It's impossible! So what we're doing is crude. And if we'd applied sanctions correctly, energy prices today wouldn't be sky high. [...] One can impose sanctions without destroying yourself. But the Commission wasn't able to do that. So I'm always forced to say, "If it's a sanction, I have

Petrol and other multinationals, in exchange for larger returns in Southern Europe [T. Orbán, *Cancelled Pipeline Projects in the Balkans*, "Danube Institute" [online: 15 II 2023], <<https://danubeinstitute.hu/en/research/cancelled-pipeline-projects-in-the-balkans>>, p. 6].

⁶⁶ *New Gas Pipelines Strengthen the Security of Supply in Hungary and the Region*, "Hungarian Conservative" [online: 16 II 2023], <<https://www.hungarianconservative.com/articles/current/new-gas-pipelines-strengthen-the-security-of-supply-in-hungary-and-the-region/>>.

a problem. Will you or won't you help me solve it? If you won't, I'll veto. If you help me, I'll accept the solution and you can do what you want. But you cannot kick the Hungarians into a corner, and say that their problems are of no interest to you."⁶⁷

The quote above clearly illustrates why energy sanctions have become a sovereignty issue between Hungary and Brussels once more, and why did they require such diplomatic solutions, even if they were deemed disruptive by many EU member states.

The first step in eliminating Russian hydrocarbons from the European energy mix was a proposed crude oil embargo (both via seaborne shipments and land-based pipelines). Hungary, however, used its veto power in the Council, bringing the whole process to a halt. The negotiations in Brussels lasted for weeks, all while EU officials were trying to pressure Hungary into lifting its veto, but to no prevail. At last, during the last days of May 2022, an agreement was finally reached, described as a remarkable diplomatic victory for Budapest.⁶⁸ The final embargo deal agreed upon by the Council, only banned “the import of crude oil via seaborne shipments (which immediately covers around two-thirds of all Russian oil imports to the EU), while the land pipelines can remain operational for an indefinite time – depending on each member state. Individual pledges to cease importing Russian oil altogether (as chosen by Germany and Poland, for instance) are welcomed but not enforced. The agreement does include the eventual closing of the southern route of the Druzhba pipeline as well (which provides oil for Slovakia, Hungary and the Czech Republic), but only “as soon as possible”, without actual deadlines being set. Hungary, moreover, ensured that the final version would have certain emergency provisions in case pipeline shipments are cut off from the other end, making sure the needs of Hungarians are

⁶⁷ Panel discussion involving Prime Minister Viktor Orbán...

⁶⁸ T. Orbán, *EU Oil Embargo – Hungarian Diplomatic Victory*, “Hungarian Conservative” [online: 16 II 2023], <<https://www.hungarianconservative.com/articles/current/eu-oil-embargo-hungarian-diplomatic-victory/>>.

met first, regardless of the geopolitical situation now or in the future.”⁶⁹ Additionally, we might note that Hungary’s unwavering opposition to the oil embargo had wider implications too. While the EU has been considering similar embargoes on Russian natural gas and uranium, they haven’t been officially proposed to be included in the sanction packages so far – in part, due to wanting to avoid the same stalemate with Hungary during negotiations.⁷⁰

A national consultation – as a political instrument for democratically justifying foreign policy positions, as explained above – was used during Budapest’s diplomatic battles with the EU about energy sanctions too. The poll, launched in October 2022, revealed that Hungarian citizens overwhelmingly opposed EU-wide energy sanctions, with 97% of responders voting against them.⁷¹ While this number is outstanding, it seems in line with wider European trends, as a Századvég poll, conducted between October and December 2022, found that 59% of all Europeans think Russian energy imports should not be eliminated through sanctions, but phased out gradually as diversification moves ahead.⁷²

IV. Central European cooperation in pursuit of common interests

As demonstrated in the previous chapter, the pursuit of sovereignist interests at the EU level, for one as relatively small as Hungary, can rarely be realized without engaging in diplomatic battles and using tactical vetoes, however divisive the practice may be. However, as the examples

⁶⁹ Ibid.

⁷⁰ Also, most member states have already opted to quit Russian gas voluntarily. There’s no reason to negotiate a similarly loose embargo on gas if it would only serve to reinforce the current situation while failing to force others to comply.

⁷¹ Á. Bráder, *Hungarians Reject Energy Sanctions*, “Hungarian Conservative” [online: 16 II 2023], <<https://www.hungarianconservative.com/articles/current/hungarians-reject-energy-sanctions/>>.

⁷² *European public opinion: Instead of energy sanctions, diversification is needed*, “Századvég” [online: 17 II 2023], <<https://szazadveg.hu/en/2022/12/16/european-public-opinion-instead-of-energy-sanctions-diversification-is-needed~n3419>>.

clearly show, to achieve long-term results without compromise and the need to revisit the issue later, it is significantly easier for smaller member states to negotiate together, based on common interests in certain policy areas.

The integration history of Central Europe – and of the Visegrad Group, in particular – is full of episodes in which joint diplomatic efforts led to success. For instance, the V₄ was born out of the common desire of Central European nations to break free from the institutional remnants of the Soviet hegemony and to go through the steps of Euro-Atlantic integration together. Throughout the '90s and early 2000s, maintaining a common approach to Western integration in all international negotiations was crucial for the eventual success; many believe that Poland, Hungary, and the Czech Republic were among the first group of countries of the former Warsaw Pact to join both NATO and the European Union precisely because they presented a strong, unified front during their accession talks.⁷³ Furthermore, after the EU accession, the V₄ members' regional cooperation continued to grow, as the bloc decided to utilize its past experiences from the integration processes to engage in negotiations with third parties (mainly to build economic relations outside the EU).⁷⁴

However, what is relevant to the scope of this paper are instances of regional cooperation in face of challenges threatening V₄ member states' individual sovereignty. Thus, several observations can be made based on the three examples I looked at in the previous chapter – migration, rule-of-law, and Russian sanctions.

First, without any doubt, one of the Visegrad Group's most significant joint diplomatic successes was achieving that the European Union

⁷³ Slovakia, the fourth member of the V₄ did not join NATO in the first wave of enlargements into Eastern Europe in 1999, because the country previously experienced a temporary setback in its Euro-Atlantic aspirations under the premiership of Vladimír Mečiar, a politician with strong anti-Western orientation. With Mečiar's leave, however, Bratislava renewed its relationship with the V₄, which helped it join NATO in the second wave of enlargements and to join the EU together with the rest of the group in 2004.

⁷⁴ T. Orbán, *Thirty years of Visegrad – Summits, meetings, and themes of a Central European Cooperation*, [in:] *30 Years of the V₄*, ed. A. Bendarzewszkij, Danube Institute, Budapest 2021, pp. 11–16.

quit pursuing the compulsory resettlement quotas. Apart from numerous logistical problems, the primary factor playing toward the policy's eventual replacement with a voluntary scheme was the Central European countries' consistent opposition to it. It must be noted, that although Hungary and Poland played centre role in advocacy against open borders, the Czech and Slovak attitudes towards compulsory quotas were largely the same, which helped the bloc present a strong, unified stance in Brussels. The V4's position on migrations was formalized with the adoption of a joint declaration of security proposals during the Czech presidency of the group in 2015/16, which clearly set the objective to "preserve the voluntary nature of the EU measures."⁷⁵ With the eventual adoption of the "New Pact of Migration and Asylum", the Visegrad countries had finally turned from "policy takers to policy shapers" in the EU.⁷⁶

Regarding rule-of-law, the issue is more complicated. It is true that Hungary and Poland face very similar criticism in this regard, but there's very little room for cooperation as both countries are being attacked by the Commission individually. Furthermore, Prague and Bratislava, although criticized in the past, do not risk losing any funds over rule-of-law problems. And even though Warsaw and Budapest did, initially, protect each other in the Council by vetoing the rule-of-law mechanism together (especially trying to prevent it from being tied to the Covid-19 recovery funds at the end of 2020)⁷⁷, the decision to use qualified majority voting eventually rendered all opposition unavailing. With only two countries against the entire EU – and no common platform to challenge it – the rule-of-law concerns proved to be a much harder challenge than migration, forcing both Poland and Hungary to compromise.

Finally, with respect to the Russian invasion of Ukraine, Hungary was left alone with its pacifist position in Central Europe – both in terms of

⁷⁵ E. Bagoly, *30 years of cooperation: Aims and Successes of the Visegrad Group* [in:] *30 Years of the V4*, ed. A. Bendarzszevszkij, Danube Institute, Budapest 2021, p. 38.

⁷⁶ *Ibid.*, pp. 38–39.

⁷⁷ *Magyar-lengyel vétó: van egy kemény feltételünk a támogatásunkért cserébe*, "Portfolio" [online: 19 II 2023], <<https://www.portfolio.hu/unios-forrasok/20201126/magyar-lengyel-veto-van-egy-kemeny-feltetelunk-a-tamogatasunkert-cserebe-459186>>.

weapons shipments and sanctioning Russian energy (even though the Czech Republic did choose to profit from opt-outs from the oil embargo negotiated by Hungary), while all other V4 members stay firmly committed to the dominating position within the EU and NATO, supporting Ukraine with whatever it takes. As such, there is virtually no chance for Hungary to find an ally on this specific issue, which is unlikely to change, given how invested all parties are now, over one year into the invasion.

What's more, the different interpretation of the strategic, geopolitical necessities of this conflict⁷⁸ has driven a wedge between Hungary and the other V4 members, most prominently Poland, decreasing cooperation in *other* policy areas as well. This episode shows that if the primary interests of V4 member states are not aligned, there could be no common Central European approach anywhere, much less in Brussels. To quote PM Orbán once more:

It's always been clear that cooperation is difficult when geopolitics comes to the fore within the V4. If geopolitics isn't on the agenda, but national interests are, and if we fight for values in Brussels, then life in the V4 is easy, then it goes well: we stand up for our shared interests against, say, the Germans or the big states, and we have enough weight to negotiate, as our four countries represent more than 60 million people, and we act together. We've now entered a phase in which geopolitics has become the most important thing, and this is torturing the V4 – it's pulling at its seams.⁷⁹

As long as geopolitics remains at the forefront, it appears, there will be no efficient Central European cooperation on issues pertaining to the EU members' sovereignty, and definitely not on opposing sanctions on

⁷⁸ The differences between Poland and Hungary in this regard have complex reasons behind them, but largely come down to different historical experiences and, most importantly, different geographical positions. It is only natural that a country open to large-scale offensives through the plains of Eastern Europe will perceive the Russian threat differently than the other, hidden behind the Carpathian Mountains.

⁷⁹ *Panel discussion involving Prime Minister Viktor Orbán...*

Russia. Poland's own rule-of-law issue with the Commission threatening to withhold its recovery funds could, in theory, bring Budapest and Warsaw closer once more, but only after the Russian threat has diminished.

V. Conclusions

Throughout this study, I aimed to demonstrate a number of things. Firstly, because of certain provisions built-in from the very beginning, the European integration project was inherently federalistic in its approach and thus increasingly inclined to gradually limit the sovereignty of individual member states over time, and therefore makes the pursuit of interests that may not perfectly align with the bloc's significantly harder. Secondly, I argued that even though it is being portrayed as the greatest disruptive force within the European Union, the current Hungarian government can not be recognized as Eurosceptic in the term's classical sense, since it strongly supports and relies on EU membership, and its opposition is based on the distinction between two competing sets of values – one it rejects, and one wishes to keep.

Furthermore, through a set of policy examples – migration, rule-of-law, and energy sanctions in relation to the war in Ukraine – I demonstrated different means of political position in the EU that Hungary engaged in during the past decade to ensure the realization of its interests set against the majority EU position. Most of these disputes stem from the same conflict: the clash of traditional values and the liberal worldview (as well as, in the latter's case, geopolitical pragmatism), and in each, Hungary fought along democratically justified positions. The examples provided clearly show, that in sovereigntist conflicts between the EU institutions and individual member states, especially as relatively small as Hungary, contrarian interests cannot be pursued without the employment of tactical vetoes – however disruptive and damaging their nature in the long-term is – and at this phase of European integration, not even that promises a consistent rate of success.

Finally, I looked at the effect of the joint pursuit of the interests of several member states in sovereigntist debates. Each of the examined policy

debates provided Hungary with different outcomes, and the relative degree of success depended largely on the level of regional cooperation it was able to muster in each separate case. When the entire Visegrad bloc was able to cooperate toward the same end (opposing compulsory migrant resettlement quotas), the debate ended with a clear sovereigntist victory. When Hungary had only one partner (in the case of the EU's rule-of-law allegations), the EU found ways to circumvent its vetoes, forcing both countries to compromise. In relation to energy sanctions, however, in which case Hungary stands alone, its position is even harder to maintain, which increases its need to use vetoes, harms its relationship with others, and keeps the country in a constant state of negotiation.

Regardless of what is right and wrong in each question, through these examples I demonstrated that the "ever-closer" aspect of the European Union poses significant challenges for individual member states who wish to pursue sovereigntist policies, and that even without further deepening integration, true subsidiarity in EU decision-making has already started to erode. However, and somewhat paradoxically, the continuous opposition to these developments by sovereigntist member states will likely cause others in the European Union to push for deeper integration in the future (and thus taking away the instruments of protesting the very process), which would only prompt an endless series of conflicts – until either the concept of a federal Europe or the 'Europe of nations' prevails.

Slovakia: Assessment of the functioning of the Lisbon Treaty from a small state perspective

Abstract

Aim of this contribution is to assess the role and functioning of the Lisbon Treaty from Slovakia's perspective. Chapter starts with assessing the impact the Treaty of Lisbon had in the context of parliamentary politics in the EU. Here, one interesting puzzle emerges: while the Lisbon Treaty was initially drafted as a tool for strengthening the position of the national parliaments in EU politics, at the same time it has constitutionalized differentiated integration and institutionalized political powers of the European Council. Thus, paradoxically, by commencing differentiation and increasing political powers of the European Council and various Council formations, the Lisbon Treaty, dubbed as a Treaty of parliaments, augmented power asymmetries between the national legislatures and their respective executives.

In the following sections, the study examines the legal framework within which the Slovak Parliament (National Council of the Slovak Republic) participates in European politics. Since 2004, the Constitutional Act No. 397/2004 Coll. has been in force, which allows the Parliament to delegate a significant part of the aforementioned powers - in deciding on the position of the Slovak Republic on proposals that have a legally binding character and on issues related to the observance of the principle of subsidiarity - to the Committee for European Affairs. Although nominally, in the spirit of the aforementioned constitutional law, the NC of the Slovak Republic has a stronger position in European affairs than in the case of other Visegrad Group states, in practice it uses them relatively rarely. This results from the political system of the Slovak Republic, which is based on the principles of parliamentary democracy, i.e. the government reflects

the structure of a parliamentary majority. Despite the relatively low level of parliamentary involvement in European affairs, Members do not agree with proposals that would further concentrate decision-making in the hands of the Committee for European Affairs of the NC SR.

Keywords: Lisbon Treaty; EU; European Parliament; Slovak Republic; Committee for European Affairs; sovereignty

Introduction

The Lisbon Treaty represents a strong democratising tool for European transnational democracy as it enhances the scrutiny mechanisms of national parliaments and substantially requires their involvement in EU constitutional decision-making. The Treaty institutionalised the right to information, through which national parliaments can receive European Commission proposals for legislation before they enter the legislative pipeline. Additionally, through interparliamentary co-operation, the Lisbon Treaty establishes direct co-operation with the European Parliament. Stipulations in the Treaty concerning the national parliaments provide for their increased involvement in the decision-making process for EU legislative proposals and, furthermore, institutionalises and establishes their direct contact with the EU institutions. This strengthens the democratic control and scrutiny procedures over decisions taken at the EU level and interconnects national parliaments with the EU institutions. Nevertheless, with member states' increasing demand for differentiation, i.e. decision to participate in specific EU policies, which allows creation of flexible institutional arrangements vis-à-vis the EU and the participating member states, scrutiny mechanisms established in the Lisbon Treaty often fell short. Decision to participate in certain policies usually rests with the respective executives. This, contrary to the aim of the Lisbon Treaty to strengthen the roles of the national parliaments, creates power asymmetry in the EU governance system, when executives represented at the European Council and various Council formations gain strategic advantage over their respective national parliaments. This is the case also in countries with strong parliaments, such as Slovakia,

where National Council can bind the ministers or the Prime Minister to uphold certain position. However, the Committee for the EU affairs often serves as a formal talking club, rather than a platform for critical exchange of opinions about the EU matters.

Contribution starts first with assessing the role of the Lisbon Treaty in European parliamentary politics. Here we assess the main changes that the Treaty has brought about and effects it had on national parliaments in general. Second part focuses on Slovak parliament (also known as National Council of the Slovak Republic) and its engagement in the EU matters after the Lisbon (add). Conclusion follows.

National Parliaments in Differentiated Europe

In the complicated institutional set-up and governance system of today's EU, it is challenging to distinguish between traditional evolution of national parliaments in the wake of the integration process itself and changes that were influenced or caused by intervening factors such as Lisbon Treaty or differentiated integration. Clearly, the differences among the national parliaments with respect to their powers in EU matters varies greatly and 'Europeanisation' of national parliaments has been influenced by domestic deliberations and historical and political evolution in each country on an individual basis¹. Transformation of national parliaments in the wake of European integration is far from being uniform as countries adapt to Europeanisation differently. Even if we cannot assume creation of a unified European model through which national parliaments position themselves in EU matters, there are still some elements that they share as a result of the 'transnational learning process'². The national parliaments are an integral part of the coherent set of democratic institutions that are elected on free, egalitarian and

¹ See C. Heffler, V. Krelinger, O. Rozenberg, W. Wessels, *National Parliaments: Their Emerging Control over the European Council*, Notre Europe Jacques Delors Institute 2013 (Policy Paper, No. 89).

² J. Karlas, *Parliamentary control of EU affairs in Central and Eastern Europe: explaining the variation*, "Journal of European Public Policy" 2011, No.2, p. 258.

pluralistic principles, which guarantees a proportionate selection of people representing the will of the citizens. They are associated with a place where deliberation about state matters is taking place and are, therefore, an embodiment of the very idea of democracy and sovereignty. Although the EU Treaties presuppose active engagement of the national parliaments in the good and proper functioning of the Union, none of the EU institutions are directly accountable to any national parliament³ and neither are national parliaments formally recognised as EU institutions. Despite that, as a popularly elected democratic institution, they are inadmissible actors in transnational public debates and take an active role in EU policy making⁴. Their involvement in the ratification process of European treaties narrows the democratic deficit gap and makes them a legitimate category in EU studies⁵.

Initially, the scholarship on the role of national parliaments in EU affairs has revolved mainly around the various aspects of their formal role as a scrutiny control mechanism vis-à-vis their executives. However, even parliaments identified with strong policy-making powers, such as Slovakia, were unable to follow the influx of EU legislative acts or provide recommendations on EU-related policies, and they eventually gave in to their role as a monitor of EU's legislation which hampered initial attempts to scrutinise positions of respective national executives on the legislation⁶. On a similar note, Holzhaecker⁷ found that the leverage of

³ R. Alibrandi, *Towards political integration in Europe: the involvement of national parliaments in European Union politics and policy-making*, "Parliaments, Estates and Representation" 2018, Vol.38, No.2, pp. 227–238.

⁴ K. Auel, O. Rozenberg, A. Tacea, *Fighting Back? And, If So, How? Measuring Parliamentary Strength and Activity in EU Affairs*, [in:] *The Palgrave Handbook of National Parliaments and the European Union*, eds. C. Heffler, Ch. Neuhold, O. Rozenberg, J. Smith, Palgrave Macmillan, London 2015, pp. 60–93.

⁵ O. Rozenberg, C. Heffler, *Introduction*, [in:] *The Palgrave Handbook of National Parliaments...*, pp. 2–8.

⁶ See e.g., J. Pollak, P. Slominski, *Influencing EU politics? The case of the Austrian parliament*, "JCMS: Journal of Common Market Studies" 2003, Vol.41, No.4, pp. 707–729; A. Maurer, W. Wessels, *National parliaments on their ways to Europe. Losers or latecomers?* Nomos Verlag, Baden-Baden 2001.

⁷ R. Holzhaecker, *The power of opposition parliamentary party groups in European scrutiny*, "The Journal of Legislative Studies", 2005, Vol.11, No.3–4, pp. 428–445.

the opposition to hold the executive accountable is proportionate to its representation in the government, and is a relevant factor in terms of legitimacy in EU scrutiny. In the wake of 2008 global financial crisis, several studies have taken a closer look at the new formal powers and prerogatives developed in national parliaments to mitigate the rules regarding the budgetary discipline that have been increasingly influenced by the European Commission. Initial findings suggest that, once again, despite the existence of diverse practices of EU scrutiny control, there has been growing demand for more deliberations on EU matters from the side of the parliaments⁸ and also for greater involvement of European Affairs Committees⁹ which pressure the executives in the Councils deliberations to be held more accountable to their respective parliaments. As differentiated integration and states' engagement in a wide spectrum of different policy initiatives proliferated, the roles and position of national parliaments also altered. This is evident by the evolution of studies dedicated to the role of national parliaments that has moved beyond mere assessment of their formal strength in scrutinising EU policies and has called for more analytically informed analysis of parliamentary control¹⁰. Winzen's¹¹ recent overview of the institutional position of national parliaments shows their increasing policy specialisation, development of oversight instruments, greater interconnectedness with other parliaments and growth of specialised bureaucracies. Some of the oversight institutions in EU affairs have even developed special rights to more closely oversee decisions taken in the EU's economic

⁸ K. Auel, T. Raunio, *Debating the state of the union? Comparing parliamentary debates on EU issues in Finland, France, Germany and the United Kingdom*, "The Journal of Legislative Studies" 2014, Vol. 20, No.1, pp. 13–28.

⁹ C. Heffler, V. Kreilinger, O. Rozenberg, W. Wessels, *National Parliaments...*

¹⁰ See e.g. B. Crum, J. E. Fossum, *The Multilevel Parliamentary Field: a framework for theorizing representative democracy in the EU*, "European Political Science Review" 2009, Vol., No. 2, pp. 249–271, cf. K. Auel, C. Neuhold, *Multi-arena players in the making? Conceptualizing the role of national parliaments since the Lisbon Treaty*, "Journal of European Public Policy" 2017, Vol. 24, No. 10, pp. 1547–1561.

¹¹ T. Winzen, *The institutional position of national parliaments in the European Union: developments, explanations, effects*, "Journal of European Public Policy" 2021, pp. 1–15.

governance¹². This trend demonstrates that national parliaments are highly reactive and aware of the dynamics that are taking place at the EU level, even suggesting an ongoing attempt to become more salient actors in the decision-making processes of EU sector-specific policies, which have proliferated with increasing differentiation.

The Lisbon Paradox

The Lisbon Treaty plays an ambiguous role in the development of national parliaments and their respective rights to the engagement in European governance system. One of the reoccurring puzzles in the EU studies in general is to determine where to position the legislatures of the Member States in the EU decision-making processes and, with increasing differentiation, this has become even more challenging. Therefore, rather than examining the main advances in which the Lisbon Treaty has contributed to increase in the participation rights of the national parliaments in the EU governance system as isolated cases, it is appropriate to study these changes in context and in the perspective of recent political circumstances.

As it was already mentioned above, the Lisbon Treaty firstly institutionally empowered national parliamentary chambers in their activities to shape EU legislation with a promise to decrease the democratic deficit and increase the democratic legitimacy of the European integration process. More specifically, under the Lisbon Treaty the national parliaments are actively engaged in decision-making processes at the EU level and, as mentioned above, their task is to 'contribute actively to the good functioning of the Union' (TFEU, Art. 12). Engagement of national parliaments in EU legislation, and hence an increase in the democratic value of legislatures' participation in EU decision-making, as set out in the Lisbon Treaty consists of three main components: 1) right to information; 2) subsidiarity control; and 3) participation. National parliaments have the right to obtain *information* about all legislative drafts of the

¹² See T. Winzen, *The institutional...*, pp. 4–6.

Union. Under Protocol No. 1, this procedure ensures that the European Commission ‘directly informs the national parliament about its non-legislative and legislative proposals ... others actors with legislative powers send their draft legislative proposals to the national parliament’ (TFEU, Protocol No. 1). Protocol No. 2 institutionalises the application of the principles of *subsidiarity* and *proportionality*. The implementation of the Early Warning Mechanism (EWM) has enabled national parliaments to raise any concerns over subsidiarity infringements. Representatives of national parliaments have also gained the right to *participate* in future Treaty revisions, unless the European Council, which needs to obtain the consent of the European Parliament, decides that a change does not require a Convention method. The role of national parliaments is enhanced even further in cases where the passerelle clause is about to be enacted. The passerelle clause is a mechanism allowing a modification of the decision-making rules from unanimity to qualified majority voting, or a change from a special legislative procedure to an ordinary legislative procedure. In the case of the former this initiative represents a means to bypass unanimity in Council decisions, and in the case of the latter it enhances the role of the European Parliament and provides for greater transparency in supranational decision-making processes. In both cases, however, the non-opposition of the national parliaments is required. While EWM implies a veto power of national parliaments that is collective and relative, a veto against the passerelle is individual and absolute¹³. That is, it requires a veto from only one national parliament to abort the initiative. In this way, national parliaments become an ultimate ‘brake’ (possibly also against their own executives) in cases where they decide ‘to block a unanimous vote in the European Council to move towards qualified majority voting or towards co-decision with the European Parliament in a given policy area’¹⁴.

Second, the EU Treaties concurrently advanced differentiated integration which allows countries to participate in the process of European

¹³ P. Kiiver, *The national parliaments in the European Union: a critical view on EU constitution-building*, Kluwer Law International BV 2006, (Vol. 50).

¹⁴ P. Kiiver, *The national parliaments...*, 231.

integration at different depths and breadths. Consequences of new institutional arrangements related to differentiated integration, especially for democratic representation within the EU system of governance, have recently been studied more closely with regard to the sovereign debt crisis. Several studies assessing the measures taken in the EU during the economic crisis in the eurozone raised concerns about emerging democratic discrepancies in the EU's economic governance¹⁵. The eurozone crisis has essentially revealed inbuilt democratic deficiencies of integral differentiation, mainly because the intergovernmental bodies of the EU (i.e., the European Council and the Council) have been occupying the centre stage of political processes¹⁶. National parliaments rubbernecked the negotiation of crucial legislative proposals, such as the Fiscal Compact, because they do not possess any substantial powers to amend or review the agreements made by their respective governments¹⁷. Representing citizens who were impacted by the crisis the most, the national parliaments were in the process of negotiating economic emergencies in the position of bystanders which highlighted the ongoing 'executivization' of European politics¹⁸. Decision-making processes during the crisis not only underlined an asymmetrical relationship among the creditors and debtors within the eurozone but also revealed power asymmetries

¹⁵ V. Beneš, M. Braun, *An Ever-Closer Eurozone and Its Consequences for Differentiated Integration in Europe*, [in:] *Differentiated Integration in the EU: From the Inside Looking Out*, ed. S. Blockmans, Centre for European Policy Studies, Brussels 2014, pp. 12–25; A. Wonka, *The party politics of the Euro crisis in the German Bundestag: Frames, positions and salience*, "West European Politics" 2016, Vol.39, No.1, pp. 125–144; V. A. Schmidt, *The Eurozone's Crisis of Democratic Legitimacy. Can the EU Rebuild Public Trust and Support for European Economic Integration?*, Directorate General Economic and Financial Affairs (DG ECFIN), European Commission 2015, No. 015; Ch. Kreuder-Sonnen, *An authoritarian turn in Europe and European Studies?*, "Journal of European Public Policy" 2018, Vol.25, No. 3, pp. 452–464.

¹⁶ See U. Puetter, *Europe's deliberative intergovernmentalism: the role of the Council and European Council in EU economic governance*, "Journal of European Public Policy" 2012, Vol.19, No.2, pp. 161–178.

¹⁷ B. Crum, *Saving the Euro at the Cost of Democracy?*, "JCMS: Journal of Common Market Studies" 2013, vol. 51, No. 4, pp. 614–630.

¹⁸ J. Pollak, *Compounded Representation in the EU: No country for old parliaments?* [in:] *Political Representation in the European Union*, ed. S. Kröger, Routledge, London 2014, p. 32.

between the Member States' executive agents represented in both the European Council and the Council, and directly elected representatives of the citizens in the national parliaments.

Third, and closely connected to previous point, the intergovernmental decision-making refers mainly to the central role assumed by the European Council, whose executive powers were eventually institutionalised by the Lisbon Treaty. While formal division of powers between the European Council and Commission is clearly set out, the Council has overstepped its duties in establishing and defining the 'general political directions and priorities' (TEU, Art. 15). Indeed, the Council has progressively become the EU's legislative agenda setter¹⁹, by instituting detailed proposals and overseeing their implementation, despite the formal legislative monopoly of the Commission²⁰. The erosion of the Commission's traditional powers²¹ and the increasing political might of the Council have become prolific during the deliberations over crises that the EU has recently faced, where the powers have shifted towards the national executives and turned EU governance into what could be termed executive dominance. Concurrently, institutionalisation of the European Council's political powers by the Lisbon Treaty allowed it, to a great extent, to shape the institutional reform of the Economic Monetary Union in the wake of the crisis²². This has created a legitimacy gap between the European Council and various Council formations representing the executives in the EU political system and national parliaments in the Member States.

Thus, the 'Lisbon paradox' creates a situation where on the one hand the Lisbon Treaty has institutionalised democratic control mechanisms of the national parliaments in the European integration process. But on the other hand, due to its flexibility and ambiguity, the Treaty also has

¹⁹ *Linking inter- and intra-institutional change in the European Union*, eds. D. Naurin, A. Rasmussen, Routledge, London 2011.

²⁰ M. Dawson, F. De Witte, *Constitutional Balance in the EU after the Euro-Crisis*, "The Modern Law Review" 2013, Vol. 76, No. 5, pp. 830–831.

²¹ P. Ponzano, C. Hermanin, D. Corona, *The power of initiative of the European Commission: A progressive erosion?*, "Notre Europe" 2012, No. 89.

²² E. Bressanelli, N. Chelotti, *The shadow of the European Council. Understanding legislation on economic governance*, "Journal of European Integration" 2016, Vol 38, No. 5, pp. 511–525.

debilitated national parliaments' control mechanisms vis-à-vis their executives, mainly in flexible arrangements and policy fields that are not applied to all its members uniformly, which has reinforced the role of the Council and to an even greater extent that of the European Council. Possible democratic discrepancies related to this development and questions surrounding the role of Slovak National Council (Slovak parliament) in the EU affairs are discussed in the next sections.

The legal framework of the parliamentary dimension of Slovakia's European Policy

According to the *Constitution of the Slovak Republic*²³, the National Council of the Slovak Republic (NC SR) is the sole constitutional and legislative body of the Slovak Republic (Art. 72), but, besides the legislative power, it executes the power of scrutiny, power to create state bodies as well as in matters of domestic and foreign policy. Parliament has powers to approve the treaties on a union of the Slovak Republic with other states and the repudiation of such treaties by a constitutional law (Art. 86b), before ratification to approve international treaties on human rights and fundamental freedoms, international political treaties, international treaties of military nature, international treaties from which a membership of the Slovak Republic in international organizations arises, international economic treaties of general nature, international treaties for whose exercise a law is necessary, and international treaties which directly confer rights or impose duties on natural persons or legal persons, and at the same time to decide on whether they are international treaties according to Art. 7 para. 5 (Art. 86d), debate on basic issues relating to domestic, international, economic, social and other policies (Art. 86h), declare war in the event of an act of aggression by parties hostile to the Slovak Republic or in the event that obligations

²³ *Constitution of the Slovak Republic*. Act No. 460/1992 Coll. (as of 1 April 2023). English translation available at President of the Slovak Republic – official website [accessed: April 12, 2023]: <<https://www.prezident.sk/upload-files/46422.pdf>>.

under international joint defense treaties must be fulfilled, and after the end of war on concluding the peace (Art. 86j), give consent for dispatching the military forces outside of the territory of the Slovak Republic if it regards performance of obligations resulting from international treaties on joint defense against attack for a maximum period of 60 days (Art. 86k) and approve the presence of foreign military forces on the territory of the Slovak Republic (Art. 86l).

NC SR, however, also indirectly influences foreign policy by approving the Government's Manifesto and deciding on a vote of confidence or no confidence in the Government. In this respect, the NC SR has key instruments and formally can shape country's foreign and European policy. Although the declarations of the National Assembly of the Slovak Republic do not have a legally binding character, they convey the opinion of the majority of MPs and thus indicate the political direction of the country. An apt example of this is the NC declaration on the Integration of the Slovak Republic into the European Union, adopted on 1 December 1998. It subscribed to "the values that gave birth to the idea of European integration and on which the European Union is based" and stated that membership is in the interest of the majority of Slovak citizens and is an important prerequisite for long-term stability in Central Europe²⁴.

In the post-accession period (from 2004 onward), Parliament's role in European affairs is regulated by the *Constitutional Act No. 397/2004 Coll. on cooperation between the National Council of the Slovak Republic and the Government of the Slovak Republic in matters concerning the European Union*²⁵ and in the *Rules of Procedure of the National Council*

²⁴ *Declaration of the National Council of the Slovak Republic on the integration of the Slovak Republic in the European Union. National Council of the Slovak Republic – official website* (December 1, 1998) [accessed: April 12, 2023]: <https://www.nrsr.sk/web/Static/sk-SK/NRSR/Doc/v_k-integracii-do-eu-19981201.htm>.

²⁵ *Constitutional Act No. 397/2004 Coll. on cooperation between the National Council of the Slovak Republic and the Government of the Slovak Republic in matters concerning the European Union* (as of April 1, 2023). English translation available at National Council of the Slovak Republic – official website [accessed: April 12, 2023]: <https://www.nrsr.sk/web/Static/en-US/NRSR/constitutional_law_on_cooperation.pdf>.

of the Slovak Republic (hereinafter referred to as “Rules of Procedure”)²⁶. According to the Act No. 397/2004 Coll., the Government is obliged to submit to the National Assembly proposals for legally binding acts and other European Community and European Union acts that will be the subject of negotiations between the representatives of the governments of the EU Member States. The law also obliges the government to inform the SRs on other matters related to the SRs’ membership of the EU.

The Government of the Slovak Republic or an authorized member of the Government shall submit to the NC SR drafts of legally binding acts and other acts of the European Union to be discussed by representatives of the Governments of the Member States of the European Union and shall inform the National Council on other issues concerning the Slovak Republic’s membership in the European Union. The National Council has been provided with these proposals not only by the Government but also in so-called Barroso initiative they are sent directly to national parliaments by their publication in the so-called *European Affairs Tracking System*²⁷. Beside that the Government shall submit to the National Council a draft of the position of the Slovak Republic on legally binding acts and other acts of the European Union, together with an assessment of their impact on the Slovak Republic. The law allows for this activity to be entrusted to the relevant committee, which is the Committee for European Affairs of the National Council of the Slovak Republic. This was done on the basis of the *Rules of Procedure* (§58 a). The decision-making has thus been transferred to the Bureau, which, although it reflects the structure of the Parliament, as it is created on the principle of proportional representation of political forces, is considerably smaller, as it consists of 15 members (legislative term 2020 – 2023). However, unlike the other parliamentary committees, all its members have substitutes

²⁶ *Rules of Procedure of the National Council of the Slovak Republic* (as of April 1, 2023). Act No. 350/1996 Coll. English translation available at National Council of the Slovak Republic – official website [accessed: April 12, 2023]: <https://www.nrsr.sk/web/Static/en-US/NRSR/rules_of_procedure_20230101.pdf>.

²⁷ *European Affairs Tracking System*. National Council of the Slovak Republic – official website (n.d.) [accessed: April 12, 2023]: <<https://www.nrsr.sk/ssez/>>.

alternates and the system of proportional representation is directly required by the Rules of Procedure²⁸.

From a legal point of view, the Committee's mandate is relatively strong, since under *Constitutional Act No. 397/2004 Coll.* the decision of the Parliament is binding on the members of the Government. The government member may deviate from the position of the Slovak Republic only when inevitably necessary and with due consideration for the interest of the Slovak Republic; in such case the member of the Government shall without delay inform the National Council and explain the reasons for taking this action. If the National Council fails to express its opinion on a position proposal of the Slovak Republic within two weeks of its submission, an authorized member of the Government shall be bound by the (original) position proposal of the Slovak Republic. If the National Council approves a position proposal of the Slovak Republic, a member of the Government representing the Slovak Republic in an EU body is bound by this position. The possibility not to express an opinion on the position proposal ("Principle of Silent Procedure") means to acknowledge the position, resp. "silently" accept it without any discussion or explicit approval. If the National Council fails to approve a proposed position of the Slovak Republic without approving another related position simultaneously, an authorized member of the Government shall be bound by the (original) position proposal of the Slovak Republic. This principle is analogous to the so-called "Principle of Constructive Disagreement"²⁹. As V. Bartovic stressed, the Act followed the Danish model of the strong parliament with decisive powers, although leaving room for manoeuvre to the government in the negotiations at the EU level³⁰. In the management of European affairs, the Committee for European Affairs also has a central position vis-à-vis the other

²⁸ V. Bartovic, *National Council of the Slovak Republic in the EU Agenda: Giant in Theory, Dwarf in Practice*, [in:] D. Král, V. Bartovic, *The Czech and the Slovak Parliaments after the Lisbon Treaty*, Europeum, Prague 2010, p. 57.

²⁹ *Scope of the NC SR in EU Affairs*. National Council of the Slovak Republic - official website, n.d. [accessed: April 12, 2023]: <<https://www.nrsr.sk/web/?sid=nrsr/nrsreu/posobnost>>.

³⁰ V. Bartovic, *National Council...*, p. 55.

sectoral committees of the Parliament. The committees shall submit draft opinions concerning proposals for legally binding acts and other acts of the European Communities and the European Union³¹. Although it can forward an EU document to a sectoral committee for scrutiny, the final decision is taken by the European Affairs Committee³².

According to the *Constitutional Act No. 397/2004 Coll.*, the National Council of the Slovak Republic may also approve the opinions of the Slovak Republic on other European Union matters if requested to do so by the Government or at least one-fifth of the members of the National Council of the Slovak Republic. The *Rules of Procedure* (Art. 58b) also allow the Parliament to issue a compliance assessment of the drafts of EU legislative acts with the principle of subsidiarity, including the approving of reasoned positions. The Committee for European Affairs or one-fifth of Members may request in writing that the National Council pass the resolution on Subsidiarity Principle Infringement Action by a legislative act of the European Union (hereinafter referred to as “action draft”). The action draft shall contain the exact wording of the respective action subject to the resolution of the National Council. According to the official interpretation by the NC SR, Slovak model represents the so-called “mixed system of monitoring the EU affairs within the national parliament”³³. However, the nominations for different EU positions remain the single responsibility of the Government. The European Affairs Committee has the right only to discuss them, not to approve³⁴. The relevant constitutional law thus reflects the constitutional definition of the role of parliament, which is characteristic of parliamentary republics.

According to the *Rules of Procedure*, the meetings of the European Affairs Committee shall be convened by the Chair of the Committee as necessary. An authorized member of the Government has a duty to

³¹ *Rules of Procedure...*, 1996.

³² K. Borońska-Hryniewiecka, J. Grinc, *Actions Speak Louder Than Words? The Untapped Potential of V4 Parliaments in EU Affairs*, “East European Politics and Societies and Culture” 2022, Vol. 36, No. 3, pp. 786.

³³ *Scope of the NC SR...*

³⁴ V. Bartovic, *National Council...*, p. 48.

attend the meetings of the European Affairs Committee and inform its of the drafts of legally binding acts and other acts of the European Communities and the European Union and provide information on the results of the discussions of those bodies of which she/he is a member. Members of European Parliament elected in the territory of the Slovak Republic may participate in a meeting of the Committee for European Affairs and may speak on the matters discussed. The Government or an authorized member of the Government shall submit to the Committee for European Affairs without delay the drafts of legally binding acts and other acts of the European Communities and the European Union which are to be discussed by the representatives of governments of European Union member states. The Government or an authorized member of the Government shall, no later than three weeks after having received the draft of a legally binding act as mentioned above, submit to the Committee for European Affairs a preliminary opinion on that draft. The preliminary opinion shall contain, in particular, brief information on the content and objectives of the draft, the type and time schedule of the decision-making procedure in the European Communities and European Union, on the compliance of the draft with the principle of subsidiarity, and an evaluation of the impact of the draft on the Slovak Republic with respect to political, legislative, economic, social and environmental aspects. The Government or an authorized member of the Government shall, sufficiently in advance, submit to the European Affairs Committee the proposed opinion of the Slovak Republic on the proposals. A member of the Government may ask the Committee for European Affairs to change the position of the Slovak Republic. If a member of the Government deviates from the opinion of the Committee she/he shall forthwith provide the Committee for European Affairs an explanation and justification for such action. The Government shall provide for regular notification of the Committee for European Affairs by members of the Government serving in bodies of the European Union, of all topical issues discussed in those bodies. Unless resolved otherwise by the NC SR, by the end of March of each year the Government shall submit to the NC SR a report on matters related to the membership of the Slovak Republic in the European Union for the preceding calendar

year. The Committee for European Affairs may at any time request that the Government or an authorized member of the Government submit reports, information, justifications or explanations of any matters related to the membership of the Slovak Republic in the European Union.

According to Borońska-Hryniewiecka & Grinc³⁵, such a definition of the competences of Committee for European Affairs implies that compared to other parliaments of the Visegrad Group countries, the Slovak government has „the narrowest room for manoeuvre“, as the Committee for European Affairs may even replace the government’s position with its own. Formally, the Slovak Parliament is thus in a stronger position than in other Visegrad Group countries³⁶. This correlates also with earlier findings, that cast Slovak Parliament to be from their formal institutional position to be considered as a “strong” parliament³⁷. In practice, however, issues related to European integration are not among the priority topics on the agenda of the plenary sessions of the Slovak Parliament or its committees. The vast majority of issues related to EU issues are debated in the Committee for European Affairs and it is not taken to the plenary³⁸. In order to cover the wide spectrum of EU agenda, each member of the Committee for European Affairs is simultaneously a member of another parliamentary committee. The work of the committee is facilitated by the Chancellery of NCSR, which includes the Department for European Affairs, however this department was traditionally understaffed³⁹. In 2022, Freedom and Solidarity MEPs proposed strengthening the powers of the Committee for European Affairs, which would allow the Committee to be empowered to take opinions also on draft EU documents that are not legally binding. This proposal, which could thus lead to

³⁵ K. Borońska-Hryniewiecka, J. Grinc, *Actions Speak...*

³⁶ K. Borońska-Hryniewiecka, J. Grinc, *Actions Speak...*, p. 785.

³⁷ See at J. Karlas, *Parliamentary control of EU affairs...*; K. Szalay, *Scrutiny of EU affairs in the national parliaments of the new member states-comparative analysis*, Hungarian National Assembly 2005.

³⁸ A. Figulová, *The Slovak Parliament and EU Affairs: In Need of a Wake-Up Call*, [in:] Heftrler, C., Neuhold, Ch., Rozenberg, O., & Smith, J. (eds) *The Palgrave Handbook of National Parliaments...*, pp. 643.

³⁹ V. Bartovic, *National Council...*, pp. 58–59.

a limitation of the plenary of the Parliament's participation in European affairs, was rejected by the MPs of the NC SR⁴⁰.

Although nominally the NC SR has strong powers, it has issued only 7 reasoned opinions in 2011–2020. It has only occasionally initiated the possibility to comment on the substantive content of legislative proposals under the political dialogue mechanism offered by the European Commission to national parliaments. In 2011–2020, NC SR made 18 contributions in the framework of the political dialogue mechanism with the European Commission or the European Parliament⁴¹. The reports that the Committee on European Affairs is required to submit to Parliament each year show that only a small proportion of draft legally binding EU documents are referred by the Committee on EU Affairs to other committees for consideration. In 2020, this was 21 out of 721 proposals, in 2021 only 10 out of 762. Similarly, in the previous parliamentary term (2016–2020) the number was not much higher (13 out of 525 proposals in 2016–2017 and 72 out of 732 proposals in 2018). This is not even 10 per cent of all proposals for legally binding documents submitted by the European Commission.

Although the Parliament is supposed to discuss the report on the activities of the Committee for European Affairs every year, e.g. for 2019 no report was submitted at all, perhaps due to the end of the Parliament's term in February 2020, and a joint report was produced for 2016 and 2017⁴². This is also indicative of the low attention Parliament paid to the European agenda. By comparison, there have been two elected parliamentary terms during which two governing coalitions have been in power, and after the February 2020 parliamentary elections, no party that was part of the previous governing coalition is? part of the new governing coalition.

⁴⁰ *Parlament neschválil novelu ústavného zákona...*, “DenníkN”, November 8, 2022, [accessed: April 12, 2023]: <<https://dennikn.sk/minuta/3097137?ref=mwat>>.

⁴¹ K. Borońska-Hryniewiecka, J. Grinc, *Actions Speak...*, p. 791, *IPEX - platform for the mutual exchange of information between the national Parliaments and the European Parliament* [accessed: April 12, 2023]: <<https://ipexl.europarl.europa.eu/IPEXL-WEB/>>.

⁴² *Reports on the activities of the Committee for European Affairs of the National Council of the Slovak Republic, 2016–2022*. National Council of the Slovak Republic – official website [accessed: April 12, 2023]: <<https://www.nrsr.sk/web/>>.

Slovakia in the debate on the future of the EU

One of the explanations for the introduction of a formally strong parliamentary role in European integration issues may, paradoxically, be the result of the generally positive attitude of Slovak political elites towards European integration and the situation Slovakia found itself in during the pre-accession period. Particularly in the pre-accession period, Slovakia was one of the candidate states that presented the most Euro-enthusiastic positions. In 1994–1998, authoritarian tendencies in the government of Vladimír Mečiar and his rapprochement with the Russian Federation on security issues caused Slovakia to be excluded from the first wave of NATO enlargement during the Madrid summit in 1997⁴³. Similarly, at the 1997 European Council in Luxembourg, Slovakia was not invited to join the pre-accession negotiations with the EU, unlike Czech Republic, Poland, Hungary, Slovenia and Estonia. The subsequent parliamentary elections in 1998 brought about a radical change in the governing coalition formed by pro-European and pro-Western center-right and center-left parties. The new government defined as a strategic objective to overcome the integration deficit, especially in relation to the Czech Republic, Poland and Hungary, which was to be achieved through a program of ambitious reforms and intensive adoption of the *Acquis Communautaire*.

Integration into the Western alliances, mainly NATO and the European Union (at that time European Communities) has also become the subject of consensus among most political forces and citizens. This was confirmed by the results of the 2003 EU-accession referendum, in which membership was supported by 92.46 per cent of the participating voters⁴⁴. This was the highest compared to the other Visegrad Group countries

⁴³ A. Duleba, *The blind pragmatism of Slovak Eastern policy*, RC SFP, Bratislava 1996; J. Marušiak, *Slovakia's Eastern policy – from the Trojan horse of Russia to "Eastern multivectoralism"*, "International Issues & Slovak Foreign Policy Affairs" 2013, Vol. XII, No. 1–2, pp. 42–70.

⁴⁴ *Results of voting of participating citizens: relative data In Referendum on Accession of the Slovak Republic in the European Union*. Statistical Office of the Slovak Republic – official website, 2003: [accessed: April 12, 2023]: <https://volby.statistics.sk/ref/ref2003/webdata/en/graf/graf3_a.htm>.

(Hungary - 83.7 per cent; Poland - 77.5 per cent; Czech Republic - 77.3 per cent)⁴⁵. On the other hand, in the case of Slovakia, the political discourse has only to a limited extent addressed specific aspects of the integration process or discussions on the future of the EU. The focus has been on meeting the conditions for accession as quickly as possible. The political parties themselves have not paid much attention to European integration issues, nor have they built up their own expertise in this area. In rare cases, when elites discussed the necessity to integrate Slovakia into the EU/EC with the public, they were focusing on social and economic benefits that integration would bring, omitting the need to commit also to the values that membership actually entails. Even after almost two decades since EU accession, the situation in this area has not changed, and may even have worsened, given that a large number of political actors do not pay attention to building regional and local structures and professional capacities that would facilitate membership benefits to the wide publics. Similarly, Parliament does not have sufficient professional capacity. Therefore, this agenda remains primarily the responsibility of the executive.

It was only after 2002, when the European Council summit in Copenhagen decided to admit 10 new members from Eastern and Central Europe including Slovakia, that a turning point in the debate on the future of the EU could be observed. The former Euro-enthusiastic discourse was replaced by a soft sovereigntist rhetoric, which was also adopted by the parties of the then ruling coalition of center-right parties. However, this rhetoric did not find expression in concrete political programs or in proposals for the institutional arrangement of relations between Slovakia and the EU institutions.

In March 2002, the President of the Slovak Republic, Rudolf Schuster, described the federal organization of Europe as advantageous for Slovakia. However, Prime Minister Mikuláš Dzurinda and Slovak Foreign Minister Eduard Kukan spoke at the same time of strengthening the community principle and of respecting the principle of subsidiarity,

⁴⁵ M. Del Monte, *Referendums on EU issues. Fostering civic engagement*, European Parliament, Brussels 2022, p. 18.

according to which European institutions should deal “exclusively with issues that are meaningful and effective to be dealt with at this level”⁴⁶. Federalist solutions were also rejected by the Slovak government representation during the discussions on the EU Constitutional Treaty. Advocating that the first article of the draft EU Constitutional Treaty should not contain the statement that member states should exercise certain powers on a federal basis, Slovak representatives advocated the use of the term “constitutional treaty” instead of “EU constitution.”

As a result, the principle of a “Europe of nation states” has become a subject of consensus at the level of political elites, which was confirmed by the *Medium-term Strategy of the Foreign Policy of the Slovak Republic until 2015*, approved by the National Council of the Slovak Republic in December 2004⁴⁷. However, the reluctant attitude towards the EU Constitutional Treaty, which eventually resulted in the paralysis of the ratification process, did not change the fact that Slovakia was in most cases among those states that either actively supported the process of deepening European integration or at least did not slow it down. The declared principle of a “Europe of nation states” did not prevent the Slovak representation from supporting the adoption of the euro from 2009, thus Slovakia renounced one of the important attributes of national statehood. As a member of the euro area, it has also become the most integrated state of the Visegrad Group, as the Czech Republic, Poland and Hungary have not introduced the EU single currency and have not announced their intention to do so by March 2023.

The combination of elements of criticism towards several aspects of European integration and the application of technocratic approaches in practice has become a characteristic approach not only for the center-right government of Mikuláš Dzurinda (Slovak Democratic and Christian Union - Democratic Party, 1998–2006), but also for the new government that came in after the 2006 elections and the following 12

⁴⁶ V. Bilčík, A. Világi, *Slovakia and the limits of European integration*, IDM, Vienna 2007, pp. 11–13..

⁴⁷ *Medium-term Strategy of the Foreign Policy of the Slovak Republic until 2015*. National Council of the Slovak Republic – official website, 2004 [accessed: April 12, 2023]: <<https://www.nrsr.sk/web/dynamic/Download.aspx?DocID=189217>>.

years (with the exception of a short break in 2010–2012, when a coalition of center-right parties was formed, led by Prime Minister Iveta Radičová). Governments dominated by Smer-Social Democracy, led by Robert Fico (2006–2010 and 2012–2018) and then by Peter Pellegrini (2018–2020), have continued a largely technocratic approach to European affairs. The discrepancies between the often Eurosceptic rhetoric for the purposes of internal political discourse and the fundamentally different practice on the floor of the European institutions and in the implementation of specific European policies were manifested, for example, in the statements of R. Fico about the need to join the future “core of the European Union”, although he never specified what the essence of the said core should be, and, on the contrary, the negative definition of himself towards “Brussels” in the programmatic plane, when he claimed that his party should represent “Slovak, not Brussels social democracy”⁴⁸. Similarly, the new governing coalition that took office in 2020 prioritized cooperation within the EU, which it preferred to the format of the Visegrad Group.

European affairs in the plenary of the National Council of the Slovak Republic

The work of the European Affairs Committee, which rarely takes a critical stance towards government policy, indicates that there is a consensus on most issues related to EU affairs in the Slovak political scene. The specific powers of this body, which is also referred to as a “little parliament”⁴⁹ because of the way it is created, mean that only a small part of the agenda becomes the subject of debate with wider public participation or even the plenary of the parliament. As a rule, these are politically sensitive topics

⁴⁸ Robert Fico: *Chceme opäť vyhrať voľby, aj keď sme v ére antipolitiky. Smer-SD political party – official website*, 2017 [accessed: April 12, 2023]: <<https://www.strana-smer.sk/o-nas/snemy/post/snem-martin-2017>>; J. Marušiak, ‘Slovak, not Brussels Social Democracy’. *Europeanization/De-Europeanization and the Ideological Development of Smer-SD Before 2020 Parliamentary Elections in Slovakia*, “*Politologický časopis – Czech Journal of Political Science*”, 2021, Vol. 28, No. 1, pp. 37–58.

⁴⁹ V. Bartovic, *National Council...*, pp. 57, 61.

which, in many cases, became the subject of the agenda of the Slovak political elites even before the adoption of the Lisbon Treaty.

These include, for example, Slovakia's position on the regulation of so-called reproductive rights. Even in the pre-accession period, in 2002, the NC SR adopted the Declaration on the Sovereignty of EU Member States and States Candidates for EU Membership in Cultural and Ethical Matters, submitted at the end of 2001 by the Christian Democratic Movement (KDH) MPs. The debate on this proposal, which argued in favor of leaving competence in matters of reproductive behavior in the hands of nation states, was conducted in a dispute between the conservative right on the one hand and liberal and left-leaning political forces on the other⁵⁰.

Above mentioned declaration didn't serve as a one-time document. It was also referred to by the initiators of the declaration, adopted in the National Assembly of the Slovak Republic in response to the European Parliament resolution on growing hate crimes against LGBTIQ+ people across Europe in light of the recent homophobic murder in Slovakia adopted on 20 October 2022 (2022/2894(RSP)) and to the Mission report following the LIBE delegation to Slovakia (15–17 December 2022) from 27 January 2023⁵¹. The initiators of the NC SR statement, OĽaNO MPs Anna Záborská and Anna Andrejiová, called the European Parliament's resolution reacting to the homophobic murder in the Bratislava LGBT bar "Tepláreň" on 12 October 2022, accused the European Parliament of violating the principle of subsidiarity, overstepping its competences and "disrespecting the sovereignty of the Slovak Republic". The declaration was supported by the majority of MPs, members of the government and

⁵⁰ *Declaration of the National Council of the Slovak Republic on the Sovereignty of European Union Member States and European Union Candidate Countries in Cultural and Ethical Issues*, National Council of the Slovak Republic – official website, 2002 [accessed: April 12, 2023]: <<http://www.nrsr.sk/web/Default.aspx?sid=schodze/hlasovanie/hlasklub&ID=8730>>.

⁵¹ *Motion for a resolution on growing hate crimes against LGBTIQ+ people across Europe in light of the recent homophobic murder in Slovakia (2022/2894(RSP))*. European Parliament, October 18, 2022; *Mission report following the LIBE delegation to Slovakia – 15–17 December 2022*. CR(2023)740573. European Parliament, Committee on Civil Liberties, Justice and Home Affairs, January 27, 2023.

opposition factions⁵². At the same time, the Committee for European Affairs revoked its original resolution agreeing to a draft regulation on the recognition of parentage in EU Member States where children have same-sex parents on their birth certificates⁵³.

In October 2004, the Slovak Parliament also contributed to a change in the attitude of the Slovak government towards the question of Turkey's possible EU membership, when it pushed through the demand that the pre-accession negotiations with this country should be conducted with an "open end", with the decision on future membership considering "the essentiality of the criteria fulfilment"⁵⁴. This decision was taken under pressure from conservative forces, which had at least a restrained attitude towards Turkey's EU membership, and other Slovak governments have subsequently acted along the same lines⁵⁵.

The NC SR also entered the European debate in connection with its position on the issue of Kosovo's independence after the publication of the so-called Ahtisaari Plan, which envisaged the unilateral declaration of full independence of Kosovo, i.e. without Serbia's consent. The ruling coalition, also under pressure from the opposition (in particular the leader of the strongest opposition party SDKÚ-DS, M. Dzurinda), opposed this plan⁵⁶. Slovak Prime Minister R. Fico described the effort to unilaterally declare Kosovo's independence under international protection as a "dictate" and warned against "uncontrollable movements

⁵² *Národná rada prijala „antiuznesenie“...*, "DenníkN", March 28, 2023, [accessed: April 12, 2023]: <<https://dennikn.sk/minuta/3303186/>>.

⁵³ *Európsky výbor zrušil pôvodné uznesenie o uznávaní rodičovstva*, Teraz.sk, March 23, 2023, [accessed: April 12, 2023]: <<https://www.teraz.sk/slovensko/nrsr-europsky-vybor-zrusil-povodne/702946-clanok.html>>.

⁵⁴ V. Bartovic, *National Council...*, p. 61.

⁵⁵ L. Yar, *EÚ a Turecko: Sága nenaplnených sľubov...*, "Euractiv.sk", July 23, 2020, [accessed: April 12, 2023]: <<https://euractiv.sk/section/vychodna-politika/linksdossier/eu-a-turecko-saga-nenaplnenych-slubov/>>; T. Sabadoš *Cesta Turecka do Európskej únie*, "Najpravo.sk", March 8, 2023, [accessed: April 12, 2023]: <<https://www.najpravo.sk/clanky/cesta-turecka-do-europskej-unie.html>>.

⁵⁶ K. Lezová, *Slovak Parliament's Involvement in the EU Agenda: Kosovo's Independence and the Policy of Non-recognition*, [in:] *Reviewing European Union Accession. Unexpected Results, Spillover Effects, and Externalities*, eds. T. Hashimoto, T. M. Rhimes, Brill Nijhoff, Leiden/Boston: Brill Nijhoff 2018, pp. 259–273.

in other countries”⁵⁷. In its statement, the NC SR stated that “the full and unrestricted independence of Kosovo is not in the interest of the stability of a region that has long been exposed to tragedies and crises”, claiming that the future of Kosovo must be in accordance with Serbia’s legitimate requirements, the UN Charter, and other international legal norms⁵⁸. Slovakia, together with Romania, Spain, Greece and Cyprus, thus prevented the adoption of a common EU position on this issue, which would have required a unanimous vote of the member states. Another example of the Slovak Parliament’s involvement was the issue of Slovakia’s position on the refugee crisis in 2015, when the Parliament supported the Slovak government’s opposition to the introduction of the so-called refugee quotas postulated by the European Commission. The Parliament linked this issue not only to security aspects, but also to respect for the principle of the sovereignty of the Member States and identity issues, calling for “taking into account the cultural, historical and socio-economic specificities of the individual Member States”⁵⁹. One of the rare cases of conflict between parliamentary committees and the Committee for European Affairs of the NC SR was related to the political mobilisation against illegal migration. In connection with the suspension of the visa requirement for Ukrainian citizens in 2016, the Defense and Security Committee failed to approve the proposal with none of its members voting in favor of it. The argument of its chairman Milan Krajniak from the anti-immigrant party We Are Family was the fear of illegal migrants on the territory of Ukraine who could come to Slovakia after obtaining a fake Ukrainian passport. Krajniak also accused

⁵⁷ *Fico o Kosove: odmietam diktát*, “Hospodárske noviny”, 12 February 2007, [accessed: April 12, 2023]: <<https://hnonline.sk/slovensko/124559-fico-o-kosove-odmietam-diktat>>.

⁵⁸ *Vyhlásenie Národnej rady Slovenskej republiky k riešeniu budúceho štatútu srbskej provincie Kosovo*, National Council of the Slovak Republic – official website, 28 March 2007, [accessed: April 12, 2023]: <https://www.nrsr.sk/web/Static/sk-SK/NRSR/Doc/v_ku-kosovu309-20070328.rtf>.

⁵⁹ *Resolution of the National Council of the Slovak Republic on the Declaration of the National Council of the Slovak Republic on the Resolution of Migration Challenges that European Union is Currently Facing (6/24/2015)*. National Council of the Slovak Republic – official website, 2015 [accessed: April 12, 2023]: <https://www.nrsr.sk/web/Static/sk-SK/NRSR/Doc/v_migracne-vyzvy_20150624.rtf>.

the government of betraying Slovakia's national interests. However, the position of the Defense and Security Committee could not change Slovakia's position on this issue, as it had only an advisory vote on the matter⁶⁰. Issues of state sovereignty, preservation of national identity, uncontrolled migration and the inviolability of borders are characteristic themes of the foreign policy of small states, as P. Bajda points out⁶¹, and these themes are also reflected in the European agenda on the floor of the Slovak Parliament. Moreover, the importance of the above issues is reinforced by the fact that Slovakia is one of the relatively young states and cannot rely on a strong state-law tradition from the past.

Although, as we have already mentioned earlier, European affairs are not among the primary topics of the internal political discourse, in 2011 it was the different attitude of political parties to the increase of funds allocated in the European Financial Stability Facility (EFSF), which the government of Iveta Radičová linked to the vote of confidence. The Freedom and Solidarity party, led by Richard Sulík, refused to support the move, which resulted in the collapse of the ruling coalition of centre-right parties and early parliamentary elections in 2012. However, this vote was more the result of internal disagreements within the ruling coalition than the negative attitude of the parliamentary majority towards Slovakia's involvement in the European Financial Stability Facility, as evidenced by the fact that after the collapse of the ruling coalition, the proposal passed in Parliament with the support of some members of the then opposition⁶². The above mentioned policies pertain to what Genschel and Jachtenfuchs⁶³ call "state core powers", or the policies that are close to national sovereignty, which with considerable degree

⁶⁰ J. Marušiak, *Bilateral and multilateral context of the Slovakia's eastern policy 2016*, [in:] *Yearbook of Slovakia's Foreign Policy 2016*, ed. P. Brezáni, RC SFPA, Bratislava 2017, p. 111.

⁶¹ P. Bajda, *Małe państwo europejskie na arenie międzynarodowej. Polityka zagraniczna Republiki Słowackiej w latach 1993–2016*, Ośrodek Myśli Politycznej/Wydawnictwo Naukowe UKSW, Kraków/Warszawa 2018, p. 58.

⁶² A. Figulová, *The Slovak Parliament and EU Affairs*, p. 636.

⁶³ P. Genschel, M. Jachtenfuchs, *More integration, less federation: the European integration of core state powers*, "Journal of European Public Policy" 2016, vol.23, No. 1, pp. 42–59.

of politicization might create controversies and societal cleavages on the benefits of EU membership. This is to a great extent manifested also in Slovakia, where at least at the time of writing (April 2023) it seems that the Slovak belongingness to the EU mainstream would be the main topic of upcoming early 2023 elections.

Conclusions

The above examples show that, regardless of its competences, the Parliament actively enters the debate on European affairs at those moments when the position of the majority of political forces clashes with the current direction of the European Union or when the government needs to demonstrate strong domestic public support for its positions in the EU (e.g. in the case of the Kosovo issue or refugee quotas). From a thematic point of view, these are mainly issues related to the identification of Slovakia as part of the conservative-oriented part of the EU, namely on reproductive rights, the broader cultural agenda (e.g. in connection with Turkey's prospective EU membership, or the acceptance of refugee quotas mainly from the so-called third world countries), which is also part of the domestic political agenda of the conservative and Christian Democratic parties. The issue of accepting refugees in 2015 was heavily securitized and interpreted a question of violation of Slovakia's state sovereignty. The issue of (non-)recognition of Kosovo's unilaterally declared independence is related to the principle of the inviolability of borders, which Slovakia considers to be one of the key priorities of its foreign policy, and Slovak political elites argued in a similar vein in connection with the rejection of the annexation of Crimea by the Russian Federation in 2014.

Although the National Council of the Slovak Republic has extensive formal powers in European affairs, it uses them only to a limited extent. Although in the case of Slovakia we cannot speak of a "de-parliamentarisation" of European politics as in the case of Hungary, the NC SR in practice rarely uses the potential provided by the existing institutional

framework)⁶⁴. At the same time, however, the MPs of the NC SR are resisting the adoption of such legislative proposals, namely the amendment of the Constitutional Act No. 397/2004 Coll., which would further limit the participation of the Plenary of the Parliament in European affairs. Thus, the “European” policy of the Slovak Republic is dominated by an intergovernmental approach, which, however, also results from the nature of the country’s political system as a parliamentary democracy. As the government’s mandate is dependent on the support of a parliamentary majority, a fundamental contradiction between the government’s position and that of the parliament is unlikely. On the other hand, the existence of a ‘silent procedure’ leads to the fact that parliament actively enters European affairs on the initiative of political forces that need to demonstrate in this way a different position from that of the European institutions or other EU Member States. This is in contrast to the pre-accession period, when parliamentary documents were characterized by a sometimes almost identitarian Europeanism, as in the case of the December 1998 declaration. This situation effectively distorts the image of the ‘European debate’ in Slovak politics, which thus appears confrontational and Eurosceptic, although in reality the number of controversial cases is relatively low.

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⁶⁴ K. Borońska-Hryniewiecka, J. Grinc, *Actions Speak*, p. 797.

ALICJA MALEWSKA

Lithuania – a small state in the shadow of a great threat

It is not possible to formulate, in a universal and unequivocal manner, the definition of a small state – similarly as definitions of many other terms in the science of international relations. At the same time, this is an intuitive concept, necessary for describing political reality, so scholars and analysts create working sets of criteria in order to determine whether a given state falls into this category. The most commonly used criteria include: population size, value of the economy (GDP), size of the territory, political power, but also less measurable indicators such as perception of power, identity or level of sovereignty.¹ For example, Piotr Bajda suggests that the group of small European states should include those with a population of less than 10 million, a territory of no more than 80 thousand km², and political leaders who self-identify with such characteristics.² Lithuania, with a population of 2.8 million (137th position in the world), a total area of 65 thousand km² (121st position) and a GDP of USD 68 billion (86th position),³ meets all the measurable prerequisites to be described as a small state. The aim of this article is to show how the sense of belonging to this category affects Lithuanian political elites in matters of foreign policy-shaping, in particular in issues

¹ B. Þórhallsson, *Studying small states: A review*, “Small States & Territories” 2018, vol. 1, no. 1, pp. 18–20.

² P. Bajda, *Geopolityczne wyzwania małych państw europejskich*, [in:] „Umowa” *Geopolityka. Słowniki społeczne*, ed. J. Kloczkowski, Wydawnictwo Naukowe Akademii Ignatianum w Krakowie, Kraków 2021, p. 337.

³ *Lithuania*, “Wikipedia” [accessed on 22 XII 2022]: <<https://en.wikipedia.org/wiki/Lithuania>>.

pertinent to the future architecture of the European Union and in the face of the war in Ukraine.

A remarkably simple approach can be found in the literature, under which any country that is not a great power is perceived as a small state. This perspective owes its origins to a period of rapid historical transition, when new state organisms were created as a result of the collapse of empires and of decolonisation. The research value of such a definition is, however, very limited, especially if these small states are to be the object of such research.⁴ However, in the case of Lithuania, the application of this definition makes some sense. In the 20th century, Lithuanians declared independence twice: in 1918 after liberation from the Russian Empire and in 1990 after leaving the Soviet Union. By breaking away from the great power (even in its declining phase), Lithuania was, almost automatically, defined by its opposition to a larger and stronger entity.

In the opinion of neo-realists, a small state is equivalent to a weak state, due to its limited resources and power to shape international reality. Such a state is perceived as an object rather than a subject of international relations, which, due to the threat to its security, usually opts for a strategy of bandwagoning rather than the principle of balance of power.⁵ Since regaining independence, Lithuania has clearly taken sides in the post-Cold War order, aiming at close integration with the West, which was symbolised by its accession to the European Union and NATO in 2004. The obvious motivation behind such actions was the willingness to provide for its own defence against imperialist attempts of Russia. In recent decades, Lithuania, as a small state, has not had much impact on the course of international events, which, however, does not mean a complete lack of international subjectivity. The last thesis can be evidenced, for example, by Vilnius' position in the conflict with China,

⁴ B. Þórhallsson, A. Wivel, *Small States in the European Union: What Do We Know and What Would We Like to Know?*, "Cambridge Review of International Affairs" 2006, vol. 19, issue 4, p. 653.

⁵ G. Gvalia, D. Siroky, B. Lebanidze, Z. Iashvili, *Thinking Outside the Bloc: Explaining the Foreign Policies of Small States*, "Security Studies" 2013, vol. 22, issue 1, pp. 103–104.

which has ultimately resulted in the withdrawal of the Baltic States from the 17+1 initiative.⁶

The liberal perspective, by refusing to bring the substance of international relations to mere competition between world powers, provides more tools to analyse small states. Particularly important is the acknowledgement of the fact that even small political entities can exert influence through the active use of international institutions which impose restrictions also on much stronger players.⁷ Accession of Lithuania (and the other Baltic states) to the eurozone is a good example – it was as much an economic decision, designed to bring tangible benefits, as a political one. In the event of a threat from the Russian Federation, these states may expect assistance from their European allies not only out of solidarity, but also a desire to protect the common currency area.⁸

On the other hand, post-structuralism denies the objectivity and materiality of the factors that the previously cited theories rely on. It focuses on the analysis of discourse, within which the concept of ‘smallness’ emerges. In this view, the category of small states is only one of the ways of perceiving reality, which may carry diverse content translating into different strategies of action. Post-structuralism grants subjectivity to small states and follows their identity, developed in the changing context of international relations. This means that the content inherent in the concept of the small state can change over time, being associated not only with weakness and limitations, but, for example, with flexibility and mitigating circumstance. It also poses questions about the relationship with the ‘Other’, in opposition to which the identity of such a state is created.⁹ Lithuanian identity embodies a long tradition of defining itself by opposition to a larger ‘Other’ – it was Poland due to the threat of cultural domination during the Polish-Lithuanian

⁶ J. Jakóbowski, J. Hyndle-Hussein, *Łotwa i Estonia poza formatem 16+1*, „Ośrodek Studiów Wschodnich” [accessed on: 28 XII 2022]: <<https://www.osw.waw.pl/pl/publikacje/analizy/2022-08-12/lotwa-i-estonia-poz-formatem-161>>.

⁷ B. Þórhallsson, *Studying small states...*, p. 25

⁸ P. Bajda, *Geopolityczne wyzwania...*, p. 341.

⁹ J. Lingevičius, *Kaip kalbėti apie mažas valstybes? Mažumo reikšmių analizė*, „Politologija” 2016, vol. 2, no. 82, pp. 36–37.

Commonwealth, or Christian Europe even earlier. However, both from a current and historical perspective, the most significant 'Other' is Russia.

The above considerations reveal a picture of Lithuania as a small state in terms of its resources and in relation to its powerful neighbour. There is, however, another institutional context in which the objective or subjective size and power of this state is of particular importance – that of its European Union membership. Thus, the issue of Lithuania's position in the context of the Russian aggression against Ukraine and the discussion on future European cooperation is a particularly topical research question at the moment, which will be analysed in this article through the use of a post-structural perspective.

Lithuania has joined the European Union on a wave of overwhelming Euro-optimism (in a popular referendum, more than 91 per cent of respondents expressed their support for that decision¹⁰). There was thus an almost unanimous recognition of the benefits associated with membership of this organisation. The most dominant arguments were related to economic and security issues, as did the narrative of a 'return to Europe'. From a political perspective, it was also particularly important that every Member State, irrespective of its size and resources, had a vote in the European Council, which took key decisions by unanimity. This meant that even the smallest or youngest countries in the community were given the veto rights. This was an unprecedented tool of influence and means of pressure in the entire history of Lithuanian foreign policy, enhancing its international subjectivity and enabling it to defend its national interests.

The Lisbon Treaty, which has changed the voting rules, was aimed at streamlining and speeding up the decision-making process in the enlarged Union. However, for small and medium-sized states this meant a loss in voting power (in relation to the size of their population and the arrangements of the Treaty of Nice). In combination with the extension of the range of issues on which the EU Council could vote by qualified

¹⁰ *Referendumas dėl Lietuvos Respublikos narystės Europos Sąjungoje 2003 m. gegužės 10–11 d. Referendumo rezultatai*, [accessed on: 11 I 2023]: <https://www.vrk.lt/statiniai/puslapiai/rinkimai/2003/referendumas/rezultatai/rez_1_16.htm>.

majority, this was interpreted as reforms favouring the largest states, which could impose policy directions in further areas, without fear of a veto from individual Member States. For Lithuania, this implied a need to build alliances to defend its national interests. The provision on reducing the number of members of the European Commission (which, as a matter of fact, has not yet been implemented) has been also accepted in Lithuania without enthusiasm. Although, by definition, commissioners represent the whole community and not their own nation, from the perspective of small states it is a matter of prestige to have their representatives among the EU's top officials.¹¹

On the other hand, the Lisbon Treaty's premises for the development of a common energy policy, which could help to overcome Lithuania's isolation from Western Europe, have received a positive response. Energy-related topics have always been particularly high on the political agenda of the dialogue between Vilnius and Brussels. It is worth reminding that one of the accession conditions was for Lithuania to close the Ignalina nuclear power plant (*Ignalinos atominė elektrinė, IAE*), which has covered up to 90% of the country's electricity demand. The EU has promised to cover most of the costs linked to the decommissioning, which would last until 2038.¹² Nevertheless, the Lithuanians viewed this decision as a necessary evil and a sacrifice for the higher objective of European integration. The cost of lost revenue due to the closure of the nuclear power plant was estimated at ca 1% of GDP per year.¹³ In spite of the dedicated EU funds, Lithuania has had to spend hundreds of millions of euros over several decades on this project, which is a considerable amount for a small country. The economic and social consequences for the region, which was heavily dependent on IAE, the largest employer and contractor in the area, was another cost category.

¹¹ K. Maniokas, *Lisabonos sutarties implikacijos Lietuvai: kvalifikuota dauguma ir Europos Sąjungos darbotvarkė*, „Politologija“ 2009, vol. 3, pp. 71–82

¹² *Tańsze zamknięcie Ignaliny na Litwie*, „Rzeczpospolita” [accessed on: 11 I 2023]: <<https://energia.rp.pl/atom/art17006361-tansze-zamkniecie-ignaliny-na-litwie>>.

¹³ *Ignalinos AE uždarymo pasekmes Lietuva jaus ilgai*, [accessed on: 11 I 2023]: <<https://www.delfi.lt/verslas/verslas/ignalinos-ae-uzdarymo-pasekmes-lietuva-jaus-ilgai.d?id=1100461>>.

Arguments about the loss of self-sufficiency in energy also played an important part in the narrative around the discontent associated with the forced closure of the nuclear power plant. The Baltic States, as the last in Europe, are part of the electricity system of the Commonwealth of Independent States. The operation of the IPS/UPS system rests on a legal basis that is highly questionable. On the one hand, its primary legal basis is not inter-state agreements, but arrangements between electricity grid operators, the so-called BRELL agreement. At the same time, the actual control over the operation of the entire network is entirely in the hands of Russian entities. Since energy companies are one of the key tools used by Russia in its foreign policy, this leads to a dangerous dependence of Lithuania, Latvia and Estonia on Kremlin's decisions.¹⁴

The risks of being a small state are particularly apparent in the context of energy security. Due to the enormous costs, Lithuania has failed to realise the idea of building a new nuclear power plant. Meanwhile, such a facility has been built and put into operation just 50 km from Vilnius, in the Belarusian city of Ostrovets, with generous Russian support in the form of loans and know-how provided by the Rosatom company. The construction of another nuclear power plant, in the Kaliningrad region, 12 km from the Lithuanian border, is currently suspended.¹⁵

Achieving self-sufficiency in energy and synchronisation with the electricity networks of continental Europe had been a priority for the Baltic States for years, but has become particularly important in the wake of the war in Ukraine. The project should be finalised by 2025, mainly through the existing overland link between Poland and Lithuania 'LitPol Link' and the undersea 'Harmony Link', which is under construction. Most of the investment costs are covered by EU funds.¹⁶ Meanwhile, in May 2022, Lithuania completely resigned from purchasing Russian electricity, relying instead on its own production and supplies from

¹⁴ A. Molis, G. Česnakas, J. Juozaitis, *Rusijos geoenergetika ir Baltijos šalių atsakas: integracijos ir bendradarbiavimo iniciatyvų reikšmė*, "Politologija" 2018, vol. 91, no. 3, pp. 7–15.

¹⁵ *Tamže*, s. 15–20.

¹⁶ *Sinchronizacija su kontinentine Europa*, <https://enmin.lrv.lt/lt/veiklos-sritys-3/elektra/sinchronizacija-su-kontinentine-europa>.

Sweden, Latvia and Poland. A similar decision had already been taken by Orlen Lietuva company, Lithuania's only oil importer.¹⁷

Lithuania's undoubted success on the way to self-sufficiency in energy was achieved in the sphere of gas supply. In April 2022, in response to the Kremlin's energy blackmail of Europe, the Lithuanian government decided to completely abandon Russian gas (with the exception of transit to the Kaliningrad region). Until 2015, it was the only source of imports of this raw material. However, thanks to the investment in the 'Independence' vessel, which docks in Klaipėda as an LNG terminal, it was possible to obtain supplies from alternative sources. Due to the high costs associated with the expansion of the port and the lease of the LNG carrier (with a purchase option after 10 years), concerns have been raised regarding the profitability of this investment. However, it turned out that thanks to the diversification of suppliers, gas prices have dropped and the resulting savings exceed the cost of leasing the Independence.¹⁸

It is worth noting here that, although energy security is among major priorities of the state, this does not necessarily translate into corresponding support for this goal among the public. According to a 2017 survey, two-thirds of citizens faced with a choice between price and security indicate that the state should care more about cheap energy, even at the expense of independence. Support for the latter option increased with increasing income and education of respondents.¹⁹ It should be added that in a Eurobarometer survey conducted already after the outbreak of the war in Ukraine, Lithuanian citizens were strongly in favour of Europe

¹⁷ *Lietuvoje nuo sekmadienio nebelieka rusiškos naftos, dujų ir elektros importo*, "Lietuvos Respublikos energetikos ministeria" [accessed on: 11 I 2023]: <<https://enmin.lrv.lt/lt/naujienos/lietuvoje-nuo-sekmadienio-nebelieka-rusiskos-naftos-duju-ir-elektros-importo>>.

¹⁸ *Ž. Mauricas – trumpai ir aiškiai: ar Lietuvai atsipirko laivas-saugykla "Independence"*, "Lietuvos Rytas" [accessed on: 13 I 2023]: <<https://www.lrytas.lt/verslas/rinkos-pulsas/2022/03/29/news/z-mauricas-trumpai-ir-aiskiai-ar-lietuvai-atsipirko-laivas-saugykla-independence--22889783>>.

¹⁹ J. Augutis et. al, *Lietuvos Energetinis Saugumas, Metinė Apžvalga 2015–2016, Versus aureus, Vilnius 2017*, p. 26.

becoming independent from Russian oil and gas supplies.²⁰ Nevertheless, these data show that there is still a small proportion of the population that feels materially secure enough to prioritise issues other than the price of basic goods and services. This can hinder investments that do not enjoy voter support, especially in the current climate of unprecedented rises in European energy markets and extremely high inflation.²¹

Energy security is one of spheres in which the size of the state and the abundance of its resources are of particular importance. Lithuania has been dependent on Russian supplies of raw materials for years not just because of its history and location. A barrier to becoming more self-sufficient has been the extremely high cost of investment to self-produce or diversify energy import sources. At the same time, due to the volume of its orders, Lithuania had a very weak negotiating position and had to agree to excessive prices imposed by giants like Gazprom. EU funds proved to be crucial for the implementation of a number of investments. In order to improve the prospects of gaining these funds, the Baltic States usually presented a common position, in spite of some differences of opinion between them. Through joint energy projects, Lithuania has also strengthened cooperation with other countries in the region – Sweden, Finland and, above all, Poland. In the latter case, this has contributed to the warming of bilateral relations, which had been tense for several years due to unresolved issues raised by the Polish minority in Lithuania. Thanks to their common interests, the Baltic States have further strengthened their informal coalition, but have also begun to look for forms of cooperation with larger states in the region. In the area of energy, Lithuania is mainly active in the format of the Baltic Energy Market Interconnection Plan (BEMIP) and of the Baltic Council of Ministers.²²

²⁰ *Flash Eurobarometer FL506: EU's response to the war in Ukraine (v1.00)*. European Commission, Directorate-General for Communication, [accessed on: 11 I 2023]: <http://data.europa.eu/88u/dataset/S2772_FL506_ENG>.

²¹ *Išankstinė lapkričio infliacija – 21,4 proc.: poveikį daro energijos kainos*, [accessed on: 13 I 2023]: <<https://www.delfi.lt/verslas/verslas/isankstine-lapkricio-infliacija-21-4-proc-poveiki-daro-energijos-kainos.d?id=91880229>>.

²² *Lietuvos Respublikos Nacionalinis Energetikos Ir Klimato Srities Veiksmų Planas 2021–2030 m.*, Lietuvos Respublikos aplinkos ministerija, p. 22, [accessed on:

Speaking of the energy sector, it is worth looking at Lithuania's progress in implementing the European Green Deal. The idea itself received support in the country, which is due, *inter alia*, to the respect for nature, deep-rooted in Lithuanian identity. Major successes include the systematic development of renewable energy sources, which already in 2013 accounted for 23% in the final balance of energy consumption, which means that the target expected by the EU for 2020 has been achieved. The authorities have announced ambitious plans to further develop this sector, in particular through the construction of wind power plants, so that renewable energy sources would cover 100% of the country's electricity demand by 2030. Lithuania also performs well in terms of eco-innovation, ranking more or less in the middle of the scoreboard of all Member States. The biggest challenges include the effective reduction of carbon dioxide emissions and the modernisation of the transport sector, which is responsible for the largest energy consumption.²³

Since the outbreak of the war in Ukraine, Europe has started to withdraw from imports of Russian energy carriers and to replace them with raw materials from other suppliers. In view of the difficult situation on some markets and the sharp rise in prices, discussions have begun about the need to revise the European Green Deal and postpone ambitious climate targets until further in the future. It should be added that Lithuanian public opinion leaders were not in favour of such option. In this context, being a small state can be considered as an advantage – it entails more flexibility in the process of diversifying suppliers and more ease in switching the entire economy to renewable energy sources. Thanks to a consistent investment policy over the last decade, Lithuania has been able to move away from its dependence on Russia, significantly increasing its energy security. At the same time, it has moved in the direction of sustainable development-oriented transformation of the economy and,

13 I 2023]: <<https://am.lrv.lt/uploads/am/documents/files/KLIMATO%20KAITA/Integruotas%20planas/Final%20NECP.pdf>>.

²³ *Ekonomikos Gaivinimo Ir Atsparumo Didinimo Planas "Naujos Kartos Lietuva"*, [accessed on: 14 I 2023]: <<https://finmin.lrv.lt/lt/es-ir-kitos-investicijos/naujos-kartos-lietuva>>.

so far, nothing has forced the government to deviate from this course, even the increase in prices of energy carriers.

Another area where Lithuania has to constantly confront challenges due to its size and modest resources is the military dimension of national security. For the Baltic States, accession to the European Union was a milestone on their path to cultural, social and economic integration with the Western world. However, it was joining NATO that was regarded as the most significant strategic decision, because in a region that still remained a 'near abroad' in the Kremlin's view, only the US was considered a reliable guarantor of security. For a state like Lithuania – small and with a dangerous neighbour – Article 5 of the North Atlantic Treaty represents the most valuable promise. However, the advantages of membership in the Alliance do not end with promises only – as part of NATO Response Force, a base has been located in Lithuania from which an operation is conducted to patrol the airspace of the Baltic States. In addition, as part of the NATO Enhanced Forward Presence on the eastern flank, a rotational battalion of around 1,500 troops is permanently stationed in Lithuania.²⁴ A pro-American orientation has always been evident in Lithuanian policies, which can be evidenced by the fact that even Donald Trump's most controversial actions have never received official condemnation from the authorities in Vilnius. In turn, his criticism of NATO members failing to meet their financial obligations resulted in an increase in national defence spending and the required 2% of GDP threshold has been exceeded for the first time.²⁵

The sense of threat from Russia has been growing in the Baltic States since the conflict in Georgia in 2008, and only strengthened after the annexation of Crimea in 2014. As one of the consequences of these events and Putin's worrying rhetoric, Lithuania reintroduced general military obligation in 2015 and increased investment in national defence.²⁶

²⁴ *Lietuvos narystė NATO*, Lietuvos Respublikos krašto apsaugos ministerija [accessed on: 17 I 2023]: <<https://kam.lt/lietuvos-naryste-nato/>>.

²⁵ *Gynybos biudžetas*, Lietuvos Respublikos krašto apsaugos ministerija [accessed on: 17 I 2023]: <<https://kam.lt/faktai-ir-skaiciai/gynybos-biudzetas/>>.

²⁶ *Privalomoji karo tarnyba*, [accessed on: 17 I 2023]: <<https://www.renkuosilietuva.lt/lt/privalomoji-karo-tarnyba/>>.

The first situation that some refer to as a hybrid attack was the migrant crisis on the Belarusian-Lithuanian border in 2021. Within a few months, more than 4,000 people from Iraq, Congo, Afghanistan and other countries made their way from Belarus to Lithuania, exposing weaknesses in the border protection system as well as the state's unreadiness for such a situation and becoming a kind of human rights test. The Lithuanian authorities expected assistance from Brussels which would help to ensure the tightness of the European Union's external border. Support came in the form of financial resources to address the humanitarian crisis, as well as human and material resources to physically defend the border. However, the EU refused to co-finance the construction of the fence, which was jointly sought by Lithuania and Poland. Such a decision was explained by the lack of proper legal basis in EU documents, but it was widely perceived as incompatible with the spirit of EU migration policy.²⁷ This was the first time on such a scale that Lithuania had to take the brunt of a blow directed at the whole of Europe and manoeuvre between national security interests and migrants' rights.

In 2018, S. Dennison, U.E. Franke and P. Zerka published a study on the perceptions of key threats by the different states and peoples of Europe. The results showed that Lithuanians are most concerned about external meddling in their country's politics, cyberattacks and traditional war. The most threatening actor in the international arena is, of course, Russia, but they have also recognised a threat from Belarus, which at the time was becoming increasingly dependent on the Kremlin's decisions. As the most important security partners, Lithuania considers Germany (which commands a NATO battalion stationed in Lithuania), Poland (the largest neighbour, additionally sharing concerns about Russian threat), the United Kingdom (a key NATO ally) and Sweden (due to its involvement in the Eastern Partnership and regional initiatives). Political elites in Lithuania perceived the European Union as a transatlantic

²⁷ *Migrantų krizė: ar išlaikėme egzaminą?*, [accessed on: 17 I 2023]: <<https://www.teismai.lt/lt/naujienos/teismu-sistemos-naujienos/migrantu-krize-ar-islai-keme-egzamina/9498>>; *Litwa i Polska będą dążyć do tego, aby UE przyczyniła się do budowy ogrodzenia na granicy*, <<https://zw.lt/bezpieczenstwo/litwa-i-polska-beda-dazyc-do-tego-aby-ue-przyczynila-sie-do-budowy-ogrodzenia-na-granicy/>>.

geopolitical project, inextricably intertwined with NATO as a security pillar. Interestingly, the survey results show that Lithuanians appeared to place the highest trust of all nations in the European Union.²⁸

In the wake of the war in Ukraine, discussions about the idea of a common European army have flared up anew. Lithuania had previously opposed such a solution, taking the view that a better option was to increase national defence spending in the Member States and to create rapid response battle groups at the interstate level.²⁹ In his 2019 speech, President Gitanas Nausėda stressed that Europe should take more responsibility for its own security, but without giving it labels such as 'strategic autonomy' or 'European army', which could harm cooperation with NATO.³⁰ He made similar statements at the 2020 Davos Economic Forum, where he called on other political leaders to take concrete steps to ensure Europe's security in the face of growing Russian aggression, rather than hiding behind ear-pleasing phrases such as 'European strategic sovereignty'.³¹ This approach was also confirmed after the outbreak of war by the President's advisor on international affairs, who stressed that the current priority was to find a synergistic model of interaction between the North Atlantic Alliance and the EU, rather than focusing on building a self-sufficient armed force.³²

²⁸ S. Dennison, U.E. Franke i P. Zerka, *The Nightmare Of The Dark The Security Fears That Keep Europeans Awake At Night*, European Council on Foreign Affairs, p. 28, [accessed on: 20 I 2023]: <https://ecfr.eu/special/the_nightmare_of_the_dark_the_security_fears_that_keep_europeans_away_at_n/>.

²⁹ *Ministras ragina ES šalis didinti lėšas gynybai, užuot svarsčius apie bendras pajėgas*, [accessed on: 20 I 2023]: <<https://www.lrt.lt/naujienos/lietuvoje/2/1494342/ministras-ragina-es-salis-didinti-lesas-gynybai-uzuot-svarsčius-apie-bendras-pajėgas>>.

³⁰ *Lietuvos Respublikos Prezidento Gitano Nausėdos kalba Prezidento Valdo Adamkaus konferencijoje*, Lietuvos Respublikos Prezidentas, [accessed on: 20 I 2023]: <<https://www.lrp.lt/lt/lietuvos-respublikos-prezidento-gitano-nausedos-kalba-prezidento-valdo-adamkaus-konferencijoje/36148>>.

³¹ *Prezidentas: Europos lyderiams linkiu ryžto imtis veiksmų prieš tikrąsias grėsmes*, Užsienio reikalų ministerija, [accessed on: 20 I 2023]: <<https://urm.lt/mission-geneva/lt/naujienos/prezidentas-europos-lyderiams-linkiu-ryzto-imitis-veiksmu-pries-tikrasias-gresmes>>.

³² *Kalbų apie Europos strateginę autonomiją neliko – karas tvirtai susiejo ES ir NATO*, [accessed on: 20 I 2023]: <<https://www.lrt.lt/naujienos/pasaulyje/6/1658161/kalbu-apie-europos-strategine-autonomija-neliko-karas-tvirtai-susiejo-es-ir-nato>>.

Thus, Lithuania's position in the discussion on European strategic autonomy is that of pragmatic scepticism. It perceives the merits of such a project in terms of the 'soft' elements of security such as cyber security, public health, climate, innovation or civil technology. It also expects the European Union to pursue an independent policy towards its international rivals, thinking mainly of Russia and China. It should be Brussels' responsibility to ensure the economic security of EU citizens, including preventing energy crises, the disruption of supply chains or cyber-attacks. However, as regards the 'hard' elements of security, investments are needed in the development of cooperation with NATO, which should also be allowed to participate in EU military projects and initiatives. The EU's military strength must be built by increasing defence spending in the Member States rather than discussing further projects for the EU's armed wing, which always lack the political will to materialise. Lithuania also places great emphasis on developing military projects and missions for the Eastern Partnership countries. Because of such Lithuania's approach, the other European states with a strong transatlantic orientation become its natural allies in this area – Poland, the Baltic States and Romania.³³

In terms of military security, Lithuania is fully aware of the threats posed by its size, especially in comparison to the resources available to Russia. Therefore, it is a natural strategy to form coalitions with strong states that can become security guarantors for the entire Central and Eastern European region and to strengthen cooperation with countries from the region, on the ground of convergence of interests. At the same time, Lithuania does not avoid the involvement in joint projects in proportion to its capabilities. In 2022, it provided Ukraine with support worth almost EUR 300 million in the form of armaments, military equipment, training, rehabilitation of military personnel and expert assistance. Hundreds of millions more have been allocated to humanitarian aid for

³³ I. Karpavičiūtė, *European Strategic Autonomy in Lithuania's Foreign Policy Discourse*, [in:] *European Strategic Autonomy and Small States' Security. In the Shadow of Power*, Ed. G. Česnakas, J. Juozaitis, Routledge, Abingdon 2022, pp. 121–133.

refugees.³⁴ In absolute numbers, this is merely a drop in the ocean, but in terms of the percentage of aid provided in relation to the country's GDP, Lithuania ranks 4th in the world (behind Estonia, Latvia and Poland).³⁵ What is important, support came not only from public money. A crowdfunding campaign, in which Lithuanians raised EUR 6 million in a few days to purchase a Bayraktar drone for the Ukrainian troops, received wide coverage.³⁶

The outbreak of war has significantly contributed to the strengthening of informal ties between states that are actively involved in helping the Ukrainians, especially in the military sphere. This is particularly evident in relations between Lithuania and Poland – not only in symbolic gestures, such as joint presidential trips to Kiev or Lviv, but also in the common position presented in international bodies. At the same time, unfavourable voices were heard in Lithuanian public opinion about states that have not demonstrated such an unequivocal position, with the major criticism directed against Germany. Nevertheless, the Lithuanian authorities are refraining from strong condemnation of Olaf Scholz's policy, most likely because of their reluctance to deteriorate relations with the state that commands NATO troops on Lithuanian territory and is largely responsible for its security.

Another area covered by the research question raised in this article is Lithuanian foreign policy, which is being traditionally divided into 3 phases:

- From regaining independence to 1994, when the country was consolidating its sovereignty and establishing relations with its neighbours. The main priority at that time was to agree the conditions for the withdrawal of Russian occupation troops, but also to

³⁴ *Lietuva nuo karo pradžios Kyjivui suteikė 283 mln. eurų vertės karinę paramą*, [accessed on: 18 I 2023]: <<https://www.lrt.lt/naujienos/lietuvoje/2/1852540/lietuva-nuo-karo-pradzios-kyjivui-suteike-283-mln-euru-vertes-karine-parama>>.

³⁵ *Ukraine Support Tracker*, [accessed on: 20 I 2023]: <<https://www.ifw-kiel.de/topics/war-against-ukraine/ukraine-support-tracker/?cookieLevel=not-set>>.

³⁶ A. Sytas, *Lithuania to transfer a crowd-funded Bayraktar drone to Ukraine on Wednesday*, "Reuters" [accessed on: 20 I 2023]: <<https://www.reuters.com/world/europe/lithuania-transfer-crowdfunded-bayraktar-drone-ukraine-wednesday-2022-07-06/>>.

sign a treaty on friendly relations and good-neighbourly cooperation with Poland.

- The period from 1994 to 2004, when accession to the structures of the European Union and NATO was the main priority and most of diplomatic activity was aimed at achieving this goal.
- The post-2004 period, when Lithuania no longer had such clear goals, but was able to focus on increasing its role in the international arena.

It is pointed out in the literature that small states usually have a choice between neutrality and a bandwagoning strategy. Since gaining independence, Lithuania has strongly distanced itself from Russia and aimed at close integration with the West, these being the two most strong pillars of its foreign policy over the last 30 years. For the analysis of small states' behaviour, much more interesting were the attempts – more or less successful – to create its own identity as an international actor. A new ambitious goal was set in 2004 and announced in the document of “the New Lithuanian foreign policy” – Lithuania was to become the leader of the region, the centre of cooperation between the neighbouring countries and of the promotion of Euro-Atlantic values, uniting cultures and civilisations.³⁷ This concept was to be realised by acting as mediator in bringing the selected countries from the post-Soviet area, mainly Belarus and Ukraine, closer to the European Union and NATO, although an opening to the Kaliningrad region and Russia as a whole was also considered. Such a role was justified by Lithuania's geographical location at the crossroads of the Northern, Central and Eastern European regions, as well as its experience in the democratisation process and the promotion of tolerance and peaceful cooperation values. However, the ambitious idea of becoming a leader has been confronted with the reality and the lack of a concrete vision for its implementation. The region that Lithuania would lead has never been explicitly defined and the neighbouring states have not perceived Vilnius as a natural political centre.

³⁷ N. Statkus, K. Paulauskas, *Foreign Policy Of Lithuania: Linking Theory To Practice*, “Lithuanian Foreign Policy Review” 2006, issue 17, pp. 43–44.

When Poland and Croatia have started to implement the concept of the Three Seas Initiative (3SI), the Lithuanian authorities had to put on hold their dreams of playing a leading role in this part of Europe. Nevertheless, joining this form of regional cooperation has not raised any controversies – the potential benefits Lithuania could gain in the sphere of economy, energy and infrastructure through joint projects have been recognised. Also, the pro-Atlantic attitude of the 3SI countries was in line with Lithuania's orientation in international politics. The main ambassador promoting the Initiative in Vilnius is President Nausėda,³⁸ but it is also supported by other high-level politicians who perceive synergies in strengthening regional cooperation while deepening European integration.³⁹ Nevertheless, it can be noted that the Three Seas Initiative does not receive much attention in Lithuania – it is treated as one of the tools to fight for one's national interest rather than a new reference point in creating state's identity. The state shows no initiative within the 3SI, and the only new project it has joined is the 'Digital Highway', i.e. a 5G fibre-optic network and data transfer connecting Poland, Latvia and Estonia.⁴⁰

With the search for a new role on the international stage, the Eastern Partnership countries began to take on particular importance in the foreign policy of Lithuania, which perceived a double benefit in getting involved in the area. On the one hand, attracting more states into the European Union orbit increased the security of the entire region, while on the other hand, it provided an opportunity for Lithuanian politicians and diplomats to prove themselves in the international arena. This resulted in decisions to support the opposition in Belarus, involve in supporting democratic reforms in Ukraine starting from the Orange Revolution, or President Adamkus' visit to Georgia during the conflict with Russia. One

³⁸ *Prezidentas: Trijų jūrų iniciatyva turi sustiprinti regioninį saugumą*, [accessed on: 28 II 2023]: <<https://www.lrp.lt/lt/ziniasklaidos-centras/naujienos/34896>>.

³⁹ Seimo Pirmininkė pakvietė išnaudoti esamus regioninio bendradarbiavimo mechanizmus, [accessed on: 28 II 2023]: <<https://www.elta.lt/api/v1/pressreleases/232902>>.

⁴⁰ M. Antonovič, *Lenkijos ir Lietuvos regioninio bendradarbiavimo vizijos – (ne) suderinamos?*, [accessed on: 28 II 2023]: <<https://www.eesc.lt/wp-content/uploads/2020/07/RESC.-Lietuvos-ir-Lenkijos-regioninis-bendradarbiavimas-LT.pdf>>.

of the foreign policy areas on which Lithuania has focused most in recent years has been to support the ‘trio countries’, i.e. Ukraine, Georgia and Moldova, in their integration into Euro-Atlantic structures.⁴¹ However, there are also a number of voices among Lithuanian politicians that the European Neighbourhood Policy has reached an impasse. The integration of the Western Balkan and Eastern Partnership countries is not progressing, and the approach hitherto adopted that led to successful previous accessions is not working this time. This situation calls for a revision of the current rules or even the creation of a new philosophy of the European Union enlargement. This opens up a room for the initiatives of small Member States, which are capable of generating innovative ideas, unlike the traditional centres such as Berlin, Paris and Brussels, which are ossified in their methods.⁴²

Speaking of reforms in the EU, it is also worth looking at Vilnius’ stance towards the ideas of the total abandonment of the unanimity rule, especially in the area of the Common Foreign and Security Policy. As a small state that is aware of its limited capability to influence the international reality, Lithuania attached great importance to this rule. It ensured the possibility of blocking any unfavourable decisions, thus strengthening the position, as well as the subjectivity and sovereignty of even the smallest Member States in decision-making processes. It is therefore hardly surprising that such states are reluctant to abandon this voting mechanism in favour of qualified majority, which can lead to the marginalisation of the voices of weaker and smaller states.

Opponents of abandoning the unanimity rule made themselves known in a joint ‘non-paper’ circulated at the conclusion of the more-than-year-long Conference on the Future of Europe. This document mentioned the “unconsidered and premature attempts to launch a process towards Treaty change”. It was signed by Lithuania, Poland, Bulgaria,

⁴¹ *Rytų Partnerystė Ir Lietuva: Silpnybės, Stiprybės Ir Atviros Galimybės*, Rytų Europos Studijų Centras, Vilnius 2020, [accessed on: 23 I 2023]: <<https://www.eesc.lt/wp-content/uploads/2022/09/eesc-tyrimas-rytu-partneryste-ir-lietuva.pdf>>.

⁴² A. Kubilius, *Apie Lietuvos užsienio politikos strategiją iki 2030-uju*, [accessed on: 23 I 2023]: <<https://www.lrt.lt/naujienos/pozicija/679/1655992/andrius-kubilius-apie-lietuvos-uzsienio-politikos-strategija-iki-2030-uju>>.

Croatia, the Czech Republic, Denmark, Estonia, Finland, Latvia, Malta, Romania, Slovenia and Sweden.⁴³ There are also dissenting voices among Lithuanian politicians, for example, conservative MEP Andrius Kubilius, a former prime minister, is an advocate of qualified majority voting on foreign policy issues. In his view, unanimity paralyses the European Union and does not allow for effective decision-making in crisis situations. However, the Lithuanian foreign ministry is of the opinion that the new solution would not serve to strengthen unity and solidarity within the EU Member States.⁴⁴

In discussions on the future shape of the European Union, Lithuania presents rather cautious views – it emphasises the importance of ‘communitarisation’, upholding the values and democracy, but does not support the idea of revising the treaties, as it could undermine the stability of the system and erode citizens’ trust in the institutions. It strongly opposes reforms that could widen the differences within a ‘multi-speed’ Europe⁴⁵. Those in favour of EU federalisation and centralisation, as the aforementioned Andrius Kubilius, are in a distinct minority, both among political elites and in public opinion.

Discussions on the preferred shape of the European Union have been overshadowed by the escalation of hostilities in Ukraine. For years, Lithuania has persistently raised in international forums the issue of the Russian threat, being referred to as a ‘single issue’ state or even criticised for its tenacity. Such actions, however, were not just due to fear – it is a deliberate strategy of creating a narrative, i.e. using a tool available to countries that have no other means of influencing international politics. As a result, the topic of the Russian threat, which exists on many levels, has been introduced into the dominant European discourse. Such

⁴³ 13 państw przeciw próbom zmiany traktatu Unii, [accessed on: 27 I 2023]: <<https://europapnews.pap.pl/13-panstw-przeciw-probom-zmiany-traktatu-unii>>.

⁴⁴ E. Labanauskas, *EP su A. Kubiliumi prieškakije: Lietuvos ir kitų ES šalių noras išlaikyti veto teisę – V. Putino svajonė*, [accessed on: 27 I 2023]: <<https://www.alfa.lt/aktualijos/politika/ep-su-a-kubiliumi-priesakije-lietuvos-ir-kitu-es-saliu-noras-islaikyti-veto-teise-v-putino-svajone/231306/>>.

⁴⁵ *Dėl pasiūlymų dėl Europos Sąjungos ateities vertinimo ir Lietuvos Respublikos interesų, Europos reikalų ir Užsienio reikalų komitetai*, [accessed on: 27 I 2023]: <https://www.lrs.lt/sip/getFile3?p_fid=25610>.

an attitude has also given Lithuania the moral legitimacy to co-create the EU security architecture and policy towards Putin's Russia, as well as to launch the 'Lublin Triangle' initiative with Poland and Ukraine.

Lithuanian political leaders are well aware of the fact that they are governing a small state with limited opportunities to influence the international situation, which they often emphasise explicitly in their speeches.⁴⁶ In the light of post-structural theory, Lithuania accepts and actively shapes its identity as a small state, which is defined primarily in relation to a great and dangerous neighbour. This allows to explain the consistent pursuit of integration into the European Union, which was supposed to help dissociate itself from the Soviet past and 'return to the West'. However, in a situation where the goals of the EU's top players are not fully consistent with Lithuanian national interests, Vilnius is looking for allies. Thus, for years it has recognised the United States and NATO as the most important guarantor of national security throughout the region. In order to have more impact, it is also increasingly building coalitions within the EU – naturally, the cooperation is most often undertaken with the other Baltic States and Poland. To a certain extent, Lithuania is also trying to redefine its identity as a small and weak state in the eyes of others, in favour of a small but efficient, courageous and fair state. All of this is meant to maintain its subjectivity and to prevent being eradicated from the international arena when the next act of the competition between world powers will take place.

⁴⁶ G. Landsbergis, *Geopolitinė ateitis ir Lietuvos užsienio politika*, [accessed on: 29 I 2023]: <<https://fr.mfa.lt/default/lt/naujienos/geopolitine-ateitis-ir-lietuvos-uzsienio-politika>>.

JELENA JUVAN

(Un)succesfull positining of a small state in the EU: case of Slovenia and Western Balkans

Introduction

The modern international community is a community of equal sovereign states. “Formally, all countries, from the largest to the smallest, are equal in their rights and duties.”¹ In fact, the international community, since the Congress of Westphalia in 1648, which laid the foundation for the international community of sovereign states, consists of states that are very different in size, power, social content, influence and the actual role or “weight” they have in international life. Therefore whether a state is large in its size and power or small it should not define its role and position in the international community. But, size does matter in international relations. Owing to their unique vulnerabilities, small states have different needs, adopt different foreign policies, and have a harder time achieving favourable foreign policy outcomes than large states. Small states show a preference for multilateral organizations because they reduce the power asymmetry between states, decrease the transaction costs of diplomacy, and impose constraints on large states. Small state security policies vary widely depending on domestic and international conditions.²

Despite the inherent disadvantages to being small, small states can compensate for the limitations of their size and exert influence on world politics, provided that they use the appropriate strategies³. As Šabič et al

¹ E. Petrič, Zunanja politika majhnih držav. Teorija in praksa letnik 33. številka 6 (1996) pp. 876–897.

² Ibid.

³ B. Thorhallsson, and S. Steinsson, Small State Foreign Policy. Oxford Research Encyclopedia of Politics. <https://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-484>.

have stated “It has long been believed that, more often than not, those states perceived as small are confined to the margins of international politics.”⁴ The right of small nations to have a say in the international community has not been an absolute and national attributes do continue to matter. However, “in the international community small states have more room to pursue their own interests.”⁵

The position of small states in the international community today increasingly depends on their own resources. And these resources may not derive from traditional national attributes such as geographic size or population. Much more they depend on other, less measurable (or even unmeasurable) attributes, such as a state’s flexibility and ability to perceive developments and events in international affairs. Therefore, being small is not necessarily a disadvantage.

The role and possible influence of small states⁶ in international politics and international relations have been frequent subjects of analysis in studies on international relations⁷. Small states’ powers are limited and their economy and military capability do not match those of their larger neighbours, but small states enjoy certain advantages that increase their ability to influence international politics. “Small states can become much more than negligible actors if they actively pursue their agenda and consolidate all elements of their national power to achieve their desired objectives.”⁸ When you are a small state, it does not necessarily mean

⁴ Z. Šabič, Zlatko, and C. Bukowski. Introduction. In: Z., Šabič and C. Bukowski (eds.). *Small states in the post-Cold War world: Slovenia and NATO enlargement*. Westport (Conn.); London: Praeger, 2002. P. xv.

⁵ Ibid.

⁶ De Wijk (in Urbelis 2015, p 62) emphasized that the main features of small states are easily recognized by their inability to maintain a full spectrum of military capabilities, and their limited abilities to project military power in distant regions of the world. Small states are dependent upon larger countries’ military capabilities, as only they can provide the framework that small states can plug into with their available assets.

⁷ Reiter et al. (in Urbelis 2015, p 61) and others have created a theoretical framework for the analysis of small states’ behaviour and motivations within larger international formations.

⁸ V. Urbelis, *The Relevance and Influence of Small States in NATO and the EU Common Foreign and Security Policy*. Lithuanian Annual Strategic Review, 2015, Volume 13, pp. 61.

that you have no voice, or that you must remain passive in all matters of international relations.

In order to determine whether foreign policy of small states differs, we must first define foreign policy. "Foreign policy is mostly defined as the activity of the state or of its bodies, with which, in relations with other entities (primarily states) in international life, this state tries to realize its own values and concrete goals, with the means and methods at its disposal. Therefore, the components of foreign policy are: state bodies for foreign affairs; values; goals; means and methods."⁹ If we are discussing the specifics of the foreign policy of small states, then we have to discuss the specifics of the composition and functioning of their foreign affairs bodies, the values and goals that they pursue with their foreign policy, and the means and methods that they have at their disposal and are used by them in their relations with other states.

Being a part of a larger alliance or a supranational institution is of great importance for small states. "Supranational institutions are considered a natural ally of small states both for ensuring their representation and for championing a common interest that often reflects the small states' priorities better than a compromise just among the major powers."¹⁰ According to Weiss¹¹ the literature has long recognized that international institutions in general, and supranational institutions in particular, allow small states to have a bigger impact on policy results, and has studied the means and channels they use. "More intergovernmental forms of cooperation, such as the CSDP, provide the small states with shelter as well, although the influence of the big states is much stronger."¹² Basic condition for a successful foreign policy of a small state is knowing how to find space and opportunities for the realization of its own goals by creatively adapting to events and processes in

⁹ E. Petrič, Zunanja politika majhnih držav. Teorija in praksa letnik 33. številka 6 (1996) pp. 876–897.

¹⁰ T. Weiss, A small state's anticipation of institutional change: effects of the looming Brexit in the areas of the CSDP and internal market, *European Security*, 2020, 29:1, 1–15, DOI: 10.1080/09662839.2019.1694510.

¹¹ *Ibid*, p. 2.

¹² *Ibid*, p. 11.

the international community; knowing how to find the right time, the right opportunities and the right means and the right support to assert its own goals.¹³

According to Urbelis “Small states pursue active policies on internal NATO and EU matters.”¹⁴ An extremely successful example of small state policies is the NATO Baltic Air Policing mission in the Baltic States. From the beginning of the NATO air policing mission in 2004, the mission was considered to be of a temporary nature. Lithuania, Latvia and Estonia were not satisfied with this arrangement and they sought a permanent solution. “The Baltic states, with the assistance of the US and Denmark, persuaded other allies that NATO must agree to make temporary NATO air policing arrangement a more permanent one”. Actively pursuing their priorities is one of the most important rules for the success of small states. “Clearly defined and persistently sought priorities can lead to amazing results unless these priorities collide with a strong opposition by larger Allies.”¹⁵ However, prioritization remains crucial; small states, because of their limited resources, cannot fight for their interests on multiple fronts. Small states must choose wisely which battle to fight. If prioritization is the first rule of success, then specialization is the second. “Specialization allows small countries to accumulate expertise in one or another particular area, thus achieving respect and importance while discussing those issues in NATO and the EU.”¹⁶

Even with regard to the “values and goals” of foreign policy, certain specificities can be identified when it comes to small states. The values that foreign policy strives to achieve are largely common to all countries. The fundamental values of foreign policy, such as security, well-being, development, preservation of independence, etc., all countries try to

¹³ E. Petrič, Zunanja politika majhnih držav. Teorija in praksa letnik 33. številka 6 (1996) pp. 876–897.

¹⁴ V. Urbelis, The Relevance and Influence of Small States in NATO and the EU Common Foreign and Security Policy. *Lithuanian Annual Strategic Review*, 2015, Volume 13, p. 62.

¹⁵ Ibid.

¹⁶ V. Urbelis, The Relevance and Influence of Small States in NATO and the EU Common Foreign and Security Policy. *Lithuanian Annual Strategic Review*, 2015, Volume 13, p. 70.

secure for themselves with an appropriate foreign policy. However, some goals are “small state- specific”. A small state can not rely on its influence and military power. However, it can ensure its security implementing good and orderly relations with its neighbours as concrete goals of its foreign policy. And also by joining appropriate alliances. Regulation of relations with neighbours and involvement in appropriate alliances are fundamental pillars of the security of small states.

1. Definition of a small state

A different understanding of the concept of a small state consequently also means a different perception of the role or of the foreign policy of a small state in the international community. The concept of a small state is marked by several definitions by various authors. According to Hänggi¹⁷ there seem to be as many definitions as there are authors, since a small state has become a normal phenomenon in the modern international system.

We can define a small state from three different theoretical perspectives: political realism, liberalism and constructivism. The concept and meaning of a small state, as defined by political realism, is formed in accordance with the basic assumptions of realism, which are the following: the international community is anarchic a system in which states are the main actors.¹⁸ They compete with each other for survival, so that the sum of their actions is always zero. The victories of some are absolute and are achieved at the expense of the absolute defeats of others. Countries are supposed to increase their military power in order to achieve a balance of power as a foundation and guarantor of their stability.¹⁹ Other

¹⁷ Hänggi in Bojinović, Ana (2004) *Zahodni Balkan – priložnost Slovenije v Evropski Uniji*. Diplomsko delo, Fakulteta za družbene vede.

¹⁸ M. Malešič. *Teoretske paradigme sodobne varnosti in okolje kot varnostno vprašanje*. *Teorija in praksa* : revija za družbena vprašanja. mar.-apr. 2012, letn. 49, št. 2, str. 264–282.

¹⁹ U. Svete. *Varnost v informacijski družbi*. Ljubljana: Fakulteta za družbene vede, 2005.

subjects of international relations, for example international organizations, operate only within the framework of interstate relations. World politics is a power struggle in which each country seeks to maximize its national interests. The most important tool for implementing foreign policy is military force.²⁰ Evans and Newnham²¹ summarize the initial trend in international relations theory regarding the understanding of the concept of a small state, namely that the distinction between small states and large states is based on whether a state can take care of its own security needs. Small countries are thus defined as ".../... those that depend on foreign aid to ensure their security needs."²² However, they add that this definition is certainly too general and that therefore more precise definitions have been formed based on various classifications.²³ Within the framework of the realist school, first criteria for defining small states were developed. These criteria are: a) small size, b) small population, c) low gross social product per inhabitant (GDP per capita) and d) small military capabilities.²⁴ On basis of this criteria several authors have tried to define the exact and precise limits of these quantitative criteria, or more "material and measurable criteria."²⁵ However, Amstrup²⁶ notes that, despite this, there is still no generally accepted theoretical definition of a small state. After reviewing the concept of a small state through the lens of realist theory, we can conclude that realists define a small country solely on the basis of quantitative criteria. "If a country is small in terms of territory, population and/or GDP per capita, then it

²⁰ J. Baylis, John and S. Steve Smith, Introduction. In John Baylis and Steve Smith (ed.) *The Globalisation of World Politics: An Introduction to International Relations*, 2001, 1–6. Oxford: Oxford University Press.

²¹ G. Evans and J. Newnham. *The Penguin Dictionary of International Relations*. 1998 London: Penguin books, 500–501.

²² Ibid.

²³ Ibid.

²⁴ East in A. Bojinović, *Zahodni Balkan – priložnost Slovenije v Evropski Uniji*. 2004. *Diplomsko delo, Fakulteta za družbene vede*.

²⁵ V. Benko, *Vlado, Znanost o mednarodnih odnosih*. 1997, Ljubljana: FDV.

²⁶ M. Jazbec, *The diplomacies of new small states: the case of Slovenia with some comparison from the Baltics*. 2001. Aldershot (etc.): Ashgate, p. 38.

is a small country.”²⁷ Traditionally the criterion for the category of small size meant the ability of a state to resist the pressure and to implement its own policy at the same time. Realists claim that the mentioned ability of small states is limited and therefore have relatively little influence on their international environment, as they have too little power.²⁸

Definition of small states only within the framework of quantitative definition criteria has shown many limitations. Some states, which would undoubtedly be defined as small according to above stated criteria, are nevertheless quite successful, established and influential countries in their region and in the international community. “Although realism in theory has attributed to them small possibilities of influence due to small size, population and consequently small (military) power, some small states still managed to successfully compete with large ones.”²⁹ The most frequently mentioned examples of successful small states are Switzerland, Luxembourg, Norway, the Netherlands, Sweden and Austria, which through their active and successful activities in certain areas in the international community and/or in the region have gained reputation, respect and “greater foreign policy weight.”³⁰ According to liberal political theory there are situations in which the quantitative aspects of power are no longer necessary. Considering that liberalism treats international relations as cooperative, it offers a better framework for understanding the possibilities of foreign policy action of small states. Small states took advantage of the changed international environment (globalization, integration of countries into international organizations, dispersal of power sources) and with their activity in areas that are related to the contemporary understanding of the security (economic, ecological, social, technological) went beyond the framework of the possibilities of

²⁷ A. Bojinović, Ana. *Zahodni Balkan – priložnost Slovenije v Evropski Uniji*. 2004. Diplomsko delo, Fakulteta za družbene vede, p. 7.

²⁸ L. Goetschel, Laurent. ‘Power and identity: Small states and the common foreign and security policy of the EU’, 2000, Bern: Universität Bern, Institut für Politikwissenschaft, National Research Program »Foundations and Possibilities of Swiss Foreign Policy«. p. 6.

²⁹ E. Petrič, *Zunanja politika majhnih držav. Teorija in praksa letnik 33. številka 6 (1996)* p. 879.

³⁰ *Ibid.*

action, which they derive from a purely realistic understanding of small states. “These countries are still small in terms of size and population, i.e. quantitatively speaking, but they are economically, socially and politically very successful and thus stronger and more influential.”³¹

According to Bojinović³² the category of a small state is best presented through the perspective of the constructivist theory of international relations. The latter best covers the conditions and possibilities of the foreign policy of a small state in the modern international community. The reason for this is the possibility for successful foreign policy action of small states, as seen by the constructivist theory of international relations. “A small EU member state can exercise influence in certain areas of EU activity if it sees itself as influential in these areas and is perceived as such by other member states. At the same time, in this way, a small EU member state can improve its overall image or influence in the EU in general.”³³ Therefore Slovenia, when became first member of the European Union among six³⁴ states that arose from former Yugoslavia, had a really good opportunity to exercise its influence in the Western Balkans and to use its advantage as a state with the same historical background compared to other EU member states. Question is whether Slovenia has managed to use these advantages and position itself as a main EU actor in regard to the Western Balkans³⁵ enlargement process and why it has failed.

³¹ A. Bojinović, Ana. Zahodni Balkan – priložnost Slovenije v Evropski Uniji. 2004. Diplomsko delo, Fakulteta za družbene vede. p. 12.

³² Ibid.

³³ Ibid.

³⁴ Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Monte Negro and Former Yugoslav Republic of Macedonia (today Republic of North Macedonia).

³⁵ Western Balkans is a term that the EU started using in 1998 at the meeting of the European Council in Vienna. For decades, different terms were used for the same region (for example South-East Europe), but lately EU have decided to use the term Western Balkans as an official name. (For example see: The EU and the Western Balkans: towards a common future: https://www.eeas.europa.eu/eeas/eu-and-western-balkans-towards-common-future_en).

1. Slovenia and Western Balkans

According to Petrič³⁶ “Slovenia belongs to the “small states”, which does not mean it can not, with its successful domestic and international policy, secure a greater “weight” in international relations, for example, Scandinavian countries, Austria or Switzerland”.

Slovenia, as a small state³⁷ can be perceived as an ‘irritant in international relations,³⁸ but on the other hand, more-influential actors of the international community do not hide their expectations that Slovenia’s entrance into international society can be fostered only through providing a due contribution to multi-lateral military efforts. Slovenia must take certain responsibilities and risks upon its shoulders in spite of the scarcity of financial, human, and material resources of a small state.

Although this article focuses on Slovenia’s role in EU enlargement on Western Balkans, a brief explanation of common history is necessary in order to better understand Slovenia’s role and position among Western Balkan countries and its impact on the process of EU enlargement. Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Monte Negro, North Macedonia and Kosovo all share a common history being in one multinational state Yugoslavia. Common history dates back to the period after the WWI when Kingdom of Serbs, Croats, and Slovenes, which comprised the former kingdoms of Serbia and Montenegro,³⁹ as well as Croatia, Bosnia and Herzegovina, Austrian territory in Dalmatia and Slovenia, and Hungarian land north of the Danube River was established.⁴⁰ After a decade of acrimonious party struggle, King Alexander I in 1929 prorogued the

³⁶ E. Petrič, *Zunanja politika majhnih držav. Teorija in praksa* letnik 33. številka 6 (1996) str. 876–897.

³⁷ A. Grizold and V. Vegič, ‘Small States and Alliances: The Case of Slovenia’, in E. Reiter and H. Gärtner (eds.), *Small States and Alliances*, Physica-Verlag Springer Verlag, Heidelberg/New York, 2001.

³⁸ R. Zupančič, *Civil-Military Cooperation in Conflict and Post- Conflict Zones: Needed Marriage Also for Small States? The Case Study of Slovenian Armed Forces in Kosovo and Afghanistan*, *The Journal of Slavic Military Studies*, 2015, 28:3, 462–480, DOI: 10.1080/13518046.2015.1061821.

³⁹ including Serbian-held Macedonia.

⁴⁰ *Encyclopedia Britannica*, Yugoslavia. <https://www.britannica.com/place/Yugoslavia-former-federated-nation-1929-2003>.

assembly, declared a royal dictatorship, and changed the name of the state to Yugoslavia. After WWII Socialist Yugoslavia was formed in 1946. This second Yugoslavia covered much the same territory as its predecessor, with the addition of land acquired from Italy in Istria and Dalmatia. The kingdom was replaced by a federation of six nominally equal republics: Croatia, Montenegro, Serbia, Slovenia, Bosnia and Herzegovina, and Macedonia. In Serbia the two provinces of Kosovo and Vojvodina were given autonomous status in order to acknowledge the specific interests of Albanians and Magyars, respectively. On June 25, 1991, Slovenia and Croatia declared their secession from the Yugoslav federation. Macedonia (now North Macedonia) followed suit on December 19, and in February–March 1992 Bosniaks (Muslims) and Croats voted to secede. As civil war raged, Serbia and Montenegro created a new federation, adopting a new constitution on April 27, 1992.

Slovenia was the first to join EU and NATO in 2004 and was perceived as the most successful of all former Yugoslav republics. Slovenia's foreign policy goals regarding the Western Balkan states were strongly defined in several Slovenia's foreign policy strategies. "The area of the Western Balkans is one of Slovenia's most important foreign policy goals due to economic, security and good-neighbourly relations."⁴¹ The security interest⁴² of Slovenia in the Western Balkans was highlighted in the Declaration on the Foreign Policy of the Republic of Slovenia from 1999 and also in the latest Declaration from 2015⁴³. In order to make

⁴¹ A. Bojinović, Ana. Zahodni Balkan – priložnost Slovenije v Evropski Uniji. 2004. Diplomsko delo, Fakulteta za družbene vede., p. 26.

⁴² As noted by Bojinović this was identified for the first time already in the document called »The foundations of the foreign policy strategy of the Republic of Slovenia«, which has remained only a draft published in the Reporter of the Assembly of the RS and the Assembly of the SFRY, which was never officially approved by the Assembly of the Republic of Slovenia. Regarding the foreign policy goals of Slovenia in the Yugoslav countries, they say: „Economic and many other reasons dictate that we develop the best possible relations with the countries that will be formed on the soil of the present Yugoslavia“ (A. Bojinović, Ana. Zahodni Balkan – priložnost Slovenije v Evropski Uniji. 2004. Diplomsko delo, Fakulteta za družbene vede., p. 26.

⁴³ The Foreign Policy of the Republic of Slovenia SLOVENIA: SAFE, SUCCESSFUL, GLOBALLY RESPECTED https://www.gov.si/assets/ministrstva/MZZ/Dokumenti/strateski-in-programski-dokumenti/strategija_ZP_ang.pdf.

Slovenia's activities in the Western Balkans more systematic, the Slovenian Ministry of Foreign Affairs, in cooperation with other ministries and government offices, drafted the Guidelines for Slovenia's Policy in the Western Balkans, and proposed that the National Assembly adopt a declaration symbolically confirming Slovenia's commitment to cooperation, assistance and development in the Western Balkans. In 2010 the Government endorsed the Guidelines,⁴⁴ which define a tool for the further consolidation and coordination of activities in the Western Balkans. The Guidelines, furthermore, define Slovenia's priorities and the measures needed to consolidate Slovenia's position in the Western Balkans. Moreover, the tools envisaged in the Guidelines will identify and remove Slovenia's internal administrative barriers to its relations with the region; the tools were devised to expedite economic, social and communication flows to the region, as well as to strengthen and renew the ties between the Balkan countries. In accordance with the Guidelines, "Slovenia will strive for an expeditious and effective establishment of relations between all the Western Balkan countries in the fields of politics, security, transport, the economy, energy, science, information society, telecommunications, the environment, agriculture, culture, sport, etc., aimed at facilitating the free movement of people, goods, services, capital, and knowledge in the entire region."⁴⁵

Bojinović⁴⁶ has identified several areas in which Slovenia has had advantages compared to other EU member states regarding their relation

⁴⁴ With the aim of more coordinated action of the Republic of Slovenia in the Western Balkans, the Government of the Republic of Slovenia adopted the Guidelines for the operation of the Republic of Slovenia in the Western Balkans in October 2020 and has appointed a national coordinator for Western Balkans and members of the Coordination Committee for the Western Balkans. With the aforementioned decisions, it also determined that the Ministry of Foreign Affairs reports annually on the implementation of the guidelines and that the coordinator prepares an annual report on the activities of the Republic of Slovenia in the Western Balkans.

⁴⁵ Vlada Republike Slovenije, Smernice za delovanje Republike Slovenije do držav Zahodnega Balkana. Available at: <https://www.gov.si/assets/ministrstva/MZZ/Dokumenti/skupna-zunanja-in-evropska-politika/siritev-in-JV-evropa/Smernice-za-delovanje-Slovenije-do-Zahodnega-Balkana.pdf>.

⁴⁶ A. Bojinović, *Zahodni Balkan – priložnost Slovenije v Evropski Uniji*. 2004. Diplomsko delo, Fakulteta za družbene vede., p. 26, 27.

with the Western Balkan states. “In the field of security, Slovenia certainly has an advantage over other countries, as it is in close geographical proximity to the area under consideration ... There are traffic, infrastructure, history, information connections.”⁴⁷ In the economic sector there also several factors facilitating economic cooperation: “tradition, geographical proximity to the market, good knowledge of the business environment, knowledge of the language and culture, numerous personal and business contacts from the past, compatibility of economies and competitive ability.”⁴⁸ For more than seventy years, Slovenia was connected to a state-forming unit with some, and from 1945 to 1991, with all the countries of the Western Balkan region, except Albania. During this time, Slovenia has accumulated a lot of knowledge about these countries in terms of knowledge of the foundations of the legal system, culture in a broader and the way of conducting foreign policy or behaviour in relation to other countries. Slovenia could have used this acquired knowledge within the framework of its activities in the EU in terms of conducting business with the countries of this area, by advising and passing on its knowledge to other EU member states or EU institutions. Based on this, we can say Slovenia did have comparative advantages in the EU in relation to the Western Balkans. How successful was in taking full advantages of those privileges is another story.

After Slovenia became an EU and NATO member in 2004 it has suffered a “foreign policy fatigue in the internal environment.”⁴⁹ The before mentioned Foreign policy strategy from 1999 which has primarily focused on achieving membership of NATO and the EU, with the exception of the Western Balkans and the bridge-building agenda, became obsolete. And yet no document followed it.

⁴⁷ A. Bojinović, *Zahodni Balkan – priložnost Slovenije v Evropski Uniji*. 2004. Diplomsko delo, Fakulteta za družbene vede., p. 26.

⁴⁸ A. Bojinović, *Zahodni Balkan – priložnost Slovenije v Evropski Uniji*. 2004. Diplomsko delo, Fakulteta za družbene vede., p. 27.

⁴⁹ A. Bojinović Fenko, Ana, Z. Šabič. *Slovenia’s foreign policy opportunities and constraints : the analysis of an interplay of foreign policy environments*. *Croatian international relations review*. 2017, vol. 22, no. 79, p. 64. <http://hrcak.srce.hr/187697>.

According to Bojinović and Šabič⁵⁰ the vacuum was filled by occasional appearances in the role of holders of presidencies of international organizations. “Because the Slovenia-led presidencies were, by general acclaim, done well, once again the external foreign environment strengthened the image of the foreign policy of a successful state.”⁵¹ Given its swift and relatively successful process of integration and accommodation to the EU’s norms, rules and policies, Slovenia was soon recognised as a »star pupil« and became the first new member state to be entrusted with the Presidency of the Council of the EU (in 2008). This reinforced Slovenia’s image as a role model of successful Europeanisation not just for other Central East European countries, but also for countries in the Western Balkans.⁵² According to Požgan and Bojinović⁵³ Slovenia has sought to return to the Western Balkans, despite its ambiguous »away from the Balkans« policy of the early post-independence years. This has been due to the accession processes’ structural and institutional power whereby the EU has expressed its high expectations of Slovenia’s role in the region.⁵⁴ And, during and after its accession process Slovenia identified itself as a strategic »connoisseur« willing and able to offer mediation and good offices in solving complex issues in the Western Balkans.⁵⁵

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² J. Požgan, Jure, A. Bojinović Fenko. From a star pupil to a troubling role model for the Western Balkans : the influence of domestic factors on the de-Europeanization of Slovenia during EU crises. V: COSTA, Bruno Ferreira (ed.). Challenges and barriers to the European Union expansion to the Balkan region. Hershey: IGI Global, cop. 2022. pp. 171–190. Advances in public policy and administration (APPA) book series (Online).

⁵³ Ibid, p.172.

⁵⁴ A. Bojinović Fenko and J. Požgan. Regionalisation of Slovenian foreign policy : escape from the Balkans, return to the Western Balkans. *Studia Historica Slovenica : časopis za humanistične in družboslovne študije*. 2014, 14, 1, pp. 55–73.

⁵⁵ J. Požgan, Jure, A. Bojinović Fenko. From a star pupil to a troubling role model for the Western Balkans : the influence of domestic factors on the de-Europeanization of Slovenia during EU crises. V: COSTA, Bruno Ferreira (ed.). Challenges and barriers to the European Union expansion to the Balkan region. Hershey: IGI Global, cop. 2022. pp. 171–190. Advances in public policy and administration (APPA) book series (Online).

2. Small state shaping the EU's decisions

An excellent opportunity for a small state to shape and influence the EU's decisions is the Presidency of the Council of the EU.⁵⁶ Urbelis⁵⁷ analyzed Lithuania's Presidency in the second part of 2013. Based on several examples of Lithuania's influence during the Presidency (the EU's Eastern Partnerships,⁵⁸ Energy Security,⁵⁹ EU Battle Groups (EUBG)),⁶⁰ Urbelis concluded "that small states can have a role by taking the Presidency of the EU Council, but its possibilities to influence decision making are limited."⁶¹ Small states can quite easily introduce a topic onto the agenda, but when national interests come into play the role of the Presidency disappears.⁶²

⁵⁶ However, it is important to note that since the adoption of the Lisbon Treaty the role of the Presidency in the area of the CSDP has decreased.

⁵⁷ V. Urbelis, *The Relevance and Influence of Small States in NATO and the EU Common Foreign and Security Policy*. Lithuanian Annual Strategic Review, 2015, Volume 13, pp. 61–78.

⁵⁸ Eastern partnerships were one of the main priorities of the Lithuanian Presidency, including in the area of the CSDP. The Eastern partnership policy serves as a perfect example of how a small but active country can use existing circumstances, i.e. the Presidency of the Council, to push forward its agenda. Lithuania's partial success was supported by the fact that no major European power had big issues with moving forward with this agenda (*ibid.*).

⁵⁹ Energy security was another priority of great importance to the Lithuanian Presidency, as a result of which energy security became a part of the CSDP routine, with most of the work done at the EDA, which received a wider role in looking at the defence aspect of the energy security debate (*ibid.*).

⁶⁰ The future and relevance of the EUBG was discussed long before the Lithuanian Presidency. At political and expert levels the main issue with the EUBG was well known – the EUBGs had existed already for ten years; however, they had never been used (*ibid.*).

⁶¹ V. Urbelis, *The Relevance and Influence of Small States in NATO and the EU Common Foreign and Security Policy*. Lithuanian Annual Strategic Review, 2015, Volume 13, pp. 77.

⁶² One very good example of Member States' national interests prevailing is the issue of the EUBG. The EU countries could not agree on the deployment option, and when actual crises hit there was no political will to use the EUBG. The discussion clearly showed that neither the Lithuanian Presidency nor the EEAS had the power to impose any decision upon the use of force to any EU Member State. When the time for real decisions came, sovereign nations followed their own national interests with little regard to the Presidency or the CSDP (*ibid.*).

The Presidency's powers are also limited in terms of influence on wider political debates such as the NATO-EU dialogue.⁶³

On July 1st 2021 Slovenia took over the Presidency, as the last country in the Germany-Portugal-Slovenia trio. The period of the trio's Presidency has been guided by an 18-month Programme of the Council.⁶⁴ Although 2020 and 2021 were strongly marked by the worldwide pandemic of Covid-19, this is not the subject of our analysis. However, it must be mentioned that the trio's Presidency programme strongly focuses on plans for recovery after the pandemic, making this also the priority for the period of Slovenia's Presidency. "The Three Presidencies are determined to take full account of the challenges of the Covid-19 pandemic for the EU, also in the framework of European Civil protection. /.../ the Presidencies will aim to further enhance the EU crisis response and strengthen the Union Civil Protection Mechanism, including further development of RescEU and other capacities.../."⁶⁵ The trio also promised to take all possible steps to increase the EU's capacity to act decisively and in unity to effectively promote Europe's interests and values and to defend and shape a rules-based international order. The trio also promised to enhance the EU's capabilities for emergency response, making it more effective in complex emergencies. However, what we can note is very little attention in the Trio's programme given to the questions of EU enlargement. "The Trio welcomes the decision to open negotiations with Albania and Republic of North Macedonia and reaffirms the EU-perspective of the Western Balkans /.../."⁶⁶

With its slogan "Together. Resilient. Europe.," Slovenia has decided to focus on four priorities during its Presidency: "to facilitate the EU's recovery and reinforce its resilience, to reflect on the future of Europe, to strengthen the rule of law and European values, and to increase security

⁶³ Ibid.

⁶⁴ Council of the European Union. 2020b. Taking Forward the Strategic Agenda 18-Month Programme of the Presidency (1 July 2020 – 31 December 2021). Available at: <https://www.2021portugal.eu/media/ldohjith/programa-do-trio-en.pdf>.

⁶⁵ Ibid.

⁶⁶ Ibid.

and stability in the European neighbourhood”⁶⁷ Slovenia has focused on strengthening capacities to successfully deal with pandemics and different forms of modern and complex security risks and threats, such as large-scale cyberattacks, and has also promised to further strengthen and improve the effectiveness of the EU’s response to large-scale natural and other disasters. Slovenia’s programme has evolved from the Trio Presidency programme as it gave support to the further development of the European Civil Protection Pool and rescEU capacities, as well as increasing the efficiency of operations, including transport and logistics capacities.

For the purpose of this article we focus only on those goals of the Presidency directly dealing with the enlargement of the EU into the Western Balkans. The programme promises:

In the context of external action, Slovenia will devote special attention to the Western Balkans. To this end, it will organise the EU-Western Balkans summit in Brdo in October. During its presidency, Slovenia will make every effort to ensure continuation of the enlargement process with the Western Balkan countries in accordance with the revised enlargement methodology. Enlargement is one of the fundamental levers for reform processes in the Western Balkan countries. We will support progress in the resolution of open security and political issues in the region, such as the Belgrade-Pristina dialogue. It is also our ambition to include the region’s partner countries in the initiatives of the common security and defence policy.⁶⁸

The Slovenian presidency has also promised to place particular emphasis on continuing the enlargement and stabilisation and association processes with the Western Balkans partners, with an emphasis on adopting

⁶⁷ Programme of the Slovenian Presidency of the Council of the European Union. Available at: <https://slovenian-presidency.consilium.europa.eu/media/i4qnfeqt/programme-sl-presidency-en.pdf>.

⁶⁸ Ibid.

the negotiating frameworks for the Republic of North Macedonia and the Republic of Albania. It has also promised to focus on continuing the negotiation process with Montenegro and the Republic of Serbia and to pursue the adoption of Council conclusions with a positive message regarding the prospect of membership of the European Union.⁶⁹ Although external representation of the EU is no longer in the hands of the country holding the presidency, Lange⁷⁰ believes that Slovenia played an essential role at some prominent international events, the most important of which was the Western Balkans summit in October 2021. Hosted by the Slovenian presidency of the Council in Brdo pri Kranju, the EU-Western Balkans summit brought together leaders from EU member states, the six Western Balkans partners (Albania, Bosnia and Herzegovina, Serbia, Montenegro, the Republic of North Macedonia and Kosovo). Summit was chaired by Charles Michel, President of the European Council. As a result of the summit a Brdo Declaration⁷¹ was adopted reaffirming EU's "unequivocal support for the European perspective of the Western Balkans"⁷² and welcoming "the commitment of the Western Balkans partners to the European perspective,"⁷³ which was defined as "in mutual strategic interest and shared strategic choice."⁷⁴ The EU has reconfirmed its commitment to the enlargement process.

In 2022 Slovenia continued with an active policy of supporting the EU enlargement process with the countries of the Western Balkans. In Brussels, the Republic of Slovenia actively participated in the Working Group for Enlargement and the Working Group for the Western Balkans and worked to ensure the progress of the countries of the region in the accession process. On the Slovenian initiative, an agreement was reached between the EU member states in December 2023 to grant

⁶⁹ Ibid.

⁷⁰ Euractiv: Internal issues aside, Slovenia's EU presidency a 'success'. <https://www.euractiv.com/section/eu-council-presidency/news/internal-issues-aside-slovenias-eu-presidency-a-success/>.

⁷¹ Brdo Declaration, 6 October 2021, available at: <https://www.consilium.europa.eu/en/press/press-releases/2021/10/06/brdo-declaration-6-october-2021/>.

⁷² Ibid.

⁷³ Ibid.

⁷⁴ Ibid.

Bosnia and Herzegovina the status of an EU candidate country. Already in July 2022, the EU member states approved the negotiation framework with North Macedonia and Albania, after which the European Commission began a review of the harmonization of their legislation with the EU.⁷⁵ The Republic of Slovenia participated in the work of the Committee for Pre-accession Assistance (IPA III), which is led by the European Commission, and was active within the projects financed by the EU from this instrument for the countries of the Western Balkans.

In spite, all the efforts there have been no significant developments in bringing the Western Balkans region closer to the EU⁷⁶ and Slovenia has failed to play the role of a leading actor in the Western Balkans. According to Požgan and Bojinović⁷⁷ several reasons are to blame for this. “Domestic factors’ impact on the de-Europeanisation in Slovenia in the context of global crises holds several implications for the Western Balkans, particularly since these states have also started to experience accession fatigue in the forms of de-democratization, populism and nationalization, at times also Euroscepticism.”⁷⁸ Slovenia, previously a role model for the Western Balkans, no longer has the credibility to play such a role. The most recent Slovenian foreign policy faux pas only confirms this digression. In April 2021, a leaked non-paper allegedly drafted by Slovenia, included an ethnicity-based reconstruction of the post-Yugoslav space. “Such behaviors not only weaken Slovenia’s

⁷⁵ Vlada RS, Poročilo o dejavnostih Republike Slovenije na Zahodnem Balkanu v letu 2022 in o uresničevanju Smernic za delovanje Republike Slovenije do Zahodnega Balkana, št. 51201–1/2023/3. <https://www.gov.si/assets/ministrstva/MZEZ/Dokumenti/skupna-zunanja-in-evropska-politika/siritev-in-JV-evropa/Porocilo-o-dejavnostih-Slovenije-na-Zahodnem-Balkanu-v-letu-2022.docx>.

⁷⁶ Euractiv: Internal issues aside, Slovenia’s EU presidency a ‘success’. <https://www.euractiv.com/section/eu-council-presidency/news/internal-issues-aside-slovenias-eu-presidency-a-success/>.

⁷⁷ Požgan, Jure, A. Bojinović Fenko. From a star pupil to a troubling role model for the Western Balkans: the influence of domestic factors on the de-Europeanization of Slovenia during EU crises. V: COSTA, Bruno Ferreira (ed.). Challenges and barriers to the European Union expansion to the Balkan region. Hershey: IGI Global, cop. 2022.PP. 171–190. Advances in public policy and administration (APPA) book series (Online).

⁷⁸ Ibid.

credibility as a role model for and a “connoisseur” of the Western Balkans, but also indirectly legitimize similar decision-makers’ leadership styles, misuse of democratic institutions, and de-Europeanisation-like actions of the governments in the Western Balkans.”⁷⁹

⁷⁹ Ibid.

JEAN CLAUDE CACHIA

European values and Malta's approach towards irregular migration, press freedom and rule of law

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.¹

The Lisbon Treaty reaffirmed the importance of the European values and their place at the core of the European Union. These European Values are made up of several principles including human rights, solidarity, equality, and justice. With the development of the European Union and the multi challenges it has faced in the last two decades, including the 2008 Financial Crisis, the Syrian Migration Crisis and Brexit, many have argued whether there is a role for these values in the European Union and whether these values are succeeding in holding the EU and its member states together.² Values are bound to be a source of confrontation due to the looseness of the terms and the different meanings attached to them. Malta can be an example of this.³ Malta is the smallest member state in the European Union. It joined the EU in 2004, after a political divisive referendum and an election which favoured the Nationalist Party and its vision of making Malta a member of the European Union. From the

¹ (2009). *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007*. [Online 18 II 2022] Available: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12007L%2FTXT>.

² F. Foret, & Calligaro, O, "Analysing European values: an introduction," in *European Values: Challenges and Opportunities for EU Governance*, F. Forret, & O. Calligaro Ed. Abingdon Routledge, 2018, pp. 1–20.

³ A.P. Debattista, *The EU and the Multifaceted Nature of European Identity*. Wilfried Martens Centre for European Studies, 2022.

1990s onwards, the main political parties have promoted different elements of these values. Still, questions remained whether these values have been embedded in the political parties itself and the Maltese society. The European values are important especially in the safeguarding of human rights, rule of law and freedom of press. Yet several events in Malta including the Panama Papers leaks, assassination of journalist Daphne Caruana Galizia and murder of migrant Lassana Cisse have revealed that these European values are often side-lined and not fully embraced by the smallest member state of the EU.

This chapter will evaluate Malta's approach towards rule of law, press freedom and migration. It will outline how Malta faced similar problems as other EU member states in promoting and respecting such values at the national level. The case of Malta will also show how the EU institutions have often struggled to enforce such values and that, often, it was the Council of Europe, rather than the European Union which intervened to make sure that the basic rules of democracy and human rights are respected by the country.

The European Union and its values

Each member state in the European Union has its values and principles that are often promoted at the national level as well as within the international system. These values are traditionally a representation of identities, norms, ideas, and beliefs and which shape the way individuals behave within their society. Foret and Calligaro believe that values are produced by social convention and promoted by institutions. In addition, values represent collective representations and vary across time and space. Values are important to unite states which share similar visions and ideas within the national and international spheres.⁴ Values, alongside laws guide individuals and entities as they interact with each other.⁵

⁴ F. Foret, & Calligaro, O, "Analysing European values: an introduction," ..., p. 1.

⁵ M. Chaibi, "Protection of European Values at the International Level: The European Court of Human Rights and Freedom of Religion," *Peace Human Rights Governance*, vol. 6, no. 1, pp. 9–38, 2022.

European values are constantly in evolution as the European Union develops and becomes more influential. European values are multifaceted and open to interpretations. This is because the European Union is a complex organisation which affects all segments of society within and outside its borders. European values have often been used by the European Union to provide a sense of unity within its borders. These values are also important for the EU to promote a 'European Identity' and the attempt by the European Union to provide an ideological foundation which would bring it closer to the European citizens. European values are also included in the *acquis Communautaire*. This means that these European values have a legal dimension. In fact, the *acquis Communautaire* requires the respect for human rights and fundamental freedoms, liberty, democracy, and the rule of law from candidate states in order for them to join the EU. Rule of law is at the core of these European values it is seen as a prerequisite to promote and apply other values such as democracy, freedom, and equality.⁶ The reason for this is that it ensures that all citizens are subject to the same laws and that these laws are applied fairly and impartially. Rule of law is also important as it is a requirement for the achievement of all other values.⁷ Another important value that is as important as rule of law is democracy. This principle is rooted in the notion that citizens have the right to participate in the decision-making process that affects their lives. Like rule of law, democracy is still as essential for the application of other European values including civil liberties, freedom of speech, freedom of the press, and freedom of assembly.

As these values are part of the *acquis Communautaire*, candidate states must abide by these rules to join the European organisation. These shared values, or "common legal principles," have been codified in the treaties since Maastricht, specifically in Article 6 EU. However, the treaties traditionally refer to "principles" rather than "values" even though

⁶ A. Madeja, "European values and the Rule of Law," in *Rule of Law, Common Values, and Illiberal Constitutionalism*, T. Drinóczi, Bień-Kacała, A. Ed. Oxford: Routledge, 2020, pp. 45–76.

⁷ C. Woollard and S. General, "Has the Mediterranean refugee crisis undermined European values," *IEMed Mediterranean Yearbook 2018*, pp. 150–156, 2018.

the EU uses terms interchangeably as it tries to create more awareness on them.⁸

Yet, one the problem with European values is whether European citizens are aware of such values and the way they are interpreted by the governments within the member states. The debate concerning European values has often taken into consideration whether such values are enforced by the European Union. The European Union has tried to tackle the problem of enforcing the harmonisation of these European values within member states, in particular the fundamental values including rule of law and democracy which are a requirement for states to join it. Various reports revealed that values including rule of law can be enforced by using the procedures established in Articles 258 and 260 of TFEU. The European Union can proceed against a member state for violating their obligations established by the Treaties of the European Union.⁹ The European Commission has the right to refer to the European Court of Justice (ECJ) so that measures can be taken against those member states who do not abide by the EU laws.¹⁰ This means that the European Court of Justice has repeatedly been called to provide a legal interpretation of these values with the Court exerting considerable influence on both the EU and member states.¹¹

In 2022, the European Court of Justice has strengthened the powers of the European Commission to preserve democracy and rule of law within the member states. In a ruling over a legal challenge from Poland and Hungary on whether the European Commission had the right to withhold funds, the ECJ ruled that the European Commission could block

⁸ G.V. Toggenburg, “The Debate on European Values and the case of cultural diversity,” *European Diversity and Autonomy Papers-EDAP*, vol. 2004, no. 01, pp. 1–24.

⁹ A. Grzelak, “Are the EU Member States still masters of the treaties? The European Rule of Law concept as a means of limiting national authorities,” in *Rule of Law, Common Values, and Illiberal Constitutionalism*: Routledge, 2020, pp. 194–216.

¹⁰ (2016). *Treaty on the Functioning of the European Union*. [Online 18 I 2023] Available: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12016ME%2FTXT>

¹¹ S. Saurugger and F. Terpan, “The values of the Court of Justice of the European Union,” in *European values: Challenges and Opportunities for EU Governance*, F. Foret, & Calligaro, O Ed. London: Routledge, 2018, pp. 99–115.

European Funds if countries to those states who are undermining EU rules and regulations as well and its values which include democracy, rule of law, and press freedom. The 'conditionality mechanism' empowers the European Commission to withhold funds from countries who are at risk of democratic backsliding. The decision by the European Court of Justice also adds further pressure on the European Institutions to act decisively to safeguard its fundamental values including democracy and rule of law and to make sure that they are respected by all member states.¹²

Still debates concerning the EU and its values have also dealt with the question on whether the European Union is governed on the values which it promotes. A case in point being the principle of subsidiarity within the EU. Whilst the European Union has given more responsibility to the European Parliament, most of its decisions are being taken by the European Commission, European Council and Council of Ministers.¹³ This is due to the EU's institutional design. This design makes the EU dependant on the member states in the daily running of the European institutions. Several Eurosceptic political parties have often used this to highlight the fact that the decision-making process within the EU is not really based on the principle of subsidiarity. Within organisations such as the European Union, the principle of subsidiarity should help institutions and member states in the creation of a dialogue or a debate which would lead to the introduction of a legislation or directive.¹⁴ The balance of power between the EU institutions which tends to favour the Commission and Council is making it difficult for the organisation to defend itself from its critics. These critics have often highlighted how the European Parliament is the weakest institution within the EU and that decisions are ultimately taken not by the institution which is closest to

¹² L. Bayer, "Top court clears EU to cut funds over rule-of-law concerns," in *Politico*, ed. 2022. [Online 8 I 2023] Available: <https://www.politico.eu/article/eu-court-greenlights-brussels-power-to-cut-funds-over-rule-of-law-concerns/>

¹³ P. Aldrin and N. Hubé, "From democracy by proxy to a stakeholder democracy: The changing faces of a founding value of the EU," in *European Values*: Routledge, 2018, pp. 137–156.

¹⁴ S. Weatherill, *Law and values in the European Union*. Oxford University Press, 2016. p. 11.

the European citizens, but by non-elected technocrats (the Commission) and national politicians (the European Council).

It is impossible to have democracy without having press freedom. Press freedom is one of the fundamental principles and a requirement for any successful democracy.¹⁵ In the last few years, the European Union has witnessed several journalists being killed across Europe. The Charlie Hebdo attack in 2015 revealed the need to protect freedom of the press. The assassination of various journalists including Daphne Caruana Galizia in Malta in 2017, Ján Kuciak in Slovakia in 2018, Giorgos Karaivaz in Greece and Peter de Vries in the Netherlands in 2021 outlines the need for the EU and member states to do more to protect journalists across the region.

In 2015, a briefing from the European Parliament highlighted why press freedom is fundamental for democracy. Press freedom has two distinct aspects. On one hand, it grants individuals who work in journalism the freedom to inform and voice their viewpoints without the fear of persecution. On the other hand, press freedom provides the media with protections befitting an institution that is fundamental to the democratic process. Article 11 of the Charter of the Fundamental Rights of the EU establishes the freedoms of expression, information, and the press as fundamental rights for the EU and its member states.¹⁶

The period of rapid expansion of new sources of information and of new ways to access information, coincided with a growing threat against journalists and media pluralism. Whilst many believed that the new access of information would allow the freedom of speech and critical thinking to flourish, the opponents of press freedom have grown more powerful, with journalists under intense scrutiny across Europe especially with the use of Strategic Lawsuits Against Public Participation (SLAPP) which many deem them to be abusive against journalists.¹⁷

¹⁵ T.A. Maniou, "The dynamics of influence on press freedom in different media systems: a comparative study," *Journalism Practice*, pp. 1–25, 2022.

¹⁶ European Parliament (2015). *Press freedom in the EU: Legal framework and challenges*. [Online 18 I 2023] Available: <http://www.pressfreedom.eu/>.

¹⁷ A. Chapman, "Pluralism under attack: the assault on press freedom in Poland," *Freedom House*, 2017, p. 3.

The European Commission have often been criticised by the members of the European Parliament for not doing enough to safeguard these principles within the member states.¹⁸ In the last few years, the European Union has been working to introduce the Media Freedom Act. The proposed Regulation seeks to protect journalists and press freedom against political meddling and surveillance. It seeks to strengthen the autonomy of public service media, as well as the openness of media ownership and the distribution of government advertising.¹⁹ The Media Freedom Act seeks to safeguard editors' independence and their role in reporting conflicts of interest and potential corruption allegations. In April 2022, the European Commission proposed a set of directives to protect journalists from what it considers as abusive proceedings against journalists (SLAPPs). The directives are also targeting the protection of journalists and press freedom in Europe.²⁰

Whilst the European Commission is preparing several directives and legislations on the matter, the European Parliament has often been demanded that the Commission acts decisively so that these values and pillars of democracy are respected by all member states. Press freedom is important because it allows journalists to report on issues and events without fear of censorship, repression, or retaliation. A free press acts as a watchdog over those in power, exposing corruption, injustice, and human rights abuses, and promoting transparency and accountability. Which is why critics of the EU argue that more should be done to make sure that states respect such rules and principles before and after they

¹⁸ S. Gimson, "Press freedom: EU blind spot? Many European countries are violating freedom of the press; why is the EU not taking it more seriously?," *Index on Censorship*, vol. 48, no. 1, pp. 110–112, 2019.

¹⁹ European Commission, "European Media Freedom Act: Commission proposes rules to protect media pluralism and independence in the EU," 16 September 2022. [Online 30 I 2023]. Available: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_5504.

²⁰ European Commission, "Protecting journalists and human rights defenders from strategic lawsuits against public participation (SLAPPs)," 27 April 2022. [Online 15 II 2023]. Available: https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/eu-citizenship/democracy-and-electoral-rights/protecting-journalists-and-human-rights-defenders-strategic-lawsuits-against-public-participation_en.

join the European Union and use all the tools that it had acquired across the decades and through its treaties to uphold such values and principles.

The European Union has often been criticised by human rights activists for its approach towards irregular migration. One of the values promoted by the European Union is human dignity. Human dignity became an even more important value when the European Union decided to approach it as a standalone right within Article 1 of the EU Charter of Fundamental Human Rights.²¹ Article 1 dictates that “Human dignity – everyone has the right to be treated with dignity.”²² The problem is that this value was undermined during the various migration crises which plagued Europe and the Mediterranean. On this issue, Woollard and General declared that:

Human dignity is clearly absent in the conditions in which refugees and migrants find themselves in Europe and in the countries in which they are stuck as a result of European action.²³

Southern European states including Malta, Italy and Spain have been consistent in their pressure to force the European Union to reform the European Union Asylum System (CEAS) since the Dublin Regulation places the burden of processing the asylum applications on the country of arrival. Rather than dealing with the problem and the need to preserve the human dignity of these migrants, the EU has been accused of endorsing punitive measures against ‘irregular migrants’ which might deter them from leaving their countries.²⁴

Whilst the EU Charter of Fundamental Rights does not make any reference to the human dignity of migrants, Article 1 dictates that human

²¹ A. Plomer, “The duality of human dignity in Europe” in *European Values: Challenges and Opportunities for EU Governance...*, pp. 46–64.

²² European Union Agency for Fundamental Rights, (2009). *EU Charter of Fundamental Rights*. [Online 6 I 2023] Available: <https://fra.europa.eu/en/eu-charter/title/title-i-dignity>.

²³ C. Woollard and S. General, “Has the Mediterranean refugee crisis undermined European values,” *IEMed Mediterraneum Yearbook 2018*, p. 152, 2018.

²⁴ C. Woollard and S. General, “Has the Mediterranean refugee crisis undermined European values,” *IEMed Mediterraneum Yearbook 2018*, p. 155, 2018.

dignity is a universal right and not an exclusive right for EU citizens.²⁵ Reference to the human dignity of irregular migrations is made in Title V of the TFEU on border controls, asylum procedures, and immigration law. The TFEU emphasises the need for member states to guarantee the full respect of non-EU individuals' human dignity. Reference towards the treatment of migrants is also made in the Schengen Borders Code, Frontex Regulation, European Border and Coast Guard Regulation, Asylum Procedures Directive and Return Directive. The ECJ have had to intervene various times to force member states to abide on EU regulations on migration and safeguard the human dignity of migrants.²⁶ The Syrian Migration Crisis and the multiple incidents surrounding migrants in the Mediterranean have highlighted the inability of the European Union to make sure that the basic human rights of migrants are respected. In addition, when it comes to human dignity and the need to safeguard the basic human rights of migrants, it is often the European Court of Human Rights which has often intervened to force its member states to abide by European Convention on Human Rights.²⁷

This section discussed the importance of the European Values and the limitations of the European Union in safeguarding such values at a time when they are being threatened in various states. With the European Union opening several infringement proceedings against Poland and Hungary, the EU has been pressured to act decisively to make sure that such values are respected and guaranteed. Whilst Poland and Hungary are often at the centre of the media storm concerning the upholding of these values, the next section will show how Malta, faced similar challenges.

²⁵ R. Brownsword, "Migrants, state responsibilities, and human dignity," *Ratio juris*, vol. 34, no. 1, pp. 6–28, 2021.

²⁶ N.B. Selanec and D. Petrić, "Migrating with Dignity: Conceptualising Human Dignity Through EU Migration Law," *European Constitutional Law Review*, vol. 17, no. 3, pp. 498–516, 2021.

²⁷ E. Tsourdi, "Reception conditions for asylum seekers in the EU: towards the prevalence of human dignity," *Journal of Immigration, Asylum and Nationality Law*, vol. 29, no. 1, pp. 9–24, 2015.

Malta and the European Values

In the last two decades, debates have emerged in Malta on whether the country has really embraced European values. The Nationalist Party have traditionally promoted values such as democracy, rule of law and solidarity during the debate concerning Malta's membership application. On the other hand, the Labour Party has in the last decade promoted the liberal values including equality and the right of persons belonging to minorities.²⁸ As stated in the previous section, various debates emerged on the state of rule of law in Malta and press freedom after the revelations of the Panama Papers and the assassination of Daphne Caruana Galizia. For decades, the main political parties have promoted different elements of these European values, but critics argue that awareness on these values is still low with the value of 'money' overshadowing any other value in the country.²⁹

Journalist and blogger Daphne Caruana Galizia had long been critical on the situation regarding rule of law in Malta. She was critical of the collision between the political class and lobby groups and the lack of transparency and accountability within the political system. Her blog exposed various corruption allegations against the main political parties. These included the politically exposed persons within the Panama paper leaks, with one of them, Konrad Mizzi, being a cabinet member of the Muscat administration.

The Panama Papers leaks were not only a concern for Malta but also for various countries across the globe. The documents produced by the Panamanian law firm Mossack Fonseca were handed to German journalist Bastian Obermayer of the newspaper *Süddeutsche Zeitung* in 2015 by a whistleblower. The amount of data required a team of over 370 journalists from 76 different nations to analyse before it could be made public. On April 3, 2016, the International Consortium of Investigative

²⁸ J.C. Cachia, *Europeanisation and Party Politics in Malta* Switzerland Springer Cham, 2023.

²⁹ J.C. Cachia and A.P. DeBattista, "The Malaise of Malta: Social Divisions, Weak Institutions, and Political Partisanship," in *Politics of Our Times: Asking the Difficult Questions*, Cardiff 2018, in 68th PSA Annual International Conference.

Journalists (ICIJ) started disclosing information about 214,488 hidden offshore accounts. The files, which were analysed and published by the ICIJ, contained 11.5 million documents in the form of data emails, records, and personal information of people, including politicians, artists, drug smugglers, criminal organizations, corporations, billionaires and millionaires, and professional athletes from more than 200 countries.³⁰

On 22 February 2016, Daphne Caruana Galizia hinted that Minister Konrad Mizzi, a close ally of the prime minister and a leading candidate in the 2013 national election, might have some offshore companies in New Zealand.³¹ In Europe, the Panama Papers led to the resignation of the Icelandic Prime Minister Sigmundur Davíð Gunnlaugsson. In Malta, there was hardly any reaction. The Prime Minister of Malta was criticised for failing to act against Mizzi. In fact, Daphne Caruana Galizia published information regarding the accounts of Mizzi and other exposed individuals close to the Prime Minister including Keith Schembri, who was the Chief of Staff of the Prime Minister and Brian Tonna, co-owner of Nexia BT company, an audit and tax firm company very close to the Labour Party.

Minister Konrad Mizzi did acknowledge the existence of a family trust in New Zealand because of Daphne Caruana Galizia's revelations. He declared that as part of his asset declarations, he intended to present information to parliament regarding it. The timing is particularly important given the responsibility which was handed the responsibility over the privatisation of three hospitals in Malta and Gozo and the LNG Plant. Both these privatisations would be a source of great controversy in the country. When it comes the LNG plant, a consortium made up of several national and international groups winning the tender. These groups included Maltese business group GEM (Gasam and Tumas Groups), the Azerbaijani state oil company SOCAR, and Siemens. Gasol plc, formerly

³⁰ F. Obermaier, Obermayer, B., Wormer, V., & Jaschensky, W, "About the Panama Papers," in "Süddeutsche Zeitung," 2016. [Online 17 I 2023]. Available: <https://panamapapers.sueddeutsche.de/articles/56febff0a1bb83c3495adf4/>.

³¹ D. Caruana Galizia, "Konrad Mizzi's and Sai Mizzi Liang's Easter lunch," 22 February 2016. [Online 10 XII 2022]. Available: <https://daphnecaruanagalizia.com/2016/02/konrad-mizzis-and-sai-mizzi-liangs-easter-lunch/>.

a 25% shareholder, left the consortium in 2015.³² Yorgen Fenech, one of the directors of Tumas Group would end up standing accused of behind the mastermind behind the assassination of Caruana Galizia. His arrest and further revelations would lead to various resignations within the Cabinet. The Prime Minister would also resign at the end of 2019.³³

With more revelations surrounding these off-shore accounts being published, the party-in-opposition demanded an inquiry to establish whether these accounts were being used for money-laundering activities. At the same, the party-in-opposition was critical of the government and the main institutions given that in three years, the country had five different police commissioners. For them, this highlighted the fact that some institutions were not working as they should.

However, Prime Minister Muscat and the Labour administration kept defending Mizzi and Keith Schembri and the functions of the main institutions in Malta. Further leaks including the Mossack Fonseca documents showed that Nexia BT acquired several Panamanian companies from Mossack Fonseca-related firm ATC Administrators Inc, respectively. Hearnville Inc was found to be owned by the Chief of Staff of the Prime Minister Keith Schembri), Tillgate Inc was found to be owned by Minister Konrad Mizzi).The owner of the third company Egrant Inc was never confirmed even though the allegations behind this ownership would lead to the early election of 2017.³⁴

Between 2016 and 2017, various controversies emerged between the main political parties over alleged corruption practices. Pilatus Bank would become embroiled in these controversies with the bank being accused of failing to follow anti-money laundering rules. Pilatus Bank

³² M. Vella, “Konrad Mizzi to declare New Zealand family trust,” in “MaltaToday”, 24 February 2016. [Online 17 I 2023]. Available: https://www.maltatoday.com.mt/news/national/62554/konrad_mizzi_to_declare_new_zealand_family_trust#.Yqz6nnZByM9.

³³ M.T. Vassallo, J.C. Cachia, and A.P. DeBattista, “How civil society groups brought change to the Maltese Government: 2019–2020,” in *Civil society and social movements in small states*, L. Briguglio. and M. Briguglio. Eds.: Routledge, 2023.

³⁴ J. Borg, “Egrant revisited: a look back at the evidence,” in “Times of Malta,” 5 April 2021. [Online 19 I 2023]. Available: <https://timesofmalta.com/articles/view/egrant-revisited-a-look-back-at-the-evidence.862549>.

received a Category 2 license from the Malta Financial Authority and opened a branch in Ta' Xbiex in 2013.³⁵ The category 2 Licence authorised the bank to provide Investment Services, and to hold Clients' Money and Customers' Assets. It was determined that Brian Tonna, a co-owner of Nexia BT, controlled Willerby Inc., which had an account with Pilatus Bank. Several civil society groups including Repubblika initiated proceedings against the attorney general and police for failing to prosecute Ali Sadr and other bank officials for money-laundering activities. The case is still ongoing with the decision taken in 2023, not to hold the proceedings in public. The bank would close in 2018 after the European Central Bank withdrew its licence. The bank would also be fined by the Financial Intelligence Analysis Unity (FIAU) €4,975,500 for a "serious and systemic failure" to abide by anti-money laundering regulations.³⁶

The leader of opposition Simon Busuttil kept the pressure in the fight against rule of law and corruption. He was critical of the prime minister's chief of staff, Keith Schembri, and alleged that Schembri was collecting bribes from the contentious Malta Investment Program (IIP). The opposition leader stated that Brian Tonna was the owner of a Pilatus Bank account into which funds from the passport program were being transferred to Schembri and shifted his fight to the courts to force an investigation on Schembri and Tonna. Schembri denied the allegations, claiming that they were fabricated by Simon Busuttil as part of his pursuit for power (De Marco, *Times of Malta*, 27 April 2017). The debate regarding the rule of Malta got more polarised as during Malta's Presidency of the Council of the EU, Caruana Galizia had alleged that the owner of Egrant was the wife of the prime minister Michelle Muscat. However, the Prime Minister denied this and called for an early election.

³⁵ M.A. Sammut, *L-Aqwa Fl-Ewropa* Malta 2016.

³⁶ M. Vella, "Pilatus arrest warrants issued in January as waiting game beckons," in *MaltaToday*, 17 July 2022. [Online 11 I 2023]. Available: https://www.maltatoday.com.mt/news/national/117853/pilatus_arrest_warrants_issued_in_january_as_waiting_game_beckons#.Ytmt1HZByM_.

A magisterial inquiry would refute such allegation finding no evidence of the link between Michelle Muscat and the Egrant Inc.³⁷

The 2017 national election became a contest between safeguard the rule of law versus the growing economic development of the country. Whilst the Nationalist Party promoted the need to safeguard rule of law, the Labour Party believed that this was not an issue, as rule of law was guaranteed in the country. This is why it opted to promote its economic policies. The election took place in a very polarised environment with over five investigations going on. These included (1) an investigation into allegations made by Daphne Caruana Galizia that the Prime Minister's wife owned the Panama-registered company "Egrant"; (2) an investigation into allegations that a Prime Minister's chief of staff received kickbacks in connection with the Malta's Passport Scheme; two inquiries by the FIAU to find the individuals who leaked documents concerning the Pilatus Bank (4) a libel filed by the former managing director of Allied Group (publishers of the Times of Malta) and the chief of staff to the prime minister over claims that they received kickback payments in offshore accounts; and (5) An investigation into whether the politically exposed persons linked to the Panama Papers violated Maltese and European law.³⁸

For the opposition, the election was required to restore the reputation of Malta in Europe. For the party-in-government, the election had to safeguard the economic development of the country and the civil liberties which were being introduced. However, the Labour Party won the election and extended its dominance over the political system.³⁹ The election was important as the Prime Minister declared that Konrad

³⁷ B. Borg, "Egrant inquiry finds falsified signatures, differing testimonies and no proof," in "Times of Malta," 22 July 2018. [Online 18 I 2023]. Available: <https://timesofmalta.com/articles/view/egrant-inquiry-no-evidence-linking-michelle-muscat-to-egrant.685044>.

³⁸ R. Pace, "Winning against the trend: Labour's victory in the 2017 Maltese parliamentary election," *South European Society and Politics*, vol. 22, no. 4, pp. 509–529, 2017.

³⁹ R. Pace, "Winning against the trend: Labour's victory in the 2017 Maltese parliamentary election," *South European Society and Politics*, vol. 22, no. 4, pp. 509–529, 2017.

Mizzi would be judged by the electorate. However, whilst the electorate has the right to elect the most suitable party to govern the country, and the best candidates to represent them in the national parliament, the vote should not stop other institutions include the Police and Judiciary in making sure that the laws are respected by everyone.

The Panama Papers leaks led to various visits by the PANA committee in Malta. Yet, cooperation from the people exposed was rather limited given the approach taken, and that no offence was committed, and the accounts were not being used for money-laundering. Still, given that there were various political exposed persons linked with the Office of the Prime Minister, the investigations kept going. However, another event would raise further debates surrounding the rule of law in Malta, and the respect which existed towards speech freedom. This would be the assassination of Maltese journalist Daphne Caruana Galizia.⁴⁰

Caruana Galizia was assassinated on the 16th of October 2017 by a car bomb, only a few metres from her house in Bidnija. Her last statement published on her blog, “There are crooks everywhere you look now. The situation is desperate” became synonymous with the fight against corruption and rule of law in the country. The assassination of Caruana Galizia was a stark reminder of the dangers which journalists face in their line of duty. For some, her assassination brought reminiscence to Malta’s Black Monday, one of the darkest episodes in Malta’s political history. On 15th October 1979, a group of Labour supporters attacked the headquarters of the Progress Press, the home of the Times of Malta and ransacked the house of the Leader of the Opposition Fenech Adami, after rumours spread of a potential assassination attack against Prime Minister Mintoff.⁴¹

The assassination of Caruana Galizia increased the scrutiny by the European Union and Council of Europe on the state of rule of law and freedom of speech in Malta. It also led to a wider European debate on

⁴⁰ J.C. Cachia and A.P. DeBattista, “Can the domestic politics of small island states lead to international in/stability? A case study of Malta,” presented at the PSA 69th Annual International Conference (Un)Sustainable Politics in a Changing World, Nottingham, 2019.

⁴¹ V. Aquilina, *Black Monday: A night of mob violence* Malta Kite Group, 2019.

the state of the media in Europe after several journalists ended up being within the region. Numerous statements have been made by the Council of Europe and the European Union on the state of the rule of law and press freedom in Malta.

On 30 November 2017, the PANA and LIBE committees of the European Parliament would pay a special visit to Malta to investigate the Panama Papers and assassination of Caruana Galizia. During their visits to Malta, the PANA and LIBE committees emphasized the value of the rule of law and declared that the country needed to do more to fight money laundering and corruption. They also stressed the need to find the minds behind the assassination of Caruana Galiza.⁴² The assassination of Daphne Caruana Galizia led to numerous discussions on media pluralism and press freedom in Malta. In 2018, a report on media pluralism in Europe highlighted the problem of the Strategic Lawsuit against Public Participation in Malta and the challenges which Maltese journalists faced in investigating corruption and rule of law.⁴³

Still, beyond the discussions taken place within the EU institutions, it was the Council of Europe which pressured Malta to safeguard rule of law and seek justice for the assassination of Caruana Galizia. The Venice Commission of the Council of Europe had insisted on Malta's need for legal reforms for decades. Several civil society organizations, including *Repubblika*, *Occupy Justice*, and the *Daphne Caruana Galizia Foundation*, which were established after the assassination of Caruana Galizia to fight for rule of law and justice, demanded a public inquiry into the journalist's assassination. Due to the ongoing police investigation that resulted in the arrest of the Degorgio brothers, Vince Muscat, and ultimately Yorgen Fenech, one of the most powerful business tycoons in

⁴² European Parliament, "European Parliament delegation concludes visit to Malta to investigate rule of law," 1 December 2017. [Online 19 I 2023]. Available: <https://www.europarl.europa.eu/news/en/press-room/20171201IPR89323/ep-delegation-concludes-visit-to-malta-to-investigate-rule-of-law>.

⁴³ European Parliament, "Report on media pluralism and media freedom in the European Union (2017/2209(INI))," Committee on Civil Liberties, Justice and Home Affairs, 12 April 2018. [Online 17 I 2023]. Available: https://www.europarl.europa.eu/doceo/document/A-8-2018-0144_EN.html.

Malta, the Muscat administration had justified its decision not to request a public inquiry.

The Council of Europe decided that a public inquiry should indeed take place. The Council of Europe's Resolution 2293 was critical of the various corruption allegations against the Maltese government as well as the various failings of the country's primary institutions. It was also critical of the polarisation which existed in the country and the lack of cooperation between the Maltese institutions with Europol and the German Police in the investigation surrounding the assassination of Caruana Galizia. The resolution called for a public inquiry to ensure that justice would be served. It also urged Malta to fully implement the reform proposals put forth by the Venice Commission and Greco to strengthen the fight against corruption in the country.⁴⁴

The public inquiry would be important as it showcases the problems surrounding rule of law and press freedom in Malta and the failure of the Maltese institutions in safeguarding these two important values of democracy. The arrest of various individuals for the murder of Caruana Galizia, including Melvin Theuma, DeGiorgio brothers and Vince Muscat placed further pressure to find the masterminds. The statements made by Melvin Theuma, who was given a presidential pardon, led to the arrest of Yorgen Fenech. Fenech was a close associate of Keith Schembri, the chief of staff of the prime minister. This led to various protests in November and December 2019, for the resignation of the Prime Minister. This political turmoil and testimony of Melvin Theuma led to various resignations. These included that of Minister Konrad Mizzi, one of the individuals involved in the Panama papers leaks. It also led to the suspension of Chris Cardona from the cabinet as well as the resignation of Keith Schembri from the post of Chief of Staff of the Prime Minister. All of them denied any wrongdoing. Prime Minister Muscat would announce his resignation on 1 December 2019 after weeks of protests.

⁴⁴ Council of Europe "Daphne Caruana Galizia's assassination and the rule of law in Malta and beyond: ensuring that the whole truth emerges-Resolution 2293 (2019)," in "Assembly debate on 26 June 2019 (24th Sitting)", 2019. [Online 15 XII 2022]. Available: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=28053&lang=en>.

Whilst again, denying any wrongdoing, he declared that he was doing this in respect for political stability and would resign once the Labour Party elected a new party leader.⁴⁵

Even though the Prime Minister, announced his resignation, the European Parliament still decided to debate the political unrest in Malta following the arrest of Yorgen Fenech. This debate took place on 18 December 2019. The vice President of the European Commission Věra Jourova stated that the Commission was worried about the unfolding events in the country and stressed the need for rule of law and media freedom to be respected in Malta and the other EU member states.⁴⁶ Following the debate, the European Parliament passed a resolution with 581 votes in favor and 26 against that expressed a number of reservations regarding the objectivity and legitimacy of the inquiries into the assassination of Daphne Caruana Galizia. The resolution questioned the government of Malta's efforts to combat tax evasion and money laundering. Additionally, the European Parliament's revealed its scepticism for the approach taken by the European Commission towards Malta. The European Parliament believed that the Commission had the required tools to pressure Malta to introduce the required reforms and safeguard its values and principles by using the procedure within Article 7 of the Treaty of the European Union.⁴⁷

On 20 March 2021, Keith Schembri alongside Brian Tonna amongst others, were arrested for money laundering, criminal conspiracy, fraud, and forgery.⁴⁸ Whilst the investigations are still ongoing in 2023, the case

⁴⁵ H. Grech, "Muscat to step down as Prime Minister after January 12," in "Times of Malta," 1 December 2019. [Online 28 XII 2022]. Available: <https://timesofmalta.com/articles/view/hold-muscat-expected-to-make-statement.754168>.

⁴⁶ European Parliament. (2019). The Rule of Law in Malta, after the recent revelations around the murder of Daphne Caruana Galizia (debate). Available: https://www.europarl.europa.eu/doceo/document/CRE-9-2019-12-17-ITM-002_EN.html.

⁴⁷ European Parliament, "Resolution on the rule of law in Malta following the recent revelations surrounding the murder of Daphne Caruana Galizia," in "2019/2954(RSP) – 18/12/2019 – Text adopted by Parliament, single reading," 18 December 2019. [Online 17 I 2023]. Available: https://www.europarl.europa.eu/doceo/document/TA-9-2019-0103_EN.html.

⁴⁸ E. Brincat, & Cacciato, D, "As it happened: 'Keith Schembri wanted Daphne dead,' Fenech told police," in "Times of Malta," 27 August 2020. [Online 9 XII 2022].

showed again the need to safeguard rule of law in Malta. The arrests of these politically exposed individuals would come few months before the publication of report surrounding the public enquiry on the assassination of Daphne Caruana Galizia. The report pointed out the multiple institutional failings which led to the assassination of the Maltese journalist. These led to the undermining of rule of law in Malta:

At this stage, what remains relevant for this Board is the fact itself that during the hearing of the witnesses before it, these incidents kept on being disclosed, because this strengthens the conviction which it reached of a style of governance and a flawed system of conduct which effectively, as everyone accepts, led to the breakdown in the institutions and the erosion of the rule of law.⁴⁹

The report revealed that the threats which the press was exposed to in Malta and the need to protect journalists in their line of duty:

There is an increasing awareness of the vital role that free and independent journalism has in a democratic state, supported by the rule of law and by the necessity that journalists, in particular those who are dedicating their activities to investigating the behaviour of State entities entrusted with public administration, would be adequately protected. There not only ought to be structures which guarantee adequate protection of the physical person but also by the State creating a favourable environment which allows them to exercise their profession in a secure and effective manner.⁵⁰

Available: <https://timesofmalta.com/articles/view/live-blog-police-inspector-to-testify-about-yorgen-fenech.814473>.

⁴⁹ Daphne Caruana Galizia Foundation. "Public Inquiry" <https://www.daphne.foundation/en/justice/public-inquiry> (accessed 27 February 2022), p. 76.

⁵⁰ Daphne Caruana Galizia Foundation. "Public Inquiry".... p. 66.

This was a very serious issue given the responsibility for journalists like Caruana Galizia to expose the problem of impunity which existed in the country with the main institutions failing to tackle various problems including corruption and money-laundering. Ultimately, the report found the state responsible for the assassination of Caruana Galizia and provided a series of recommendations to make sure that the press is protected in the country.⁵¹

Reactions for the publication of the report were different. Civil society groups including *Repubblika* kept their pressure on the government to pursue the reforms recommended by the public inquiry. The Maltese government did introduce various institutional reforms to safeguard rule of law Malta and as recommended by the Greco and the Venice Commissions. These include the introduction of the Anti-Fraud and Corruption Policy, the Police Code of Ethics, the Police Force Transformation Strategy, the Horizontal Movement Policy, and the Policy on Business Interests and Additional Occupations.

Whilst the Council of Europe praised these reforms, it requested additional changes. These include an update to the Whistleblower Act (Cap 527) of 2013, which the government acted upon to introduce the “Protection of the Whistleblower (Amendment) Act 2021”. This was necessary to implement EU Directive 2019/1937. The law became effective on December 24, 2021, a few days beyond the deadline for transposing EU legislation, which was December 17, 2021.⁵²

In 2021, Commissioner for Human Rights for the Council of Europe, Dunja Mijatović, visited Malta to evaluate the situation concerning human rights, rule of law and press freedom. In her report, she was positive of the institutional reforms including the decriminalisation of defamation in 2018. Still, the commissioner was critical of the numerous lawsuits being brought against journalists and publications. She advocated for the reversal of the burden of proof in libel lawsuits involving journalists. The Commissioner recommended that the government

⁵¹ Daphne Caruana Galizia Foundation. “Public Inquiry” <https://www.daphne.foundation/en/justice/public-inquiry> (Online 27 II 2022).

⁵² EU Whistleblowing Monitor. “Transposition of the Legislation.” <https://www.whistleblowingmonitor.eu/?country=malta> (Online 17 I 2023).

introduces the required reforms for the protection of journalists. She also recommended that Malta ratifies the Council of Europe Troms Convention on Access to Official Records and to make provisions for journalists' access to data and information.⁵³

Even though various reforms were introduced by the Maltese government, there is still scepticism by the EU Institutions and the Council of Europe towards accountability and rule of law in Malta. The 2022 European Commission annual report on rule of law revealed that the absence of convictions in high-profile corruption cases, the denial of access to official records, and the lack of independence of public service media are still significant problems. Regarding public service media, the Commission argued that because members of the board of directors and editorial board are both directly selected by the State, the industry is particularly susceptible to political interference.⁵⁴ The report also shows how the European Parliament has often been critical of the European Commission's actions in safeguarding the EU values, principles, and regulations. Whilst the European Parliament has often been at the forefront in promoting a tougher stance against those who infringe these principles, the European Commission has traditionally taken a cautious approach even though it does initiate multiple infringement proceedings against EU member states who fail to abide by its rules.

Beyond the state of public broadcasting, the recommendations by the European Commission and Council of Europe are particularly important given that Malta is the only EU member state which gives the right for political parties to have their own media organisations. This led to the Nationalist Party and Labour Party to establish their own organisations which include television and radio stations and online and printed media organisations. This not only allows these political parties to compete

⁵³ Council of Europe, "Commissioner for Human Rights for the Council of Europe: Dunja Mijatović. Report following her visit to Malta from 11–16 October 2021," Strasbourg 15 January 2022.

⁵⁴ E. De Gaetano, "MEPs call on European Commission for more detailed recommendations in its annual rule of law report," in "The Shift," 7 February 2023. [Online 15 II 2023]. Available: <https://theshiftnews.com/2023/02/07/meps-call-on-european-commission-for-more-detailed-recommendations-in-its-annual-rule-of-law-report/>.

with the Independent Media, but more often have been used to neutralise their critics.

In 2022, the Maltese government did propose to elevate the freedom of the press and the media's role as a public watchdog as the fourth pillars of democracy. The Constitutional changes proposed by the Abela administration were widely criticised by the Institute for Maltese Journalists (IGM). *The reason for this is that the recommendations provided by the Institute for Maltese Journalists including the lack of public consultation and the fact that the reforms recommended by the government did not provide the required protection for Maltese journalists. The opposition was also critical of the legislation for the fact that the proposed 41 (1) would incorporate Article 10 of the European Convention by declaring that freedom of expression is guaranteed within the framework established by the article. The article failed to include the collective of rights which make freedom of expression. The Opposition was also critical for the failure to include Bill 259 of 2022 which the party-in-opposition had recommended to establish Article 41 (3) which would safeguard free and independent journalism and restricts the actions of public authority in the exercise of freedom of expression. A similar opinion was that of the OSCE representative on Freedom of the Media who declared that there were a series of shortcomings in the bill proposed by the Abela Administration.⁵⁵ The bill was withdrawn in 2022 with the Abela administration pledging more public consultation before it is re-proposed.*

The Panama Papers revelations and the assassination of Daphne Caruana Galizia have revealed how at times, values which are essential for democracy such as rule of law and press freedom are often taken for granted by European societies. Whilst the investigations concerning the Panama Papers and assassination of Caruana Galizia are still ongoing, debates are still taking place at the national and European levels to make sure that European values are safeguarded and protected in the

⁵⁵ J. Borg and T. Comodini Cachia, *Reforming Malta's Media System* Valletta: Midsea Books 2023.

country. Whilst these two cases were based on rule and law and press freedom, there is another issue in Malta which has often been highly politicised, and that is the challenge coming from irregular migration. The murder of Lassana Cisse a migration has exposed the problem of racism in the country. Whilst many believe the murder does not represent the approach of Malta's society towards irregular migration, it does highlight the dangers of racism and intolerance and lack of protection which irregular migrants face in Europe.

The influx of irregular migration is a challenge which most of the Maltese governments had to deal with. The problem is not made easier by the EU regulations, which restrict states from deporting these migrants before processing their asylum applications. Irregular migration is not simply a challenge for Malta but for many other Mediterranean states which struggle with the growing influx of migrants from North Africa. The European Union has traditionally approached irregular migration using three different strategies: discouraging irregular migrants from leaving their countries, controlling the inflow of migrants through its regulations, and encouraging the integration of irregular migrants to prevent isolation and possible radicalization.⁵⁶ Yet, the European Union has often been criticised by humanitarian organisations for not promoting solidarity with these migrants and for struggling to safeguard their human rights.

One of the main problems linked with the irregular migration problem is Malta's Search and Rescue Area. Malta's Search and Rescue area covers 250,000 km², roughly equating to the size of Great Britain. Given the small size of the island, it means that with the Dublin Regulation, Malta would be responsible for all the migrants rescued within this area. Irregular migration has been a problem given that it is seen as the main

⁵⁶ R. Pace, "Immigration-Integration: A New Opportunity for the EU?," in *Small States and the European Migrant Crisis*: Springer, 2021a, pp. 43–66.

security problem for the country.⁵⁷ In fact, migrants are often labelled as ‘illegal’ and ‘clandestines’ to highlight the ‘threat’ which they pose to the country. According to a 2002 study one of the main newspapers in the country, the *Times of Malta*, than 69% of Maltese people thought that Malta should treat illegal immigrants like criminals who breach the law. In addition, only 57.3% of the population understood the distinction between a refugee and an irregular migrant.⁵⁸ The major political parties have been successful in containing the emergence of far right-wing parties in the nation by frequently adopting populist measures to irregular migration.⁵⁹

Malta’s approach towards irregular migration has often led to a direct confrontation with the Council of Europe. This confrontation has often been caused by Malta’s detainment of these migrants. The reason for this is that migrants are regarded as unlawful immigrants and should be separated from society. They are detained in detention facilities, and separated from the community while their asylum petitions are being processed.⁶⁰ The duration of this detention ranges from twelve to eighteen months.

The European Court of Human Rights have often intervened against Malta for failing to respect the human dignity and human rights of irregular migrants. The European Court of Human Rights criticized Malta in 2013 in its rulings concerning the “Suso Musa versus Malta” and “Aden Ahmed versus Malta” for the length of their detention and the conditions in which they were held. The Court ruled that Malta had violated several provisions of the European Convention on Human Rights. In the first case, these included Article 5 (1) (relating to liberty

⁵⁷ D. Fiott, “Security and Defence Editor at the EU Institute for Security Studies (EUISS),” J.C. Cachia, Ed., ed, 2022.

⁵⁸ N. Grima, “Malta ripped for its treatment of illegal immigrants” in *Times of Malta*, ed, 2003, p. 1 & 5.

⁵⁹ M.T. Vassallo and J.C. Cachia, “Domestic and European response to irregular migration: Malta’s moral dilemma 2002–2016,” in *Public Life in Malta III*, M.T. Vassallo and C. Tabone Eds.: University Printing Unit, 2020, pp. 47–74.

⁶⁰ L. Lemaire, “Islands and a carceral environment: Maltese policy in terms of irregular migration,” *Journal of Immigrant & Refugee Studies*, vol. 12, no. 2, pp. 143–160, 2014.

and security) and Article 5(4) (the authorities' failure to ensure that the right to lawful detention is decided by a court in a timely manner). In the second case, the court ruled that Malta violated Article 3 (relating to the treatment of these migrants), Article 5(1), and Article 5(4).⁶¹ The European Court of Human Rights ruled again against Malta in the case of "Abdullahi Elmi and Aweys Abubakar v. Malta". The court ruled that the prolonged detention of two kids, violated both Article 3 of the Convention of Human Rights due to the treatment these kids received and Article 5(4) of the Convention due to the slow processing of their applications and the futility of the legal challenges to their detention.⁶² In December 2022, the ECtHR once again was critical of the way Malta was handling irregular migration and the asylum process. In the case of "S.H. v. Malta," the court concluded in December 2022 that Malta had violated Articles 3 (risk assessment of asylum seekers) and 13 (Asylum Procedures).⁶³

There have been various attempts by the Maltese governments to improve the situation of irregular migrants in Malta. These include a new Migration Strategy which reduced detention to 9 months, and a Migration Integration Action Plan which would allow these migrants to learn Maltese and English and be able to better integrate within the Maltese society.⁶⁴ Still, the assassination of Lassana Cisse in 2019 reveals that more must be done to protect migrants. Lassana Cisse was killed on 6 April 2019 in Hal-Far. This racially motivated attack led to the arrest of Lorin Scicluna and Francesco Fenech. These two army officials are

⁶¹ S. Carabott, "Malta loses migrants detention case appeal," in "Times of Malta," 16 December 2013. [Online 18 I 2023]. Available: <https://timesofmalta.com/articles/view/Malta-loses-migrants-detention-case-appeal.499177>.

⁶² ECtHR, "Judgment against Malta and roundtable on immigration," 2016. [Online 20 I 2023]. Available: <https://www.coe.int/en/web/portal/-/judgment-against-malta-and-roundtable-on-immigration>.

⁶³ ECtHR, "Case of S.H. v. MALTA: Application no. 37241/21," 2022. [Online 20 I 2023]. Available: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-221838%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-221838%22]}).

⁶⁴ Human Rights and Integration Directorate, "Migration Integration Strategy and Action Plan," Human Rights and Integration Directorate, 2017. [Online 16 I 2023]. Available: https://ec.europa.eu/migrant-integration/library-document/integration-belonging-migrant-integration-strategy-action-plan_en.

standing trial for the murder of Lassana Cisse and attempted murder of two others. Both were also accused of another attempted murder of another migrant May Malimi, a Chadian migrant, in the same area. All these crimes were thought to be racially motivated. The murder of Lassana Cisse highlights the growing need of tackling racism not just within society, but also within the country's institutions. The assassination of Lassana Cisse has again pushed various NGOs including the aditus foundation and Malta's Moviment Graffiti (a left wing movement) to raise more awareness on the problem of racism in the country. With the court case against the alleged killers of Lassana Cisse, still ongoing, it might take years before justice can prevail for Lassana and the other migrants who were targeted in these unprovoked attacks.

Whilst the main political parties have condemned the murder of Lassana Cisse and the racial motivated attacks which took place in 2019, these political parties are often the ones politicising the issue and use it to gain political mileage. Irregular migration is indeed a problem for the country, and the European Union has repeatedly failed to provide solidarity and find a long-term solution. However, this does not mean that the human rights of these migrants should be ignored. This was evident during the Covid-19 pandemic, which led Malta and Italy amongst other Mediterranean states to close their ports and failing to provide aide to irregular migrants which found themselves in difficulty during their attempt to reach the European shores.

The irregular migration problem and the approach taken by Malta over the decades, showcase the fact that the European Union has repeatedly struggled to act on the matter, even though human rights and human dignity are core values of the EU. The EU has often provided financial incentives to the countries, as a short-term solution for the matter. Yet on irregular migration, NGOs and human rights activists have criticised the EU for failing to reform its regulations on the matter and failing to find a long-term solution to deal with the problem. On the other hand, it is often the Council of Europe which is left with the responsibility of admonishing states for failing to safeguard the rights of these migrants.

Malta, the European Union, and European Values

This chapter has given an insight into the harmonisation of European values in Malta. The Panama Papers leaks, assassination of Daphne Caruana Galizia and Malta's approach towards irregular migration show that member states and their institutions often struggle to act in respect of the European Values. However, as most literature on these European Values reveal, it is often a problem for the EU itself to enforce these values. Much of the literature on the influence of the European Union on member states showcase the way the European Union is often able to influence candidate states in abiding by its regulations for them to join the European Union. However, once they join, the European Union has limited tools which it can use against member states. In addition, whilst the European Union has often based its external action on these European values, EU member states and the EU itself have struggled to raise awareness on such values and to put them at the core of the decision-making process.

When it comes to Malta, Pace argues that the country has embraced rule of parties rather than rule of law.⁶⁵ Within the two-party system, these two political parties that is the Nationalist Party and Labour Party promote their interests and these interests can sometimes go against the values they promote. Whilst various civil society organisations have been established to challenge the main political parties in safeguarding democracy, rule of law, press freedom, human rights and human dignity amongst others, these political parties still dominate Malta's society. Due to several institutional failings, the country witnessed the assassination of Daphne Caruana Galizia and the murder of Lassana Cisse. Few people have taken responsibility over these murders, and whilst many condemned the acts against these individuals, more action is required to fully protect journalists and provide the basic rights of migrants, which are still seen as a threat towards Malta's society and culture.

⁶⁵ R. Pace, "Will the assassination of Daphne Caruana Galizia lead to wholesale institutional reform in Malta?" *LSE European Politics and Policy (EUROPP) Blog*, 2017.

The case of Malta highlights the fact that more needs to be done so that member states respect the basic values of democracy and human rights. It also shows that the EU needs to be more present in raising awareness of these values within and outside its borders. The European Parliament has often been critical of the actions taken by the European Commission to preserve such values. Whilst the European Parliament has often been vocal on the need for the EU institutions to uphold the European values, the Commission has often taken a cautious approach and has mostly relied on the European Court of Justice to enforce these values. Still, there have been various debates on whether values can be enforced or simply accepted and promoted by the member states.⁶⁶ This means that the EU needs to find another strategy to address the various shortcomings linked with the application of these values. This strategy should also consider take into account the need to raise awareness on these values so that they are not taken for granted. This is especially important as these values are considered as universal values and have often been promoted and enforced by other organisations including the Council of Europe and the United Nations. Whilst these will always be multiple interpretations on how to uphold these values, and multiple institutions which promote them as their own, they are essential for the development and growth of European societies, strengthening of democratic institutions and protection of human rights.

⁶⁶ A.P. Debattista, *The EU and the Multifaceted Nature of European Identity*. Wilfried Martens Centre for European Studies, 2022.

The publication is a complementary multi-author study devoted to the perspective of small states in international relations. An important asset of the book is the broad, international group of authors who have presented the results of their research within the framework of a project with the aim of filling a certain gap in previous research and presenting the position and role of small states in international politics, especially within the European Union. The authors' analyses of the specifics of the challenges and threats, opportunities and dilemmas, as well as the ways of dealing with small states in the conditions of the transformations of the modern international order and the European Union itself are competent and diverse. Particularly interesting are the reflections on the positioning of these states vis-à-vis the dominant actors on the international scene and on the possibility of preserving subjectivity and sovereignty in the current realities of international reality, especially in the practice of how the political system of the European Union operates.

Leszek Graniszewski

The reviewed work has several advantages. The first is undoubtedly the subject of research itself, which are small Member States functioning within the structure of the European Union. While numerous volumes and scientific studies have already been devoted to the role and position of the largest member states, interest in the smallest member states has always remained secondary. The second advantage of the work is the team of well-known and recognized authors, both Polish and foreign, which shows the difference in views, but also in the research methods used. The third advantage is the clearly political science profile of the work, which allows showing and explaining the most important trends and phenomena regarding the location of small countries in the decision-making system of the European Union. Finally, the fourth advantage is the conclusions drawn from reading the book. These prove that although when talking about the legal and political architecture of the European Union we usually focus on the largest players - paradoxically - the Union remains primarily a union of small and medium-sized countries.

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