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A REVIEW AND ASSESSMENT OF THE POLISH PRESIDENCY OF THE COUNCIL OF THE EUROPEAN UNION

The subject of this article is both an assessment of the Polish Presidency of the Council of the European Union and an attempt to review Poland's activities from 1 July to 31 December 2011. In the first part the strategic (priorities) and operational programme of the Polish Presidency and limitations encountered are presented. In the second part, I will review the major achievements and failures of the Polish government in the realisation of the preset goals and provide their categorisation.

PROGRAMME AND LIMITATIONS OF POLAND'S PRESIDENCY

1. Programme

Poland held the Presidency of the EU Council as part of the Poland-Denmark-Cyprus Trio Presidency. Those Member States drew up their Common 18-month Programme for the period from 1 July 2011 to 31 December 2012. Its first part contained strategic framework, the implementation of which was to be continued by the next rotating group presidency. That is why that part of the programme was consulted with Ireland-Lithuania-Greece Trio in accordance with the Rules of Procedure of the EU Council. In the second part of the programme, operational objectives were set out, i.e. issues which were expected to be addressed during the 18 month period by Poland, Denmark and Cyprus. In compliance with the mentioned Rules of Procedure, that part of the programme was drafted in cooperation with the European Commission and the President of the European Council.

The 6-month programme of the Polish Presidency was tightly correlated with the group presidency programme and adopted on 31 May 2011 by the Council of Ministers of the Republic of Poland. The programme also had two parts: the strategic framework and the operational programme. The strategic part of the programme, i.e. the priorities of the Presidency, was divided into three thematic groups: (1) "European Integration as the Source of Growth" (acting with determination to sustain economic growth, deepening the Single Market, a new Multiannual Financial

Framework and strengthening the Cohesion Policy), (2) "Secure Europe" (enhancing economic governance, developing energy policy, and EU military, internal, and food security), and (3) "Europe Benefiting from Openness" (Eastern Partnership, enlargement strategy, Doha Round, United Nations Climate Change Conference in Durban).[1]

The operational part had 46 objectives. The most important ones were:

1) Advancement of the internal market (including e-commerce) to boost EU economic growth, in particular the implementation of initiatives laid down in the Communication of 13 April 2011 from the European Commission titled "Single Market Act: Twelve levers to boost growth and strengthen confidence. 'Working together to create new growth'".[2]
2) Conclusion of work on the establishment of a unitary patent protection system in the EU. 3) Commencement of negotiations on adopting the Multiannual Financial Framework for the years 2014-2020 based on June 2011 proposal of the European Commission. 4) Initiation of the discussion on the Cohesion Policy reform after 2013 in connection with the implementation of the "Europe 2020" strategy and negotiations on the adoption of the Multiannual Financial Framework.
3) Commencement of negotiations on adopting the Multiannual Financial Framework for the years 2014-2020 based on June 2011 proposal of the European Commission.
4) Initiation of the discussion on the Cohesion Policy reform after 2013 in connection with the implementation of the "Europe 2020" strategy and negotiations on the adoption of the Multiannual Financial Framework.
5) Enhancement of economic governance in the Eurozone and in the EU.
6) Adoption of the 2012 general budget of the European Union. 7) Further liberalisation of agricultural raw and processed products trading between the EU and Norway and Switzerland.
7) Further liberalisation of agricultural raw and processed products trading between the EU and Norway and Switzerland
8) Development of the EU Common Security and Defence Policy, in particular improving the efficiency of Europe's response capabilities to crisis situations in the context of Poland's proposals laid down in the "Weimar letter" of 6 December 2010 signed by foreign affairs and defence ministers of Poland, Germany and France, addressed to the High Representative of the EU and adopted by the Foreign Affairs Council on 31 January 2011.[3]

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[1] *Programme of the Polish Presidency of the Council of the European Union 1 July 2011-31 December 2011*, Ministry of Foreign Affairs, Warsaw 2011, pp. 5-9.

[2] For more on this issue, c.f. *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Single Market Act – Twelve levers to boost growth and strengthen confidence:* "*Working together for a new growth*", Brussels, 13.04.2011, COM (2011), 206 final, pp. 1-30.

[3] The Weimar letter included, *inter alia*, the proposal to continue developing battle groups and establish a permanent civil-military planning and conduct capability in the European Union, c.f. *Sitzung des Rates Auswärtige Angelegenheiten*. Mitteilung an die Presse, Brüssel, den 31. Januar 2011, 5888/1/11, REV 1, p. 21.

9) Legislative advancement of the infrastructures package and acts on energy efficiency.
10) Implementation of the Stockholm programme and the European Pact on Immigration and Asylum to create a common European migration policy and a Common European Asylum System. Continuation of work on the implementation of the EU internal security strategy (Integrated Border Management). Design of the European Pact against Synthetic Drugs and its submission to the EU Council for adoption.
11) Launch of the Council's discussions toward a decision authorising the agreement on the accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe under the proposals submitted by the European Commission.
12) Commencement of works on draft legislative acts of the European Commission concerning the reform of the Common Agricultural Policy after 2013, in particular the system of direct payments, the policy on rural development, market regulation and food security.
13) Commencement of the debate on the reform of the Common Fisheries Policy after 2013 aimed at creating a sustainable fishing sector, introducing responsible governance of fish species in the long-term perspective and achieving the goals listed in the "Europe 2020" strategy.
14) Organisation of the Eastern Partnership summit and advancement of the Partnership joint projects.
15) Pursuit of the implementation of the revised European Neighbourhood Policy.
16) First review of the EU Strategy for the Baltic Sea Region (EUSBSR).
17) Signing the Accession Treaty with Croatia; continuation of accession negotiations with Iceland and Turkey; commitment to the European perspective of the Western Balkan countries.
18) Finalisation of the EU-Ukraine association agreement negotiations.
19) Commencement of negotiations on association agreements with Georgia and Moldova.
20) Support for the Commission's efforts to swiftly conclude a comprehensive Doha Development Round in the area of trade in goods and services in particular.
21) Support for Russia's accession to the WTO and the efforts of the European Union and Russia to conclude negotiations on a new Partnership and Cooperation Agreement and the EU-Russian Partnership on Modernisation.
22) Commitment to work toward signing an association agreement between the European Union and Central American countries; finalisation of the EU free trade negotiations with India and Singapore, EU-Canada negotiations on their economic and trade agreement and the EU-MERCOSUR association agreement.
23) Commitment to work out a common EU position in the Council on the amendments to the climate policy after 2012 and to reach an agreement at the United Nations Climate Change Conference in Durban.[4]

[4] *Programme of the Polish Presidency...*, pp. 12-34.

2. Limitations Encountered by the Polish Presidency

Poland's Presidency encountered many barriers which negatively influenced its dynamics. For one, the institution of the presidency itself was weakened after the implementation of the Treaty of Lisbon of 13 December 2007.[5] Poland's Presidency encountered the following major hurdles: the sovereign-debt crisis in the Eurozone, the Arab Spring events and their international impact, the political situation in Ukraine and in Belarus, the fact that none of the trio members had participated in all the EU policies, and a relatively little diplomatic experience of Polish authorities in dealing with EU matters.

The sovereign-debt crisis in the Eurozone was the greatest limitation. It conditioned the positions of individual Member States on all new diplomatic initiatives undertaken by the Trio, Poland included. The scale and scope of challenges that the EU faced called for measures to restrict budget deficits and reduce public debts, for furthering EU integration processes and intense actions addressing the issue of economic growth. However, three years of economic governance reforms, including the establishment of new mechanisms and institutions, had failed to bring about the awaited breakthrough. It turned out that the struggle against the sovereign crisis required major structural changes in the Eurozone and the Economic and Monetary Union.

The events of the Arab Spring, especially the consequences of the events in Tunisia, Egypt and Libya, had an unfavourable effect on the pursuits of the Polish Presidency. The NATO military intervention in Libya and the Libyan civil war were not conducive to Poland's objectives either. Still, Polish diplomatic initiatives counteracting massive migration from Northern African countries to the EU in the aftermath of the Arab Spring seemed to be too little. The political situation in Ukraine (the trail of Yulia Tymoshenko) and in Belarus (the position of Alexander Lukashenko's regime on the Belarusian opposition) were not favourable for Polish diplomatic activities either.

Another limitation was that the Trio that held the Presidency from 1 July 2011 to 31 December 2012 was composed of Member States that had not fully participated in all EU policies. Poland could not participate in the taking of many decisions concerning solutions to the sovereign debt crisis in the Eurozone because she is not a member of it. Nevertheless, the Polish Presidency used its mediation, coordination and administrative functions to play an important role in the preparation of European Council meetings dedicated to the crisis by taking a position on the issue on behalf of all non-Eurozone Member States and attempting to prevent a deepening of EU divides. Poland's little diplomatic experience in negotiating EU internal issues – especially those directly relevant to operations of the presidency – could have been, but eventually was not, a limiting factor.

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[5] For more on this issue, c.f. J.J. Węc (2011), *Traktat Lizboński, Polityczne aspekty reformy ustrojowej Unii Europejskiej w latach 2007-2009*, Cracow, pp. 176-188.

ACHIEVEMENTS OF THE POLISH PRESIDENCY

Despite the abovementioned hindrances, the general outcome of the Polish Presidency has been good. The Polish government managed to achieve almost all of the preset priorities and a vast majority of the adopted operational goals. Moreover, the Polish government led its presidency in a very efficient manner. Achievements of the Polish Presidency can be divided into those initiated by Poland and overlapping with the objectives of Poland's foreign policy and/or the integration goals of the EU, and those that led to a breakthrough in legislative work and those which were a continuation of legislative work and political debates initiated by previous Presidencies.

1. Achievement of goals initiated by Poland and overlapping with Poland's foreign policy objectives and/or EU integration aims

1.1. Commencement of negotiations on the adoption of the Multiannual Financial Framework for the years 2014-2020

On 29 June 2011, the European Commission presented its draft Multiannual Financial Framework for the years 2014-2020, which meant an official beginning of negotiations on that issue. The budget proposed by the European Commission was to be similar to the one designed for the years 2007-2013. Together with the so-called non-budgetary expenditure (among others the European Development Fund, the European Globalisation Adjustment Fund and the Solidarity Fund), the Multiannual Financial Framework for the years 2014-2020 was not to exceed 1.11% (EUR 1083.5 billion) of the EU's gross national income, where the ceiling of payments appropriations was to equal 1% (EUR 972,198 billion) and that of commitment appropriations equal 1.05% (EUR 1025 billion). Adjusted to take account of inflation, the overall payment appropriations would not differ much from the previous Multiannual Financial Framework. There would be some differences in the income and expenditure structure. Changes in the expenditure included e.g. cuts on the Structural Funds (the European Regional Development Fund and the European Social Fund) and the Cohesion Fund from 35.7% to 33% (EUR 376 billion) of the total budget, establishment of a new category of "transition regions"[6], cuts on the Common Agricultural Policy from 39% to 35.5% (EUR 371,7 billion) of the total budget, as well as future CAP

[6] The new category of "transition regions" was put forward by the European Commission. The Commission intended to, among others, persuade Member States whose regions did not qualify for financial support (as they exceeded the *per capita* threshold of 75% of GDP for the EU-27 average) to vote in favour of the draft Multiannual Financial Framework of 29 June 2011. In accordance with the proposal of the European Commission, EU regions would be divided into the less developed regions (75% of GDP), transition regions (75%-90% of GDP) and more developed regions (more than 90% of GDP).

reforms e.g. a gradual alignment of direct payments for EU-15 and EU-12 farmers and closer linkage between the Common Agricultural Policy and the Environmental Policy. The changes in the income structure were to consist in, *inter alia*, the elimination of the current VAT-based own resource in the end of 2013 and its replacement with new own resources (a financial transaction tax or a thoroughly revised VAT mechanism) by 2018 at the latest. Proposals of the Commission also foresaw replacing the current rebates with lump-sum payments corresponding to a Member State's prosperity. Moreover, the European Commission's draft devised a new "Connecting Europe" facility. This fund was designed to finance cross-border transportation, energy and telecom infrastructure projects to interconnect Europe better (EUR 49.8 billion). Another new "Horizon 2020" (EUR 80 billion) strategic framework was to increase the financing of research and innovation.[7]

Before the European Commission presented its Multiannual Financial Framework draft, Poland, Denmark and Cyprus designed their timeline and methods of work on that budget. This was an achievement as previous Presidencies failed to do so. During the informal meeting of European Affairs Ministers held on 28-29 July 2011 in Sopot, a vast majority of the Member States (except the UK, Sweden and Hungary) approved of the European Commission's proposals that were friendly to Poland and other net beneficiaries, as the starting point of negotiations. The UK pushed for a budget freeze at its 2012 level and sought to defend its rebate. Sweden postulated radical cuts in the Common Agricultural Policy and the Cohesion Policy, and allocation of thus generated savings to development and innovation. Hungary argued that the European Commission lowered the Hungarian GDP forecast while compiling the 2014-2020 draft budget and thus limited Hungary's access to Cohesion Policy funds.[8] On 12 September 2011 during the European Affairs Ministers' meeting on the Multiannual Financial Framework, eight net contributors (Germany, France, the UK, Italy, Finland, Sweden, Austria and the Netherlands) adopted a declaration demanding a 120 bn euro cut in the 2014-2020 expenditure. Spain, the Czech Republic and Denmark announced that they would support the declaration. Finally, Denmark supported the declaration but refrained from signing it wishing to remain impartial. Basic reservations articulated by the eleven abovementioned Member States concerned the budget structure, and, more precisely, the Solidarity Fund and the European Globalisation Adjustment Fund not being covered by budget headings. In their opinion such a solution would only appear to re-

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[7] European Commission. Proposal. *Council regulation laying down the multiannual financial framework for the years 2014-2020*, Brussels, 29.06.2011, COM (2011) 398 final – 2011/0177 (APP), pp. 1-8; Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "A Budget for Europe 2020", Part II: *Policy fiches*, Brussels, 29.06.2011, COM (2011), 500 final, pp. 1-100.

[8] *Wielka Brytania, Szwecja i Węgry odrzucają propozycje budżetu UE*, PAP, 29.07.2011, *cf. Report of the Polish Presidency. September 2011*. Press release, 4.10.2011, www. pl2011.eu.

duce budget expenditure.[9] At the beginning of December 2011, five net contributors (Germany, France, the UK, the Netherlands, and Finland) voiced their postulate to freeze EU expenditure at the 2013 level adjusted for inflation. The largest cuts were advocated by France (EUR 190 billion) and Sweden (around EUR 100 billion).[10]

On 5 December 2011, during the General Affairs Council meeting, the Polish Presidency presented a report summarising negotiations on the Multiannual Financial Framework. The document underlined that already at that point a broad consensus had been reached on the budget structure proposed by the European Commission in spite of some Member States' negative opinions. Negotiations held until then confirmed that Member States were interested in a strong standing of the Cohesion Policy and generally, the CAP in the budget expenditure. Nonetheless, the Member States did not reach full agreement on the criteria under which regions were to be qualified for financial support and on the need to establish the transition regions that would have access to further aid but would not be eligible for EU funding under the convergence objective e.g. the Voivodship of Mazowieckie (Mazovia) and Warsaw in Poland. Moreover, Member States expressed reservations about lowering the ceiling of allocations from the EU budget to Member States from 4% to 2.5% of a Member State's GDP in 2014-2020. Some delegations considered the new limit to be still too high, some demanded that it be raised. Similar reservations were incited by the Commission's proposal on the gradual levelling of direct payments for EU-15 and EU-12 farmers. Some delegations opposed this proposal and some deemed it insufficient. Others questioned the planned expenditure on the Common Agricultural Policy (EUR 371.7 bn, including EUR 281.8 bn for direct payments and EUR 89.9 bn for rural development) by the European Commission. Finally, many Member States negatively evaluated the Commission's proposal to establish a tax on financial transactions as a new source of income to the EU general budget.[11]

On 9 December 2011 during the meeting in Brussels, the European Council acknowledged the report of the Polish Presidency on negotiations regarding the Multiannual Financial Framework for the years 2014-2020. The European Council welcomed the progress in preparatory work on the multiannual EU budget made by the Polish Presidency and, at the same time, called on the Danish Presidency to continue that work. The European Council also invited EU institutions to cooperate "to ensure the adoption of the Multiannual Financial Framework by the end of 2012".[12]

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[9] *UE: Płatnicy netto przeciwko strukturze budżetu*, PAP, 12.09.2011; S. Jędrzejewska, *Wieloletnie ramy finansowe 2014-2020,* http://www.samorzadoweforum.pl/Prezentacje/, p. 15.

[10] *Raport w sprawie budżetu UE 2014-2020: bardzo wiele punktów spornych*, PAP, 5.12.2011.

[11] *Ibid*.; *Raport w sprawie budżetu UE jest zrównoważony. Bo wszyscy są niezadowoleni*, http://www.money.pl/ gospodarka/unia-europejska/, pp. 1-2.

[12] *European Council meeting of 9 December 2011, Conclusions*, Brussels, 9.12.2011, EUCO 139/11, p. 7.

1.2. Launch of the Discussion on the Reform of the Cohesion Policy after 2013

On 12 May 2011, before Poland assumed the Presidency, European Affairs Ministers of thirteen Member States (Greece, Portugal, Spain and 10 new Member States – without Malta and Cyprus) – also referred to as the coalition of "the friends of cohesion", met in Warsaw and decided that they would jointly support efforts aimed at maintaining the principles of financing the Cohesion Policy.[13]

In discussions on the reform of the Cohesion Policy after 2013, the position of the Polish Presidency was based on the premise that CP should be the basic instrument for implementing objectives of the "Europe 2020" economic strategy and, as such, should remain to be a key policy of the European Union.[14] At the same time the Multiannual Financial Framework for the years 2014-2020 should be employed to boost competitiveness of the EU economy. Such an approach of the Polish Presidency to the Cohesion Policy was generally convergent with the position of the European Commission.

On 6 October 2011, the European Commission presented its legislative package for the Cohesion Policy for the years 2014-2020 that consisted of eight draft regulations.[15] This package, presented 3 months after the declared deadline, largely reflected main topics in the Cohesion Policy already debated for 4 years by Member States and EU institutions in the context of the new financial perspective. The debate participants unanimously ascertained that the Cohesion Policy should be an important instrument of implementing the "Europe 2020" strategy whilst the funds necessary for its realisation should support all EU regions and the least developed regions in particular. In accordance with the proposal of the European Commission on the Multiannual Financial Framework of 29 June 2011, the Cohesion Policy in the years 2014-2020 should have a budget of EUR 336 billion, where EUR 0.9 bn should be allocated to peripheral and less-developed regions, EUR 162.6 bn to least developed regions, EUR 39 bn to transition regions, and EUR 53.1 bn to most developed regions. Moreover, EUR 11.7 billion should be assigned to territorial cooperation, and EUR 68.7 billion to the Cohesion Fund. The financial aid disposition was to be better coordinated with other EU policies and more strongly aimed at achieving specific goals.[16]

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[13] *Polityka spójności to nie fanaberie ubogich*, Interview with Elżbieta Bieńkowska, Minister of Regional Development, "Gazeta Wyborcza" 14.05.2011.

[14] *Programme of the Polish Presidency...*, pp. 6-34.

[15] *Cohesion Policy. Programme of the Polish Presidency of the Council of the European Union – information brochure*, Ministry of Regional Development of the Republic of Poland, http://www.mrr.gov.pl/, pp. 8-9. *Information on the publication of the set of regulations on the 2014-2020 Cohesion Policy*, Ministry of Regional Development of the Republic of Poland, http://www. mrr.gov.pl/rozwoj–regionalny/Polityka–spojnosci/ Polityka–spojnosci– po–2013/ Debate, p. 1.

[16] *Information on the publication of the set of regulations on the 2014-2020 Cohesion Policy...*, p. 1.

The Polish Presidency considered the legislative package of the European Commission to be a good starting point for official negotiations on the reform of the Cohesion Policy after 2013. On 11 October 2011, representatives of the European Commission officially presented the package to the General Affairs Council. A few weeks later, on 15 November 2011, the Council discussed the financial framework of the Cohesion Policy for the years 2014-2020. At the same time, the legislative package was under discussion as part of the new Multiannual Financial Framework. The activity of the Polish Presidency in the area of the reform of the Cohesion Policy was crowned by the first ever formal meeting of ministers responsible for this policy. That meeting was held on 16 December 2011 as part of the General Affairs Council's meeting which was the only meeting of the General Affairs Council dedicated solely to the Cohesion Policy during the Polish Presidency. At that meeting, the Polish Presidency presented its report on the negotiations on the European Commission's legislative package.[17]

The Polish Presidency stated in the report that twenty-six Member States unanimously supported the adoption of the Common Strategic Framework put forward on 10 November 2010 by the European Commission in its fifth cohesion report. The Common Strategic Framework should be adopted by the European Parliament and the Council of the European Union in the ordinary legislative procedure, whereby most delegations expressed their readiness to adopt it in the form of an Annex to the basic regulation. This document was to serve better coordination of the Cohesion Policy, the Common Agricultural Policy and the Common Fisheries Policy and actions financed with their five funds, and it was to refer to other EU policies that explicitly have a territorial dimension. It was also the objective of the Common Strategic Framework to support the "Europe 2020" strategy in the following areas: research and development, innovation, employment, education, social exclusion, poverty, and counteracting climate and energy changes.[18] All Member States also supported the linking of the Cohesion Policy with the "Europe 2020" strategy, however a vast majority of Member States called for taking into account specificities of various

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[17] *Ibid. Raport prezydencji z negocjacji pakietu legislacyjnego polityki spójności na lata 2014--2020*, Brussels, 7.12.2011, 18097/11, p. 1-10. *Raport podsumowujący debatę orientacyjną na temat polityki spójności po 2013 r. w ramach spotkania Rady ds. Ogólnych*, Brussels, 16.12.2011, Ministry of Regional Development of the Republic of Poland, http://www.mrr.gov.pl/, pp. 1-4.

[18] The new strategy of programming the Cohesion Policy presented in the fifth cohesion report, apart from the Common Strategic Framework, was to cover also partnership agreements in the area of development and investments, and operational programmes. Partnership agreements would define (on the basis of the Common Strategic Framework) investment priorities, allocation of national and EU funds to priority areas and programmes, as well as objectives that a Member State would intend to achieve. On the other hand, operational programmes, similarly as in the 2007-2013 financial perspective, would constitute the main management tool, cf. Communication of the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank. *Conclusions of the fifth report on the economic, social and territorial cohesion: the future of the cohesion policy*, Brussels, 10.11.2010, COM (2010) 642/3, pp. 1-12.

regions and pointed to numerous problems that might arise if recommendations of the Council of the European Union for particular Member States issued under the second paragraph of Article 121 and the fourth paragraph of Article 148 of the Treaty on the Functioning of the European Union were the point of reference. As a result, most Member States agreed to the proposal of the Polish Presidency to adopt not the recommendations but National Reform Programmes as the reference for the Cohesion Policy as that solution would allow for better adjustment of the Cohesion Policy instruments to specific needs and ensure higher effectiveness of cohesion investments. All Member States approved of the directions and objectives set in the "Europe 2020" strategy as appropriate thus consenting to the allocation of funds from the Cohesion Policy budget to the development of entrepreneurship, research and development, innovation, energy efficiency, counteracting climate change, supporting employment and social integration. The report of the Polish Presidency, which was the topic of the ministerial orientation debate that was held during the very same meeting of the General Affairs Council, was positively received by other Member States and should constitute the basis for the Danish and Cypriot Presidencies.[19]

1.3. The Eastern Partnership

The Polish Presidency implemented the objectives of the Eastern Partnership following its own action plan and referring to the proposals of other EU institutions and the experience of the Hungarian Presidency. During the Hungarian Presidency the only important event concerning the Eastern Partnership was its Euronest Parliamentary Assembly inauguration meeting (May 2011) attended by representatives of the European Parliament and national parliaments of beneficiary states, i.e. Ukraine, Georgia, Armenia, Azerbaijan, Moldova and Belarus. The Partnership is to support, promote and boost cooperation at the parliamentary level among the states implementing the Eastern Partnership project. However, the Hungarian Presidency did not organise the next summit of Eastern Partnership countries scheduled in the first half of 2011 arguing that many EU Member States did not display much interest in the project. In result, organisation of this event was assigned to the Polish Presidency.

The next Eastern Partnership summit was held on 29-30 September 2011 in Warsaw. Thirty-two delegations of EU Member States and Eastern Partnership beneficiaries (except for Belarus, as it boycotted the meeting) as well as representatives of EU institutions and bodies took part in the summit. They reviewed the first two years of project implementation.[20] Participants of the meeting adopted a Joint Dec-

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[19] *Cohesion Policy. Programme of the Polish Presidency...*, p. 12. *Raport podsumowujący debatę orientacyjną na temat polityki spójności po 2013 r...*, p. 1-4.

[20] *Joint Declaration of the Eastern Partnership Summit*, Warsaw, 29-30.09.2011, http://pl2011.eu/content/wspolna-deklaracja-warszawskiego-szczytu-partnerstwa-wschodniego, p. 1-2.

laration of the Eastern Partnership Summit identifying three cooperation objectives. The first objective was to be realised mainly by a continuation or commencement of negotiations on the signing of Association Agreements with particular beneficiary states which would include provisions on the establishment of FTAs (DCFTAs). Negotiations with Ukraine were expected to be concluded not later than by the end of the Polish Presidency.[21] As to the second cooperation objective, EU Member States agreed to co-finance the participation of beneficiary states in EU programmes and agencies. Both parties of the summit decided to tighten bilateral and multilateral cooperation in the area of energy, *inter alia*, by allowing for more beneficiary states including Ukraine and Moldova to join the Energy Community Treaty of 26 October 2005.[22] In reference to the third cooperation objective, the signatories of the joint declaration announced a review of and subsequent changes in the principles of mutual cooperation binding till then. Moreover, EU Member States declared a notable increase of funds allocated to the implementation of the Eastern Partnership 2010-2013 goals that is from EUR 600 million to EUR 1.9 million for bilateral and regional programmes.[23]

As the signatories of the Joint Declaration of the Eastern Partnership Summit did not succeed in reaching an agreement on Belarus, a separate declaration on this issue was drafted and adopted. The declaration on the situation in Belarus was signed only by the heads of state and government of EU Member States and not by the representatives of beneficiaries. In the declaration, the signatories expressed their "deep concern at the deteriorating human rights, democracy and rule of law situation in Belarus." The authorities of Belarus were called upon to "immediately release and rehabilitate all political prisoners, put an end to the repression of civil society and media and start a political dialogue with the opposition." The heads of state and government of EU Member States reiterated that the EU offer to "deepen its relations with Belarus" is conditional on "progress towards respect by the Belarusian authorities for democracy, the rule of law and human rights."[24]

Even though the Belarus case negatively influenced the course of the meeting of the heads of state and government of Eastern Partnership countries, the Polish Presidency unquestionable achievements included the closing of negotiations on the signing of the Association Agreement with Ukraine and launching agreement negotiations with Georgia and Moldova, the signed Joint Declaration of the Eastern Partnership Summit which was a better offer of cooperation for the beneficiaries (the announcement of e.g. lifting the visa requirement, increasing energy security and

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[21] *Ibid.*, p. 2-5.

[22] *Ibid.*, p. 5-7. *Energy Community Treaty*, Athens, 26.10.2005, OJ L 198, 2006, pp. 18-29.

[23] *Joint Declaration of the Eastern Partnership Summit...*, pp. 7-9.

[24] *Declaration on the situation in Belarus adopted on the occasion of the Eastern Partnership Summit in Warsaw on 30 September 2011*, p. 1. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/124843.pdf.

increasing financial outlays on the realisation of the Partnership objectives), and the establishment of new bodies: the Eastern Partnership Business Forum and the Conference of the Regional and Local Authorities for the Eastern Partnership.

1.4. Strengthening the Presidency Role in Internal EU Representation

As the relations between the Presidency and the High Representative of the European Union for Foreign Affairs and Security Policy are still being defined and shaped, it should be highlighted that the Polish government succeeded in strengthening the position of the rotating Presidency. The pattern the Polish Presidency followed in its cooperation with the High Representative of the Union was that of very frequent contacts at both political and working levels (e.g. working groups). That pattern was markedly different from the approach of the Belgian or Hungarian Presidencies. The most visible example of strengthening the position of the rotating Presidency in the said relations was the influence the Polish government had on the agenda of the informal meeting of foreign affairs ministers of EU Member States (Gymnich). Such meetings are traditionally held during each Presidency since 1974. At the Gymnich held on 2-3 September 2011 in Sopot, the Polish Presidency managed to introduce its operational goals to the Gymnich agenda. They addressed the European Neighbourhood Policy, especially issues related to the Eastern Partnership, and the initiative to establish the European Endowment for Democracy (EED).[25]

1.5. New Regulations on Freedom, Security and Justice

In the area of the EU visa policy a profound achievement of the Polish Presidency was the signing of the agreement waiving visa requirements in cross-border movement between Poland and the Kaliningrad Oblast on 14 December 2011 by Polish Foreign Minister Radosław Sikorski and Russian Foreign Minister Siergiej Ławrow. Earlier, on 27 October 2011, the Justice and Home Affairs Council at its meeting in Luxembourg agreed a general approach to the draft EU provision amendments concerning Local Border Traffic (LBT). The changes were to facilitate border crossing in the Kaliningrad area. The agreement on visa-free border traffic of 14 December 2011 covered the entire area of the Kaliningrad Oblast, parts of the Voivodship of Warminsko-Mazurskie (towns: Elbląg, Olsztyn, poviats: elbląski, braniewski, lidzbarski, bartoszycki, olsztyński, kętrzyński, mrągowski, giżycki, gołdapski, olecki, węgorzewski) and part of the Voivodship of Pomorskie (Gdynia, Sopot, Gdańsk, poviats: pucki, gdański, nowodworski and malborski). The agreement facilitates multiple crossing of the Polish-Russian border by citizens living in the said border zone.[26]

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[25] *Report of the Polish Presidency. September 2011*. Press release, 4.10.2011, www.pl2011.eu;

[26] Agreement between the government of the Republic of Poland and the government of the Russian Federation on local border traffic, http://www.msz.gov.pl/, pp. 1-10.

Another operational goal of the Polish Presidency belonged to the preventing and combating drug-related crime category. It was the proposal of the European Pact against Synthetic Drugs which was submitted to and adopted by the Justice and Home Affairs Council. The draft pact was drawn up by experts of the Polish Central Bureau of Investigation and the National Police Headquarters. On 8 September 2011, it was debated by the Standing Committee on Operational Cooperation on Internal Security. The Committee accepted the document, which allowed for its adoption by the Council. On 27 October 2011, at its meeting in Luxembourg, the Justice and Home Affairs Council adopted the European Pact against Synthetic Drugs. The Pact is a practical application of the Stockholm programme and the EU Internal Security Strategy adopted in 2010 by the European Council. It contains provisions to counteract the production and trafficking in synthetic drugs, to combat new psychoactive substances and to provide training for law enforcement services in e.g. the detection and dismantling illicit production facilities. The European Pact against Synthetic Drugs undoubtedly boosts the process of counteracting threats resulting from the production and smuggling of synthetic drugs, designer drugs included. Its implementation is to be supervised by the Standing Committee on Operational Cooperation on Internal Security which is to design the needed strategic plans and operational objectives.[27]

2. Breakthrough Achievements in Legislative Work and Political Disputes

2.1. Adoption of the Set of Six Legislative Measures Supporting Economic Governance in the Eurozone and in the European Union

Activities aimed at strengthening economic governance in the Eurozone and in the European Union were among most important areas of administrative, mediation and coordination activities of the Polish Presidency. As a result of the deepening sovereign debt crisis in some EU Member States (Greece, Ireland, Portugal), already in September 2010 the European Commission proposed to adopt new and more radical regulations on financial discipline and almost automatic sanctions for violators of the new regime. It was then clear that the provisions of the Stability and Growth Pact of 1997 together with their revision in 2005 were not sufficient to prevent the sovereign debt crisis. The European Commission presented its new provisions in six draft legislative acts (five regulations and one directive) that since then have been referred to as the "sixpack". Negotiations on the sixpack took over a year. The European Parliament reported over two thousand amendments to the package presented by the European Commission. Their adoption was hindered mainly by the

[27] A. Koziołek (2011), *Rada UE przyjęła Europejski Pakt przeciwko Narkotykom Syntetycznym*, "Monitor Prawa Celnego i Podatkowego" no. 11, p. 1.

dispute between the European Parliament and the Council of the European Union concerning the mechanism of taking decisions on the sanction(s) application. The Hungarian Presidency did not manage to achieve an agreement on this issue with the European Parliament.

It was the question whether the sanctions should be applied automatically, i.e. to what extent a decision on sanctions should be independent of the decision of the Council of the European Union, that aroused most controversies. Finally, in mid-September 2011, the Polish Presidency managed to achieve an agreement. The European Commission's recommendation on sanctions (firstly interest-bearing or non-interest-bearing deposits if needed, converted to fines that were to amount to 0.2 GDP in the preceding year) would be adopted by reverse qualified majority voting in the Council and considered adopted, unless the Council decides to the contrary by qualified majority within ten days of the Commission adopting its proposal. This means that it is always the Council's decision which is binding.[28]

The above compromise on the mechanism of decision-making on sanctions allowed for the adoption of the set of six legislative acts.[29] The sixpack addresses the need to tighten of fiscal rules, mainly for members of the Eurozone, and to strengthen coordination of economic policies of EU Member States. Its four regulations on public finance reform two basic parts of the Stability and Growth Pact of 1997 – the preventive arm (multilateral surveillance procedure) and the corrective arm (excessive deficit procedure).[30] In essence, the reform makes the multilateral surveillance procedure and the excessive deficit procedure more restrictive. Sanctions against Eurozone members which fail to adhere to the rules and principles of the budget policy are expanded and introduced at an earlier stage. They may be applied both

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[28] *Regulation (EU) No. 1173/2011 of the European Parliament and of the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area*, OJ L 306, 2011, pp. 4-5.

[29] *Regulation (EU) No. 1175/2011 of the European Parliament and of the Council of 16 November 2011 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies,* OJ L 306, 2011, pp. 12-24; *Regulation (EU) No. 1173/2011 of the European Parliament and of the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area*, OJ L 306, 2011, pp. 1-7; *Council Regulation (EU) No. 1177/2011 of 8 November 2011 amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure,* OJ L 306, 2011, pp. 33-40, *Regulation (EU) No 1176/2011 of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances,* OJ L 306, 2011, pp. 25-32, *Regulation (EU) No 1174/2011 of the European Parliament and of the Council of 16 November 2011 on enforcement measures to correct excessive macroeconomic imbalances in the euro area*, OJ L 306, 2011, pp. 8-11, *Council Directive 2011/85/EU on requirements for budgetary frameworks of the Member States*, OJ L 306, 2011, pp. 41-46.

[30] The objective of the preventive arm of the Stability and Growth Pact was to counteract excessive deficit in the public finance sector at an early stage, whilst the goal of the corrective part was to launch the excessive deficit procedure. For more on the genesis and principles of the Stability and Growth Pact, cf. J.J. Węc, (2009) *Polityczno-prawne aspekty procesu konstytuowania oraz reformy Unii Gospodarczej i Walutowej. Od planu Wernera do traktatu konstytucyjnego*, "Politeja", no. 2, pp. 197-202, 208.

in the preventive arm (interest-bearing deposits) and in the corrective arm (non-interest-bearing deposits, or even fines). Fines may be also imposed on a Member State which manipulates statistical data on public debt and budget deficit. The process of imposing sanctions would cease to be discretionary and the role of the European Commission is notably strengthened in the area of surveillance. Moreover, the mechanism of controlling the public debt, which until then played a much lesser role than the budget deficit control mechanism, would gain much importance as public debt exceeding 60% of GDP should be treated just as strictly as budget deficit exceeding 3% of GDP (recommendations, reduction demand, or even a fine).[31]

The changes introduced cover also improvement of the macroeconomic dialogue between EU institutions (especially the European Parliament, the Council of the European Union, and the European Commission) and the establishment of the surveillance mechanism as part of the excessive imbalance procedure. The excessive imbalance procedure (with potential sanctions for lack of discipline) applies to Member States that have a large deficit or surplus on their current account, however the assessment of those two situations differs appropriately. The new directive on requirements for budgetary frameworks ensures, on the other hand, that national solutions will be conducive to strengthening fiscal discipline in the European Union.[32]

2.2. Compromise on the 2012 EU General Budget

Despite the growing disparities among Member States that resulted mainly from the sovereign debt crisis in the Eurozone, the Polish Presidency managed to efficiently conclude negotiations on the 2012 EU general budget. This was the first budget after the implementation of the Lisbon Treaty that the Council of the European Union and the European Parliament agreed upon within the time-frame specified in the applicable provisions of law, i.e. by 21 November.

The work on the budget was launched in January 2011 when the Budget Committee of the Council of the European Union led by the Hungarian Presidency, in cooperation with Poland, began drafting guidelines for the 2012 general budget. However, it was not until Poland assumed her Presidency that the procedure for agreeing on the budget was completed. Budget negotiations revealed disagreements on the 2012 budget expenditure volume among the Council of the European Union, the European Commission and the European Parliament. Pointing to the necessity to introduce cuts during the sovereign crisis, governments of the Member States, mainly under the pressure exerted by the UK supported by France and Germany, proposed to freeze budget expenditure at its 2011 level. Their postulate was that the 2012 budget

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[31] Fines cannot be imposed on non-Eurozone states. These countries receive recommendations or are requested to lower their public deficit or public debt.

[32] *Najważniejsze rezultaty prac prezydencji polskiej w Radzie Unii Europejskiej*. Press release, 22.12.2011, www. pl2011.eu.

expenditure volume should amount to EUR 129,088 billion (payments). That figure was only 0.98% of the GNI of the entire European Union, and translated into an increase by 2.02% in relation to 2011, i.e. basically by the inflation rate. It was tantamount to reducing the expenditure proposal of the European Commission by over EUR 3.6 billion. There was little room for manoeuvre for the European Commission and the European Parliament in their negotiations with the Council of the European Union as funds to cover additional costs incurred by the social policy (European Social Fund) and research were lacking. In result, the European Parliament accepted the abovementioned proposals of governments of Member States in return for their consent to adjust the 2011 budget. The adjustment consisted in increasing the overall payment growth by the missing EUR 200 million. Negotiations were closed on the night of 18/19 November 2011. The parties reached agreement. The 2012 budget expenditure was to amount to EUR 129,088 billion (as the Council of the European Union wanted), and liabilities to EUR 147,232 billion. The decision on the notable increase in the budget expenditure in payments was taken to meet the European Parliament's postulates related to the implementation of the "Europe 2020" strategy and internal EU challenges.[33]

2.3. Strengthening the Presidency Role in Internal EU Representation

Using mainly mediation, the Polish Presidency succeeded in solving the long dispute concerning the manner in which the European Union should be represented in international institutions. The dispute resulted from discrepancies in the interpretation of the provisions of the Lisbon Treaty by the EU Member States, the European Commission and the External Action Service of the European Union. Though the Lisbon Treaty entrusted the function of external representation of the European Union to the President of the European Council, the High Representative of the European Union for Foreign Affairs and Security Policy, the European Commission and EU Delegations, it did not change the division of competences between the European Union and the Member States in various areas of the Union's activity. In the area of many external activities Member States still hold full rights to lay down principles of their representation on international forums. Thanks to the mediation of the Polish Presidency, the Member States, the European Commission and the European External Action Service worked out general arrangements for the presentation of statements by the European Union to multilateral organisations. On 22 October 2011, those principles were accepted by the General Affairs Council. They specify situations in which an EU delegation should use the formula "on behalf of the European Union", and where it is possible to use "on behalf of the European Union and its Member States". Moreover, the principles foresee the procedure for solving any disputes in this area. The arrangements are intended to serve as a permanent mech-

[33] *Ibid.; Unia Europejska ma budżet na 2012 rok*, PAP, 19.11.2011.

anism. The European Commission and the European External Action Service were obliged to present a report on the arrangements implementation by the end of 2012.[34] The achieved compromise will undoubtedly strengthen the standing of the European Union in its relations with external partners, as it will allow the EU to speak "with one voice" to multinational organisations, e.g. the United Nations or the OSCE.[35]

3. Achievements Constituting Advancement of Legislative Work in Progress and Political Debates

3.1. Debate on Deepening the Internal Market and Sources of Economic Growth

The Polish Presidency continued the debate on the deepening of the single market as the necessary condition for boosting economic growth in the European Union. This debate was launched by the Belgian Presidency.[36] On 3-4 October 2011, in Cracow, the first Single Market Forum was held. This event was organised jointly by the Polish Presidency, the European Parliament and the European Commission. It was a meeting of politicians, entrepreneurs, representatives of employer organisations, trade unions and non-governmental organisations. The most important objective of the Forum was to identify barriers that hinder the growth and functioning of the single market, as well as to finding methods eliminating them. The topics discussed included the reform of the EU public procurement law, development of e-commerce, incentives for economic activities and better communication between single market institutions and citizens.

The Single Market Forum adopted its political declaration that was presented to the Council of the European Union, the European Parliament and the European Commission. The declaration obliged the governments of Member States, the European Commission and the European Parliament to undertake activities aimed at using the

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[34] *Najważniejsze rezultaty prac prezydencji Polski w Radzie Unii Europejskiej w październiku* [*2011 r.*]. Press release, 28.10.2011, www. pl2011.eu; K. Niklewicz, *Kompromis w sprawie zewnętrznej reprezentacji Unii*, http://pl2011.eu/content/kompromis-w-sprawie-zewnetrz- nej-reprezentacji-unii, p. 1.

[35] The breakthrough achievements of the Polish Presidency also include the negotiations on the establishment of a unitary system for patent protection in the European Union and the extension of the functioning of the food aid programme for the least affluent EU citizens to the years 2012--2013, *cf. Meeting of the Competitiveness Council (Internal Market, Industry, Research and Space)*. Press release, Brussels, 29-30.09.2011, 14691/11, p. 9; *Meeting of the Competitiveness Council (Internal Market, Industry, Research and Space)*. Press release, Brussels, 5-6.12.2011, 18115/11, pp. 19-21. Najważniejsze rezultaty prac prezydencji polskiej w Radzie Unii Europejskiej. Press release, 22.12.2011, www. pl2011.eu

[36] For more on this issue, *cf.* J. J. Węc (2011), *Nowe zasady sprawowania prezydencji w Radzie Unii Europejskiej. Bilans prezydencji belgijskiej*, „Przegląd Zachodni" no. 3, p. 14.

single market as an economic growth drive in the European Union. The Cracow declaration identified and announced that twenty regulatory barriers identified as most painful for entrepreneurs and employees would be eliminated. The declaration called on European institutions and EU heads of state and government to undertake concrete actions in order to use opportunities provided by the single market and ensure its further growth. It was proposed to introduce the European Professional Card and directives for the recognition of professional qualifications in all EU Member States. The need to improve public procurement legislation to ensure that SMEs could enter tender procedures was identified as urgent. The declaration also pointed to the need to increase mobility of services and persons within the European Union, to introduce entrepreneurship incentives and simplify procedures, and to develop e-commerce further. The above was considered relevant to fighting the economic crisis.[37]

The Cracow declaration served as the basic document for the conclusions adopted by the Competitiveness Council (Internal Market, Industry, Research and Space) during its meeting on 5-6 December 2011 in Brussels. The Council declared it was willing to analyse the European Professional Card issue, and agreed that e-commerce was a factor that might contribute to economic growth and creation of new jobs, and it approved of the European Commission's intention to simplify public procurement legislation. The Council also called on the European Commission to present legislative solutions to the twelve priority measures identified in the Single Market Act as scheduled in the Act.[38]

To advance the debate on deepening the single market, the Polish Presidency and the European Commission prepared a report on potential sources of economic growth. It was titled "Towards a European Consensus on Growth" and presented in Brussels on 6 October 2011. The report contained action proposals that went beyond any *ad hoc* actions aimed at solving the sovereign debt crisis. The objective of the report was to answer two basic questions: what driving forces should be selected to accelerate growth, and how to reconcile the need for growth-enhancing investments with the need for sustainable public finances. The Polish Presidency identified the following areas with significant growth potential: human capital, single market (e-economy, services and infrastructure), SME sector, "green economy", regional policy, increased external trade and the EU opening to scientific and technological cooperation with third states. Apart from the abovementioned diagnosis, the report also contained recommendations for the European Union to take specific actions in the mentioned areas.[39]

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[37] *Single Market Forum. The Cracow Declaration*, Cracow, 3-4.10.2011, http://www.mg.gov.pl/, pp. 1-2.

[38] *Meeting of the Competitiveness Council (Internal Market, Industry, Research and Space)*. Press release, Brussels, 5-6.12. 2011, 18115/11, pp. 10-16.

[39] *Towards a European consensus on growth. Report of the Polish Presidency of the Council of the European Union*, http://pl2011.eu, pp. 3-51.

On 23 October 2011, the Presidency's report was accepted by the European Council during its meeting in Brussels. In the light of the report, the European Council in its conclusions identified key priorities needed to be pursued in order to achieve growth. To a large extent they were convergent with the proposals of the Polish Presidency.[40]

3.2. Legislative Work on EU Energy Security

The Polish Presidency also continued the legislative work on the EU energy security initiated by the Hungarian Presidency following the conclusions of the European Council of 4 February 2011 on the energy and innovation policy, and the conclusions of the Transport, Telecommunications and Energy Council of 28 February 2011 that specified the objectives of the EU's energy policy strategy till 2020.[41] The Polish government, in compliance with its operational programme, organised a debate on the directions of developing the EU external energy policy, closed negotiations on the regulation on cohesion and transparency of the energy market, and continued the work on the infrastructure package and acts on energy efficiency. The postulates of the Polish government voiced during the negotiations concerned mainly energy solidarity, principles of financing investment projects in energy infrastructure, internal sources of energy, as well as establishing an internal gas and electricity market in a manner that would make EU enterprises competitive.

The debate on the directions of the EU external energy policy in the coming years led to conclusions of the Transport, Telecommunications and Energy Council of 24 November 2011 on strengthening the external energy policy. In the conclusions the following, *inter alia*, were defined: market principles binding in external relations, most important infrastructural projects facilitating raw products delivery from outside the UE, and a set of cooperation formats for EU Member States to be followed with international bodies, especially with the International Energy Agency and the International Renewable Energy Agency (IRENA).[42] Respecting the competences of the European Union and the Member States, the external energy policy of the European Union was to be coherent with its strategy on energy and low-carbon policy till 2050. However, the effectiveness of the external energy policy remained dependant on the establishment of a single energy market in the European Union.

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[40] *Meeting of the European Council of 23 October 2011. Conclusions,* Brussels, 30.11.2011, EUCO 52/1/11, REV 1, pp. 1-6; pp. 1-7.

[41] *Meeting of the European Council of 4 February 2011. Conclusions*, Brussels, 4.02.2011, EUCO 2/11, pp. 1-15. *Meeting of Transport, Telecommunications and Energy Council of 28 February 2011*. Press release, Brussels, 28.02.2011, 6950/11, pp. 3-5.

[42] *Meeting of Transport, Telecommunications and Energy Council of 24 November 2011. Communication of the Council on security of energy supply and international cooperation – "The EU Energy Policy: Engaging with Partners beyond our Borders" – Council conclusions*, Brussels, 25.11.2011, 17615/11, pp. 1-13.

On 9 December 2011, the conclusions of the Transport, Telecommunications and Energy Council were adopted by the European Council.[43]

The Polish Presidency also completed negotiations with the European Parliament on the adoption of the Regulation on Wholesale Energy Market Integrity and Transparency (REMIT). The regulation was adopted by the European Parliament and the Council of the European Union on 25 October 2011. The regulation defined principles of transparent wholesale trading in energy and introduced provisions preventing suspicious practices. It also foresaw the monitoring of wholesale energy markets by the Agency for the Cooperation of Energy Regulators in close cooperation with national regulatory bodies as well as of the impact of the EU emissions trading scheme on wholesale energy markets. Consequently, a major step was made toward the establishment of the EU single energy market by 2014.[44]

The Polish Presidency also contributed to the advancement of legislative work on the energy efficiency directive and the regulation on the trans-European energy infrastructure in negotiations on the infrastructural package and acts on energy effectiveness. While preparing the text of a draft directive, the objective of Polish government was to reach an agreement on an effective and flexible legal framework for energy effectiveness to grow by 20% by 2020. Another draft regulation prepared was on the trans-European energy infrastructure and contained proposals on shortening the time of issuing permits, establishing a mechanism of dividing costs allocated to cross-border projects and on a system of investment incentives and stimuli. The goal was to ensure good conditions for investments in trans-European industry infrastructure which should contribute to the security of strategic supply, efficient moving to a low-carbon economy and implementation of the internal energy market.

3.3. Enlargement Strategy

The Polish Presidency managed to uphold the idea of EU enlargement with another states as an important element of the European agenda despite reservations and objections of the governments of many Member States, stemming mainly from the sovereign debt crisis in the Eurozone and the need for an internal and external consolidation of the European Union. In the period when Poland held the Presidency of the Council of the European Union, the accession treaty with Croatia was signed, and accession negotiations with Iceland were continued. The launch of negotiations with Montenegro was announced, as well as a possible decision of granting Serbia the status of a candidate country.

On 5 December 2011, the General Affairs Council at its meeting in Brussels, adopted the conclusions on the enlargement and the process of stabilisation and as-

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[43] *Meeting of the European Council of 9 December 2011, Conclusions...*, p. 3.

[44] *Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency*, OJ L 326, 2011, pp. 1-15.

sociation. The Council referred to the European Commission's Communication of 12 October 2011 on the enlargement strategy, its opinion on Serbia's accession application, as well as its progress report on Turkey, Iceland, Republic of Macedonia, Montenegro, Albania, Bosnia and Herzegovina, and Kosovo. The Council welcomed the work done on the EU enlargement strategy, stating, *inter alia*, that the transformative power of the enlargement process generates far-reaching political and economic reform in the enlargement countries which also benefits the EU as a whole.[45]

On 9 December 2011 the European Council, at its meeting in Brussels, endorsed the conclusions of the General Affairs Council. Before the meeting, the accession treaty with Croatia was signed. The European Council announced the launch of accession negotiations with Montenegro in June 2012. It also obliged the General Affairs Council to perform an analysis of the previous process of drafting and implementing adjustment reforms, with a particular focus on the area of rule of law and fundamental rights, especially the fight against corruption and organised crime, on the basis of a report that was to be presented by the Commission in the first half of 2012. Moreover, the European Council tasked the General Affairs Council with examining and confirming whether Serbia met the membership criteria. If the opinion was positive, then in February 2012 the General Affairs Council would take its decision on granting Serbia the status of a candidate state while the European Council's decision was to be taken in March 2012. In reference to Turkey's statements and threats of Turkey toward the Cypriot Presidency, the European Council called on Turkey to fully respect the role of the Presidency of the Council.[46]

3.4. New Regulations on Freedom, Security and Justice

In the area of external border control and gradual introduction of the integrated border management system, the Polish Presidency had important achievements as well.

Firstly it was the revision and the last amendment of the Regulation on the Functioning of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex). The process was largely quickened by the events of the Arab Spring. The mass inflow of immigrants from North Africa to the European Union made it clear that it was necessary to tighten cooperation between Member States and Frontex in the area of security and protection of EU external borders. Consequently, it also became necessary to strengthen the mandate of Frontex. The compromise on amending the said Regulation was worked out by the Presidency and the European Parliament. On 25

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[45] *Meeting of the General Affairs Council of 5 December 2011. Conclusions of the Council on the enlargement and the stabilisation and association process*, Brussels, 5.12.2011, 18195/11, pp. 1-2, 5-21.

[46] *Meeting of the European Council of 9 December 2011. Conclusions...*, pp. 4-6.

October 2011, the Regulation of the European Parliament and the Council amending the Regulation of the Council of 26 October 2004 was adopted. This document is a major step toward increasing the protection and security of the external EU borders. In emergency situations, it enables Frontex to give Member States more effective support. New tasks of Frontex would include deploying European Border Guard Teams. The teams are to be composed of national border guards delegated by Member States to Frontex under annual agreements. They should support national border guard teams in combating uncontrollable inflow of immigrants and providing surveillance of planned mass events, e.g. sport events. Interventions of the European Border Guard Teams, however, are to be carried out solely at the request of an interested Member State(s). Also the technical and budget resources of Frontex are to be increased. Operations increasing the safety and security of EU external borders must respect human rights and comply with relevant international law. All Frontex activities which have any impact on human rights are to be supervised by two newly-established bodies: the Frontex Consultative Forum that is to assist the Executive Director and Management Board of Frontex in fundamental rights matters, and a Fundamental Rights Officer who will monitor and report on the compliance of Frontex activities with law. The Officer would be fully independent and report directly to the Frontex Management Board and Consultative Forum.[47]

In the area of migration policy, the Polish Presidency successfully negotiated the adoption of the "single permit" directive. This directive is on a single application procedure for a single permit for third-country nationals, i.e. non-EU citizens, to reside and work in the territory of a Member State and on a common set of rights for third-country nationals legally employed and residing in a Member State. The new provisions should simplify administrative requirements on permits for non-EU citizens and to simplify procedures monitoring their status. The abovementioned standard set of laws is based on the principle of equal treatment of non-EU nationals with citizens of a Member State. The Directive of the European Parliament and the Council on the single permit was adopted on 13 December 2011.[48]

The Polish Presidency also contributed to reaching the final agreement with the European Parliament on the new text and adoption of the Directive on qualification standards and criteria for persons seeking international protection in the EU, which was needed to establish the Common European Asylum System by the end of 2012. The Directive guarantees that irrespective of where in the European Union a given person requests asylum, the applicant's international protection needs would be eval-

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[47] *Regulation (EU) No 1168/2011 of the European Parliament and of the Council of 25 October 2011 amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union*, OJ L 304, 2011, pp. 1-17.

[48] *Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State*, OJ L 343, 2011, pp. 1-9.

uated on the basis of common criteria. This means that the minimum benefits level would also be guaranteed. Refugees, i.e. persons who – had they returned to their country, would be persecuted for the reasons stated in the Geneva Convention of 28 July 1951, and beneficiaries of complementary protection, i.e. persons who do not qualify as refugees, but who upon their return to their home country would face a real risk of suffering serious harm, are entitled to international protection. The new rules should simplify the decision-making process in asylum procedures, increase the effectiveness of the asylum procedures and counteract abuse. The Directive of the European Parliament and the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, was adopted on 13 December 2011.[49]

In the area of judicial cooperation in criminal matters, the Polish Presidency succeeded in the adoption of two new EU directives: the Directive on the European Protection Order and the Directive on combating the sexual abuse and sexual exploitation of children. On 23 September 2011, the Polish Presidency finalised negotiations with the European Parliament on the draft directive on the European Protection Order. The authors of this initiative were Poland and Spain. The Directive of the European Parliament and Council on the European Protection Order was adopted on 13 December 2011. The document outlines the principles of issuing the European protection order by a judicial or equivalent authority in a Member State in which a protection measure has already been issued with a view to protecting a person against a criminal act of another person such as domestic violence, threats, kidnapping, murder attempt or stalking. The Directive ensures that a protected person will also be protected in other EU Member States. Formerly protection rights expired upon the protected person's moving to another Member State. The Directive also concerns the transfer of such protection measures as contact orders or bans on all forms of contacting the protected person, including restraining orders, and even – if necessary – occupation orders. Only two EU Member States, i.e. Denmark and Ireland, decided not to adopt the directive.[50]

The Polish Presidency also completed negotiations with the European Parliament on the draft directive on combating the sexual abuse and sexual exploitation of children. On 13 December, the Directive of the European Parliament and Council on combating the sexual abuse and sexual exploitation of children and child pornography was adopted. It replaced the framework decision of the Council of 22 December 2003. The solutions recommended in the Directive strengthen the protection of mi-

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[49] *Directive of the European Parliament and the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted*, OJ L 337, 2011, pp. 9-26.

[50] *Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European Protection Order*, OJ L 338, 2011, pp. 2-18.

nors, as new abuse acts – including those employing modern technologies, would be investigated. The Directive specifies minimum penalties for approximately twenty crimes of sexual abuse of children, i.e. many more than previously. Moreover, it allows for hearing the children, after the Polish model. If a court hearing is necessary, children should be heard in specially designed or adjusted rooms, i.e. in child-friendly environment.[51]

3.5. Common Trade Policy

Following the new trade strategy of the European Union presented by the European Commission in autumn 2010, a most important issue for the EU was to close the WTO Doha Round negotiations as soon as possible. The basic task of the Polish Presidency was to prepare a statement of the European Union to be made at the Eighth WTO Ministerial Conference on 15-17 December 2011 in Geneva. The Polish government produced a draft statement and consulted it at the forum of the Foreign Affairs Council (Trade) with the conference delegations of the Member States that met in Geneva on 14 December 2011. Finally, the Foreign Affairs Council (Trade) accepted the joint statement of the European Union for the Eighth WTO Ministerial Conference. The Council decided for preferential treatment of services and service providers from least-developed countries by WTO members and for Russia's accession to the WTO. In connection with the latter, the Foreign Affairs Council (Trade) also approved drafts of four WTO-Russia bilateral agreements, i.e. the 'accession package' that comprised key conditions on Russia joining the WTO. These agreements concerned wood imports from Russia to the European Union and applicable tariff-rate quotas, a compensation mechanism to ensure that the import of parts and components of motor vehicles from the European Union to Russia does not decrease as a result of the application of the Russian investment programme in the automotive sector, sustaining the obligations in the area of service trading specified in the binding partnership and cooperation agreement between the EU and Russia, and introducing or increasing by Russia its export taxes on raw materials. Moreover, the Council authorised the European Commission to undertake bilateral negotiations with Egypt, Jordan, Morocco, and Tunisia on the establishment of "intensified and comprehensive" free trade zones under the already signed association agreements.[52]

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[51] *Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA*, OJ L 335, 2011, pp. 1-14. *Corrigendum to Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA*, OJ L 335, 2011, p.1.

[52] *Meeting of the Foreign Affairs Council (Trade)*. Press release, Geneva, 14.12.2011, 18685/11, pp. 4-5.

Even though the WTO Eighth Ministerial Conference held on 15-17 December 2011 in Geneva did not bring about a breakthrough in the negotiations on the Doha development agenda, it did lead to the decision on accepting Russia as a member of the WTO. During the Conference, it was the Polish Presidency that signed, on behalf of the European Union, the four abovementioned bilateral agreements with Russia that were listed in the accession protocol. Thus the Polish government completed the accession negotiations that had been held between the WTO and Russia for eighteen years.[53]

FAILURES OF THE POLISH PRESIDENCY

Apart from the abovementioned achievements, the Polish Presidency experienced some failures, though they were in no way spectacular. These failures resulted from both a negative attitude of some EU Member States or non-EU countries toward Polish initiatives and the Presidency's failure to act or negligence. The negative attitude of other countries had a major impact on six issues. Firstly, the Presidency failed to negotiate a common position on Belarus at the Eastern Partnership summit in Warsaw that would condemn the Belarusian authorities for violating human rights, democracy and the rule of law, as well as their repressions against the civil society and the media. However, much points to Georgia's objection against condemning Belarus in the Warsaw Declaration having been decisive. The objection stemmed from Georgia's concern that Belarus would retort by recognising the independence of Abkhazia and South Ossetia. Secondly, the negotiated Association Agreement between the EU and Ukraine (Poland's operational goal) was not initialled due to the political situation in Ukraine (the trail of Yulia Tymoshenko). Thirdly, Bulgaria and Romania were blocked from joining the Schengen Area due to the veto of the Netherlands. At the time, the Polish Presidency managed to persuade other opposing states – France, Germany, Sweden and Belgium – to change their positions, whilst Finland declared readiness to negotiate. However, it should be underlined that the enlargement of the Schengen area was so controversial an issue in the Netherlands that it was included in the governing coalition's agreement and as such constituted a significant element of the current Dutch home policy. Fourthly, in the area of EU security and defence affairs (another Poland's operational goal) the Presidency did not manage to negotiate measures aimed at more effective running of crisis management operations as it was vetoed by some Member States, mainly the UK supported by Lithuania. The Polish Presidency intended to increase the EU's efficacy through further development of EU battle groups, establishment of permanent civil-military planning and conduct capacities, and setting up a joint European operational headquarters for the EU. Those proposals were built on the Weimar Triangle initiative

[53] *Wicepremier Pawlak: Rosja w WTO dzięki staraniom polskiej prezydencji*, http://www.mg.gov.pl, p. 1. MG: *Rosja w WTO dzięki staraniom polskiej prezydencji (komunikat)*, PAP, 16.12.2011.

of 2010. The veto of the UK resulted from its concerns that the establishment of such capacities would be too expensive and compete with NATO. However, High Representative Catherine Ashton in her report of 11 July 2011, largely followed the abovementioned initiative of France, Germany and Poland. After the UK and Lithuania blocked the initiative, on 2 September 2011 foreign affairs ministers of Poland, Germany, France, Italy and Spain wrote a letter to Catherine Ashton jointly postulating to use the common structural cooperation mechanism to establish a permanent civil-military planning and conduct capacity for the European Union.[54] Fifthly, there was no progress in accession negotiations between the European Union and Turkey, as Turkey failed to meet all the Copenhagen criteria and, as has been mentioned above, expressed its intention to freeze relations with the Cypriot Presidency in the second half of 2012. Sixthly, it can be argued that there were little diplomatic initiatives of the Polish Presidency to counteract the effects of the Arab Spring namely a mass inflow of migrants from Northern Africa to the European Union. However, one should emphasise that the Polish Presidency did not have much room for manoeuvre there. The reform of the Schengen system put forward in September 2011 by the European Commission limited the right of Member States to take unilateral decision on temporary reinstitution of border control which was vehemently opposed by France, Italy and Spain. In their joint declaration, internal affairs ministers of those three states stated that it is the government of a Member State and not EU institutions that bears responsibility for taking decisions on the temporary restoration of border control in a case of threat to public order.[55]

It may be argued that the Polish Presidency failed to act (negligence) on four issues. Firstly, the Presidency was rather passive, especially in comparison to EU Commissioner for Climate Action Connie Hedegaard during the UN Climate Change Conference in Durban (28 November – 11 December 2011). However it managed to persuade reluctant EU Member States to adopt an EU common statement. Secondly, there was not much progress in the debate on the reform of the Common Agricultural Policy. The Polish government commenced negotiations on legislative proposals of the European Commission of 12 October 2011 concerning the reform of CAP after 2013, but it did not manage to convince everybody to agree on redistribution of direct payments by moving to a flat-rate system, which was one of the Presidency's goals. Thirdly, there was little advancement in work on the reform of the Common Fisheries Policy. The Polish Presidency launched a debate on that issue after the European Commission presented its legislative proposals on 13 July 2011, but the work on the reform focused on technicalities mainly and did not bring about much progress. Fourthly, there was lack of constructive proposals on solving the most disputable issues in the social and employment policy (including the maternity directive). On

[54] *Cf.* Minister Sikorski: *Nie wszyscy chcą stałego dowództwa akcji cywilno-wojskowych UE*, PAP, 19.07.2011, p. 1; Sikorski: *list pięciu krajów w sprawie wzmocnienia polityki obronnej UE*, PAP, 2.09.2011, p. 1.

[55] *KE proponuje reformy w strefie Schengen*, IAR, 17.09.2011, p. 1.

the other hand, however, the Polish Presidency successfully led to the adoption of the Council's conclusions on the role of voluntary work in social policy (drafted at the initiative of the Polish Presidency) and the conclusions on demographic challenges facing the EU at the meeting of the Council for Employment, Social Policy, Health and Consumer Affairs on 3 October 2011. Later, on 1 December 2011, also thanks to the Presidency's mediation, the Council reached a general approach on an amended regulation on the coordination of social security systems.

CONCLUSIONS

The presented review of the first Polish Presidency leads to a generally positive assessment. A most important quality of the Presidency was the effective management and execution of the function and tasks of the Presidency. The Polish Presidency very effectively planned, mediated, steered and coordinated the Council's work as well as represented the Council helping Member States reach agreement when differences in opinion emerged and in its dealings with other EU institutions. The Polish government also significantly strengthened the position of the Presidency in the area of the EU external representation. Most importantly, the Polish government managed to achieve almost all of the preset priorities and a vast majority of the adopted operational goals. Although the Polish Presidency, like all previous Presidencies, had its failures, most of them resulted from a negative attitude of some EU Member States or third countries to Polish initiatives, and only few were a result of the Presidency's negligence.

ABSTRACT

The article provides an assessment of the Polish Presidency of the Council of the European Union. The author presents the operational and strategic programme (priorities) of the Polish Presidency, the limitations it encountered, and the major achievements and failures of the Polish government in the implementation of the set goals (their categorisation has also been presented). The most important achievements of the Polish Presidency include: adoption of a package of regulations reinforcing the control of public finances of the Member States of the Eurozone and the European Union; a compromise on the EU general budget for 2012; start of negotiations on the Multiannual Financial Framework for 2014-2020; initiation of the debate on the reform of the Cohesion Policy after 2013; continuation of work on the EU's energy security; prolongation of the food aid programme for the most deprived EU citizens; further progress in the implementation of the EU enlargement strategy; the Eastern Partnership summit; completion of negotiations on the signing of the Association Agreement with Ukraine and beginning similar negotiations with Georgia and Moldova; continuation of the debate on the deepening of the internal market and sources of growth; legislative work on the introduction of a unitary patent protection system and new regulations in the area of freedom, security and justice.

In assessing the failures it must be noted that they resulted mainly from the negative attitude of some EU Member States or third states to the Polish initiatives, while only a few can be attributed to negligence of the Presidency as such. The following certainly belong to the first category: the lack of

a unified stand towards Belarus in the Warsaw Declaration; failure to sign the Association Agreement with Ukraine; lack of admission of Bulgaria and Romania to the Schengen area; failure to implement the set goals concerning a common policy on security and defence; lack of progress in accession negotiations with Turkey; lack of progress in works on the reform of the Schengen system. The second category of failures includes: a rather passive attitude of the Polish Presidency during the UN Climate Change Conference in Durban; failure to implement the set goals concerning the Common Agricultural Policy; lack of substantial progress in negotiations on the reform of the Common Fisheries Policy and in the area of the social and employment policy.