Polish Presidency of the Council of the European Union

A Review and Assessment of the Polish Presidency

Leadership in the EU in the Context of the Polish Presidency

The Polish Presidency and the Budget of the EU

Raison d'État and the Polish Presidency

Cultural Programme of the Polish Presidency

Poland and Germany in the EU

German Press Commentaries on Poland's Presidency

French-German Leadership in the EU

The EU in the Face of the Sovereign-Debt Crisis

Poland's National and Foreign Debt

Legislative Challenges for the EU after the Treaty of Lisbon

EU Immigration Policy

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From 1 July to 31 December 2011, Poland chaired the Council of the European Union for the first time.

In his speech given to the European Parliament on 14 December 2011, José Manuel Durão Barroso stated that the **Polish Presidency of the Council of the European Union**, under difficult circumstances, had delivered very important achievements and worked with great professionalism and enthusiasm:

> […] we can say that Poland has lived up to this reputation and the Polish Presidency up to our expectations. The Polish Presidency has held up the spirit of partnership between the European institutions and the Member States. Poland has constantly pushed for more Europe to address efficiently a crisis that has not only a financial and economic dimension but also above all a political one […]. As I said, these were considerable achievements under difficult circumstances. But this crisis is not behind us and we have a lot of work ahead. As we move forward, I would like that all Member States will show the same level of commitment to Europe as Poland has shown. [It] will be a tough act to follow. […] thank […] [you] for your leadership, for your strong European commitment, for your political courage. I think this was a great example for all the member states that are committed to a stronger European Union. (http://europa.eu/rapid/press-release_SPEECH-11-887_en.htm)

Donald Tusk in his speech given to the European Parliament on the same day, presented the following review of the Polish Presidency:

> Despite the fact that we were making our debut in the role of the Presidency, and perhaps precisely because of this, ours has been a Presidency of people determined to carry out their European assignment as well as we can. […] we have taken up the tasks – mindful of our limitations […] I have heard many warm words in the last few days about our commitment and the effectiveness of our work. […] I do think the Poles have earned this praise, and they have done so precisely because it was with a belief in the reason for having a united Europe that they took on the challenges which fell to the Polish Presidency. […] we cannot hide the fact that today, somewhere beneath the surface, there is in fact now a debate going on not about the future of the euro, but about the future of the Union. […] we need greater determination to protect the foundations of Europe, and not constant discussion of revision of these foundations.
>
> […] we need a very profound and serious debate […] because another Europe, a new Europe, is emerging as we watch. Let us do everything for it to become a united Europe, not a divided Europe. (http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT++CRE+20111214+ITEM-005+DOC+XML+V0//EN)

After the publication of No. 3/2011 of our journal, we put forward a proposal to evaluate the extent to which the Polish Presidency fulfilled its goals and Europe's expectations, and assess the Presidency's achievements and shortcomings. We would like to thank all those who accepted our invitation to participate in this discussion.

Some of the texts submitted are included in the first part of this issue. Their authors draw attention to problems that result from obligatory tasks of the presiding state and those born with Poland's own initiatives, and attempt to identify to their various effects, without necessarily evaluating them.

However, the course of any Presidency – its priorities, adopted scenarios, their implementation and results, cannot be assessed separately from the condition of the entire EU and global trends. Therefore the other articles included also point to many EU trouble spots and conclusions drawn often overlap with the motto of the Polish Presidency: "More Europe in Europe."

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Hanka Dmochowska

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JANUSZ JÓZEF WĘC
Cracow

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.

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LEADERSHIP IN THE EU IN THE CONTEXT OF THE POLISH PRESIDENCY OF THE COUNCIL OF THE EUROPEAN UNION

INTRODUCTION

In last few years, the term "crisis" has been commonly used in the EU's context by Europeanists and journalists.[1] The term is applied to describe the level of European integration which is conditioned by the impact of the global economic crisis with which EU Member States struggle directly, and on efficient and quick rescue decisions taken by EU institutions and addressed to all 27 Member States. It is apparent that "no other term that has captured the collective imagination of Europeans recently is so loaded with meaning as the word 'crisis' is: the crisis of democracy, the state, trust, leadership, integration, and finally – the euro."[2]

To speak about *crisis*, one needs to presuppose or adopt a model of a system that under various crisis-related developments does not function as it should. There may be changes within the system but it does not cease to exist. Centrifugal forces and external impacts, elements of the system and its environment make it adapt to the changing reality establishing new homeostatic relations or mechanisms.[3]

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[1] E.g. W. Weidenfeld, *Deutschland muß Führungsrolle in Europa einnehmen*, lecture given at Mediengipfel am Arlberg, 3.12.2011; J.Kaube, *Europa in der Krise. Hinter verschlossenen Türen*, "Frankfurter Allgemeine Zeitung" 18.06. J. 2011; A. Davidson, J. Goldstein, C. Kenney, *Europe's Financial Crisis, in Plain English*, "The New York Times" 4.12.2011, http://www.nytimes.com/2011/12/04/magazine/adam-davidson-european-finance.html?pagewan-ted=all, 8.12.2011; W. Szczęsny, *Aspekty teoretyczne współczesnego kryzysu finansowego*, "Studia i Materiały. Miscellanea Oeconomicae" no. 1/2009; J. Barcz, *Reforma ustrojowa Unii Europejskiej a kryzys finansowy*, J. Osiński (ed.), *Unia Europejska wobec kryzysu ekonomicznego. Zrozumieć kryzys*, Warsaw 2009, p. 11ff.; J. M. Fiszer, *Globalny kryzys finansowy i jego społeczno-polityczne konsekwencje dla Polski*, "Przegląd Politologiczny" No. 3/2009.

[2] A. Wolff-Powęska, *Czytaj Kanta Europo*, "Gazeta Wyborcza" 11-12.02.2012, p. 36.

[3] In this context, not only the theory of self-referential systems of N. Luhmann is interesting. Luhmann offers important insights into communication between the system and its environment and vice versa. As Luhmann observes, a new approach to systemic analysis should not take into account the communication within a single system only, but also in the system of that system's environment. N. Luhmann (2007), *Systemy społeczne*, Cracow. An analysis of system balance in the system of the European Union can also be found in Z. Chachór (2002), *Zmiany i rozwój w systemie Unii Europejskiej po*

Crisis of political and/or institutional leadership in the European Union has been debated since the 1990s, i.e. once the Maastricht Treaty entered into force. The Treaty consolidated the achievements of the integration processes and identified new areas and objectives of further European integration. The latter resulted in the Treaty amendments specifying the EU integration goals at the turn of the 21st c. more precisely. Among numerous crisis-inducing factors, those attributed to the internal EU systems themselves have been debated, e.g. tensions between EU institutions, amendments of the Treaties and issues in a way external to the system at a specific time such further enlargement of the EU, changes in global political and economic environment, etc.

To give an example, every treaty-related reform was "in the context" of a 'political crisis'. The 'political crisis' issue frequently appeared when efforts to ratify a new treaty failed. It was prophesied that the European project would end shortly and scenarios of great divides among Member States have been described, both those that would make the ratification procedure more flexible or lead to a fragmentation of the EU. One might have an impression that the history of European integration is one of overcoming ever emerging new crises like those of political nature (e.g. the empty chair crisis) or the eurosclerosis crisis, or an economic crisis. Such experiences clearly show that periods of political or economic recession eventually enhanced cooperation between EU Member States. Doubts that come to one's mind while analysing the effects of the current economic crisis on the advancement of European integration lead to a number of questions about the EU's condition in the nearest future. Many factors are involved, like the scale of the effects of the recent economic crisis that exacerbated the existing political and structural issues within the European Union contributing to a political justification of the need to introduce further reforms of the EU and to increase its efficacy.

Owing to the European Union's crisis, various group interests and leadership ambitions of particular states have been articulated.[4] A need for political leadership capable of programming activities in a strategic perspective appears vital not only in the context of threats to the stable/sustainable and dynamic development of the European project.

The discussion on political and institutional leadership has its three dimensions to say the least. The first dimension focuses on supranational European integration theories and points to European institutions and non-governmental European actors that influence the EU integration policy on multiple governance levels. In this very environment, the European integration appears to be a dynamic and multi-directional process that involves not only Member States but also non-governmental actors that are often its main driving force and not rarely possible candidates to a take over a leading role in the EU. That is exactly what is expected of non-governmental ac-

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Traktacie z Maastricht, Wrocław; and S. Hix, B. Hayland (2011), *The Political system of the European Union*, London.

[4] *Cf.* J. Barcz, *op. cit.*, pp. 14-20

tors in the European integration. These include EU institutions, mainly the European Commission which is expected to take the leading role in defining and consistently implementing ideas essential to the EU interest.[5]

The second dimension covers analyses of all or some Member States' influence on the course of events in the European Union. Advocates of such an approach draw attention to the fact that the main institutional actor in European integration is a Member State. Without its will and action, as well as its defined interests, the EU cannot undertake effective actions. Therefore, it ought to be expected that Member States and their coalitions will perform leadership functions capable of imposing their will on other integration actors usually with their approval and support.

The third dimension of research focuses on the transformation of internal and external European policies into a common inter-sphere of Member States. This common sphere appears to be the best political organisational formula to speak on behalf of Europe.[6] As a result of the integration "round table" politics, European politics and political representation can be operational provided that one person or institution may speak on behalf of many. When such a person or institution is lacking in the European Union, one can speak of a political leadership crisis. Holding leadership positions involves programming the directions of integration policies and activities needed in a strategic perspective as well as skilful and effective acting on behalf of the whole EU. Leaders should have the mandate to act granted by the Member States or an electoral mandate.

History of European integration clearly shows that there were periods when particular politicians, including prime ministers or presidents of Member States, or heads of institutions, e.g. of the European Commission, were discerned as leaders. One may say that, depending on a political and economic climate in the EU, what is being articulated is a need for institutional (usually the European Commission) and/or individual (Member State) European leadership. It is worth underlining that the two scenarios do not rule each other out, as it is possible for a prime minister, a head of state or a president/chairperson of an institution to become the political leader who thanks to his/her charisma will strengthen the leadership authority resulting from Treaties. However, in a broader perspective, the answer to the question who is capable of defining and executing European interests, will have a profound impact on the character of the European Union, as well as on the evaluation of the integration dynamics and its supranational and/or intergovernmental characteristic.

To sum up this part of considerations, it should be underlined that the desire to identify a person or institution that would speak on behalf of Europe and bear the responsibility for Europe was articulated by many parties and reflected in the contents of latest amendments to the Treaties. Among others, provisions on President of the European Council were introduced and the political responsibility of President

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[5] See J. Peterson (2008), *Obecna pozycja Komisji Europejskiej w unijnym systemie decyzyjnym*, "Przegląd Natoliński. Nowa Europa" no. 1(6)2008, Warsaw.

[6] *Cf.* L. van Middelaar (2011), *Przejście do Europy. Historia pewnego początku*, Warsaw, pp. 29--55.

of the European Commission was strengthened.[7] As a side note, it could added that from an institutional perspective, it would be interesting to combine the two functions.[8] Further institutional changes in the EU along these lines are postulated by e.g. Chancellor of the Federal Republic of Germany Angela Merkel and Polish Minister of Foreign Affairs Radosław Sikorski.

FACTORS DETERMINING THE EU POLITICAL LEADERSHIP CRISIS

One could list myriads of factors of various relevance that trigger debates on the EU crisis. Some opinions are unjustified as they do not take into account the dynamic character of the EU, and it is not that all changes and modifications must induce a crisis understood as a long-term inability to act and thus stagnation, including the inability to define and implement the needed corrective measures and/or to coordinate EU policies.

The current economic crisis, whose effects influenced mainly the Eurozone members, has revealed the weakness of the EU decision-making system and reminded about mistakes made earlier while laying the Eurozone foundations and about deliberately ignored consequences of violating the Maastricht convergence criteria. The crisis deepens problems related to EU political reforms. These issues often indicate the EU's helplessness in the face of substantial structural challenges in the era of globalisation.[9] In a long-term, it seems obvious that the functioning of the common European currency without political coordination in the Eurozone is impossible. Attempts to harmonise the regulatory role of Eurozone states and Euro Plus states at a supranational management level have been strongly criticised by other states and their citizens. It becomes evident that there is a lack of adequate mechanisms supporting supranational economic management which, in the nearest future, will mean that attempts to make the EU economy competitive will be fruitless. Consequently, this situation may deepen differences in the development level between the countries of central and southern Europe. In a short-term perspective, the achievement of ambitious objectives of the recently adopted "Europe 2020" strategy might be at risk. A potential model of combating the crisis where further development of only those Member States which make highest contributions to the EU budget will be sustained, will be at the cost of the states that joined the EU in 2004 and 2007.[10] Not only in this context is the lack of effective supranational European leadership palpable.

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[7] *Cf.* A. Łazowski, A. Łabędzka, (2010), *Wprowadzenie do Traktatu z Lizbony*, Warsaw; J. Barcz, *Wprowadzenie – droga do Traktatu z Lizbony*, in: J. Barcz (ed.) (2008), *Traktat z Lizbony. Główne reformy ustrojowe Unii Europejskiej*, Warsaw.

[8] *Cf.* M. J. Tomaszyk (2012), *Unia Europejska w dwa lata od wejścia w życie Traktatu z Lizbony*, „Rocznik Integracji Europejskiej" no. 5/2012, Poznań; J. Barcz (2011), *Traktat z Lizbony. Wybrane aspekty prawne działań implementacyjnych*, Warsaw; *The Treaty of Lisbon. Implementating the Institutional Innovations, Joint Study*, Brussels 2007.

[9] *Cf.* J. Barcz, *Traktat z Lizbony. Główne*..., p. 14.

[10] *Cf.* M. J. Tomaszyk, *Unia Europejska – Chiny – partnerzy na czas kryzysu?*, in: J. Fiszer (ed.) (2012), *Unia Europejska a Chiny. Dziś i w przyszłości*, Warsaw (in print). See J. Szczadlik-Talar (2011),

There are also other factors whose influence on the present condition of the EU and its capability to undertake effective action cannot be ignored. One should mention e.g.:

a) the amendment of the Treaties that constitute the cornerstone of the EU and thus changes in the EU's institutional conditionalities, especially in the area of the Common Foreign and Security Policy and the coordination level of cooperation between the Council of the European Union and the European Council. This change overlapped with the delayed entering into force of the Lisbon Treaty, which made it necessary to adopt interim rules, e.g. on drafting the EU annual budget. It also delayed the appointment of the new European Commission causing unnecessary commotion in the area of the EU's external representation, which became evident in the first half of 2010 when the USA, after asking the famous question "What is Europe's phone number?", called off the EU-USA summit.
b) the impact of the global economic crisis on the EU and its Member States, especially in the area of drafting scenarios to combat crisis effects in the entire EU and in its Member States. This is connected with the prospective EU's participation and position in creating a new post-crisis global order. In this respect, alternative solutions are debated e.g. the options to strengthen the alliance of Western states against the dominance of the People's Republic of China or to establish new partner relations with China.
c) possible changes in the principles of exercising leadership (Presidency) in the Council of the European Union, especially in the area of its cooperation with the European Council and its permanent President. This is an important aspect of institutional changes that formally limits the influence of the state holding the Presidency on current EU policies.
d) an increase in eurosceptic attitudes in some Member States frequently heading toward new conservative nationalism.
e) in the case of inefficiency of state authorities in combating the crisis, the governments of Member States may shift their hopes to the European level. However, much more frequently we observe instances of the so-called sclerotic syndrome of new Member States that "forget" about their accession to the EU and on their own seek partners that could stimulate their economic growth, e.g. by selling their bonds.

Chiny: powrót do gry, "Polski Przegląd Dyplomatyczny" no. 2(60). *Wieloletni Plan Finansowy*. Analysis of 5.10.2011, CEP, Berlin – Warsaw 2011; *Finanzrahmen und EU-Budget ab 2014*, EurActiv Deutschland; *Investing where it matters. An EU Budget for Long Term Growth*, CEP, Brussels 2012; K. Popławski, (2011) *Niemcy wobec wieloletnich ram finansowych UE na lata 2014-2020*, Warsaw; M. Sapała (2011), *Polityka spójności w Wieloletnich Ramach Finansowych Unii Europejskiej 2014--2020. Zmiana i kontynuacja, Polityka spójności i sąsiedztwa Unii Europejskiej*, "Rocznik Instytutu Europy Środkowej i Wschodniej" p. 4.

When analysing the above conditions, one ought to take into consideration the impact that the Lisbon Treaty has had on the European political representation introducing the Permanent President of the European Council.[11] Before the first permanent President was appointed, the most frequently asked questions were: "Is one person capable of performing the role of a decision-making centre for 27 Member States?", "In what way will personal traits of that person influence formal and informal conditions within that institution?", "How will the President shape relations with Member States, other institutions, mainly with the Council of the European Union and its rotating presidency?".[12] Some experts have been of the opinion that the changing of the EU presidency model to the rotating Presidency of the Council of the European Union would weaken the influence of Member States on the EU agenda and lessen the prestige and coordination capacity of EU policies. One ought to admit that under the Treaty of Nice, majority of European politicians willingly basked in the prestige of the Presidency, which was a result of other terms and conditions of the Treaty but also of a desire to "be seen" in the milieu of politicians of global and European format.[13] Such behaviours were often capitalised in the national politics of the state whose head of government or president during and after a successful Presidency could count on increased popularity and support among electors for his or her political activities.

Apart from the mentioned terms and conditions of Treaties, a leading role of a Member State in the EU might be, and often is, due to its economic, political or coalition-forming potential in the Council, as well as its membership length, the volume of payments to the community budget and the characteristic traits of the leader of a Member State. In this context, the German-French integration duo[14] is often mentioned as a coalition of big internal market players[15] as well as the role and importance of Luxembourg Prime Minister Jean Claude Juncker, who presides over the Eurogroup.

Another factor conditioning the recognition of a person or institution as a political leader is social trust. Social trust is based on the belief that the person in

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[11] A. K. Cianciara (2011), *Jakie przywództwo? Rada Europejska po wejściu w życie Traktatu z Lizbony*, in: W. Konarski, A. Durska, S. Bachrynowski (ed.) (2011), *Kryzys przywództwa we współczesnej polityce*, Warsaw, pp. 102-105.

[12] See J. Pawłowski, *System instytucjonalny Unii Europejskiej w debacie Konwentu Europejskiego*, "Studia Europejskie" no. 3/2003.

[13] *Cf.* A. Jaskulski, *Struktura i funkcje prezydencji w Radzie Unii Europejskiej*, in: Z. Czachór, M. Tomaszyk (ed.) (2009), *Przewodnictwo państwa w Radzie Unii Europejskiej – doświadczenia partnerów, propozycje dla Polski*, Poznań.

[14] *Cf.* M. J. Tomaszyk, *Wybrane zagadnienia udziału Niemiec w pracach nad Traktatem ustanawiającym Konstytucję dla Europy i Traktatem lizbońskim*, "Myśl Ekonomiczna i Polityczna" no. 1/36/2012; M. Götz, T. Budnikowski (2012), *Europa w kryzysie. Kryzys w Europie*, Biuletyn Instytutu Zachodniego, no. 77/2012, Poznań; B. Koszel, *Rola zjednoczonych Niemiec w procesie integracji europejskiej*, in: *Polityka zagraniczna zjednoczonych Niemiec*, Poznań 2011, p. 27 ff.

[15] E.g. Germany, France, Italy and the UK.

power is destined to govern people, an organisation or institution. A leader is able to persuade others to act voluntarily as he or she wishes.[16] In his newest book titled *Świat do przeróbki*, Witold M. Orłowski analyses the outreach and causes of the recent economic crisis and offers some scenarios for a new international order. At the same time, he points to the decreasing effectiveness of traditional economic, fiscal and monetary policies.[17] Orłowski underlines the need to more precisely define responsibilities of old and new decision-making institutions and postulates the need for new non-standard global solutions that should help overcome the standstill in trade liberalisation and the rising tide of new protectionism.[18] In the perspective of a few years of an unfavourable economic situation, high risk and uncertainty in the area of economic policy, and increased market speculation, shifting capital from one market to another to avoid losses, an agreement between the USA, the EU, Japan and China might be an opportunity for new global crisis management.[19] However, such an agreement requires precisely defined responsibilities and mutual trust, as well as a new quality of political leadership.

Assuming that the current crisis is mainly a crisis of trust that investors have had in markets, citizens in the state and the state in international organisations, one can conclude that the European Union can recover from the crisis only after it has a trustworthy leader. Most certainly it might be an institution leader, however, the provisions of the Lisbon Treaty, as well as the far-reaching results of the crisis and the costs of overcoming it show that leaders should be sought after among the heads of state and government of Member States, especially those belonging to the Euro-zone.[20]

Such a need seemed to have been recognised by Donald Tusk during the Polish Presidency. Tusk, in his speeches opening and closing the Polish Presidency of the Council of the European Union, considered that issue while discussing the causes of the crisis. Prime Minister Tusk explicitly pointed to the lack of trust and reluctance of some Member States toward community solutions to the crisis. His opinion corresponded to recent outcomes of sociological research which pointed to a leadership

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[16] *Cf.* M. Grzelczyk, E. Maślak, *Przywództwo polityczne podczas prezydencji w Radzie Unii Europejskiej. Angela Merkel i Nicolas Sarkozy – analiza porównawcza*, in: Z. Czachór, M. Tomaszyk (ed.), *Przewodnictwo państwa...*

[17] *Cf.* W. Orłowski, (2011) *Świat do przeróbki*, Warsaw, p. 43. As a result, the social state model practised in Europe is now in recession and it seems necessary to cut national spending in those areas. In the literature of the field, the postulate of replacing the welfare state model with the workforce state model was discussed way before the European crisis.

[18] *Ibid*., p. 50.

[19] *Ibid*., p. 50-54.

[20] This situation might change now that F. Hollande won the French presidential elections. The new President of France plans to divide the costs of the crisis between the banking sector and citizens, differently than his opponent. Hollande's victory destabilises the previous Sarkozy-Merkel alliance and obliges the German Chancellor to seek a compromise and find a new partner that would justify spending cuts. As a result, the more differences between Member States, the quicker the European Commission can regain its position.

crisis among European politicians and to the constantly lowering trust of EU citizens in EU institutions. Citizens' trust in the EU has been decreasing since 2009. In 2009, 48% of respondents declared their trust in the European Union while in 2011 that percentage decreased to 34%. The research also pointed to an increase in the negative perception of the European Union and indifference toward the EU as well as a parallel decrease of trust in particular EU institutions.[21] In such a climate in Europe, it is difficult to build a leader's image and thus the issue is a new collective leadership. Consequently the question is: Does the Presidency, the leader of the Member State holding the Presidency, have formal powers to perform the role of an actual leader in EU politics? That question is relevant not only in the context of the Polish Presidency of the Council of the European Union. Analyses of Presidencies prior to 2009 clearly demonstrate that almost all leaders of EU Member States that held the Presidency of the European Council or the Council of the European Union capitalised on their European activities at their respective national arenas. Can, in the time of crisis, one articulate expectations about the Polish Presidency – the Presidency held after the Lisbon Treaty and of a state that is not a Eurozone member, that would be similar to expectations about the performance of the Federal Republic of Germany and its Chancellor Angela Merkel in the times of the enlivened post-constitutional debate in the EU?[22]

Most certainly, holding the Presidency of the Council of the European Union was a political test, a test in European maturity for each incumbent head of state and government. The EU expected of the Polish Presidency that it would send out a strong pro-integration message quenching the thirst for European political leadership.[23] Even the most optimistic enthusiast of the Polish Presidency, however, could not fail to notice that the crisis resulted in widening the scope of intergovernmental work, i.e. an approach not regulated by the Treaties, on developing a model for European integration governance that materialises through the European Council and its President.[24] The greatest beneficiary of these changes has been the permanent President of the European Council, who – mainly under the Treaties and thanks to the willingness of Germany and France – raises to be the President of the European Union capable of articulating the interests of EU Member States.[25] These new inter-

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[21] Eurobarometer 76, *Public opinion in the EU*, December 2011.

[22] These questions have been answered in *Polish Presidency final report. The Polish Presidency of the Council of the European Union*, report adopted by the Council of Ministers on 17 April 2012.

[23] These expectations also correspond to the opinions of Poles and the catalogue of issues that Poland was to tackle in the second half of 2011. More information can be found in *Przed polską Prezydencją w Radzie UE, Komunikat badań BS_68_2011*, Public Opinion Research Centre, Warsaw, June 2011.

[24] *Cf.* a detailed discussion of this issue that leads to similar conclusions: *Raport końcowy...* See also: B. Nowak (2012), *Ostatnia prezydencja dużych oczekiwań. Refleksje po rezydencji Polski w RUE*, "Raporty i Analizy", CSM 2_2012, Warsaw.

[25] H. Van Rompuy's style of cooperating with the Council of the EU and the EC also plays an important role here. It can be observed that the bottom-up approach is being replaced with the bot-

dependencies weaken the leading power of the Member State that presides over the Council of the European Union.

THE POLISH PRESIDENCY OF THE COUNCIL OF THE EUROPEAN UNION AND POLITICAL LEADERSHIP IN TIMES OF CRISIS

One of political consequences of the economic crisis is the strengthening of the position and role of Member States in the EU institutional logic. Once again, the role of the European leader has been assumed by the German-French duo[26] that holds the European Commission hostage to their ideas, i.e. amending Treaties, establishing a European economic government and so on.[27] Moreover, the institution of the state, as a result of the economic crisis, has been strengthened from within. Radical advocates of the post-Westphalian international order who have prophesised advanced erosion of the institution of the state must admit that in the context of the crisis, it is the state that is the only point of reference for the emerging post-crisis order. From the perspective of supranational and international features of the European Union, one might expect that the intergovernmental cooperation in crisis management, not necessarily in the group of 27 Member States, would be tightened. However, this process will rather take place on new platforms for coordinating European management or at the European Council's meetings, whilst the influence of

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tom-down method, which the Council uses to exercise its rights resulting from Treaties. The Council provides general guidelines for actions in the area of its competence. It is worth underlining that in the new system of the Presidential trios, the important function of coordinating relations between the state that holds the Presidency of the Council of the European Union and the European Council has been handed over to the General Secretariat of the Council of the European Union. This is not without impact on the technical dimension of preparations, and – even more importantly – on the opportunities to implement priorities. The presiding state must cater for the limiting of the autonomy of the Secretariat, which is serving another Presidency and might not always find it reasonable to provide informal assistance aimed at maximising the possibilities of achieving the goals of the current leader.

[26] *Cf.* S. Heffer, *Rise of the Fourth Reich, how Germany is using the financial crisis to conquer Europe?*; Dailymail of 17.08.2011, http://www.dailymail.co.uk/news/article-2026840/European-debt-summit-Germany-using-financial-crisis-conquer-Europe.htmlixzz1bevFHbK9, of 10.09.2011; F. Roth, *Who can be trusted after financial crisis*, CEPS Working Document, no. 302/ November 2009. In times of crisis, it quickly becomes apparent who is the true leader and who imposes solutions on others. In the second half of 2011 the duo of Angela Merkel and Nicolas Sarkozy became active. For Germany, which is also a net contributor to the European Union, this crisis is also an internal crisis that has influenced financial capabilities of each and every German citizen. As a result, German citizens expected that Merkel would be active in EU institutions. Angela Merkel already presided over the Council of the European Union during the 2007 crisis. She had to face the challenge of the Treaty establishing a Constitution for Europe and the further institutional dimension of the European Union. It was undoubtedly a success that Merkel shaped the Treaty reform and its progress which resulted in the signing of the Treaty of Lisbon during the Portuguese Presidency. As a politician, Angela Merkel attained the position of a strong partner and suited the role of "the driving force of the European Union" perfectly. This is not only thanks to her individual predispositions for being a leader but also the efficient creation of her image in the media.

[27] M. J. Tomaszyk, *Wybrane zagadnienia...*

the presiding state on the course of European matters – if it is not a full member of multi-tier, multi-speed Europe – will be notably limited.

An example of the grouping of state interests is the French-German tandem which continues to play the role of European leaders.[28] German Chancellor Angela Merkel and President of the Fifth Republic of France Nicolas Sarkozy undertake joint initiatives e.g. appointment of an economic government, veto on issuing Eurobonds, agreement on new sources of income to the EU budget, new agreement on changing the Lisbon Treaty or expenditure cuts prior to the drafting of the annual and multiannual budget by EU institutions. These actions are perceived by other Member States as veiling Germany's power and France's weakness as France's economy happens to be judged highly volatile.[29] It should be remembered that it is not without reason that Germany and France may feel particularly responsible for the European project. Many researchers give their cooperation after World War II as the example of reconciliation through peaceful, supranational cooperation. In many crisis situations resulting from political changes, situations in international relations or market instability, leaders of those states proposed strategic changes to the EU in response to EU internal and external threats or signs of instability. It suffices to recall the political climate in the times of founding the European Union or during the drafting of the EU enlargement strategy and the work on constitutionalisation of the EU.

The above situations and conditions, however, do not thwart aspirations of smaller Member States and their leaders to lead the EU if only while holding the EU Presidency. Despite the terms and conditions of the Treaties that force Presidencies to concentrate on efficient execution of its organisational and management tasks to advance legislative work, the aspirations of particular states cannot be subjected to the Treaties' provisions. It was the case of Poland which while holding its first Presidency, wanted to prove to its partners that it was a politically mature and predictable European player in the arena of EU internal policies and to be the main facilitator and constructor of EU relations with Eastern Europe. Those who adopted a sceptical approach to the Polish leadership of the EU Council argued that it was a Presidency that led decision-making processes well, that is their management and organisation, but not a Presidency that effectively created new policy areas. According to them, representatives of the Polish government and experts, with Prime Minister Donald Tusk at their helm, often did not go beyond a narrative level that is they did not speak about facts. Facts appeared to be the domain of the two largest EU players, i.e. Germany and France. Others, however, acknowledged and appreciated that, against all odds, the Polish government worked jointly with France and

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[28] *Cf.* W. Glomb, *The Franco-German Tandem Confronts the Euro Crisis*, Fandapol, Paris, February 2011, p. 33ff. The tandem was dubbed "Merkozy" by journalists.

[29] Suffice to say that as France lost the highest rating in the "Merkozy" duo, the position of Germany grows stronger. Merkel's veto against the disbursement of financial aid to states that fail to implement packages saving their public finances now stands a chance of being more definite. This duo is referred to as the "anti-crisis fiancée". In the context of the internal political situation in France, the unfavourable rating and the possible loss of Sarkozy's influence on the essentials of German anti-crisis initiatives had a negative impact on the popularity of the President, who lost the elections held on 6 May 2012.

Germany (the Weimar Triangle) to deepen European integration. This is the context of the on-going debate on the model of closer cooperation, often presented as the model for multi-speed Europe. In respect to the anti-crisis scenario for the European Union, the Polish Presidency was definitely for a deeper EU integration and not the EU's fragmentation. Deepening the integration within the EU is greatly important for European solidarity which should guide the design of a new cohesion policy. Moreover, presiding the Council of the European Union may be both the crowning of a politician's achievements and the beginning of a career in European intellectual circles. The latter ambition was attributed to Donald Tusk by the Polish parliamentary opposition.

In the situation of a general economic and institutional crisis in the EU, changed principles of inter-institutional cooperation and of the role of the Presidency of the EU Council, as well as expectations of Member States and their citizens toward EU institutions, not to mention relevant geopolitical developments[30], it is worth analysing how German and Polish mass media commented on the European involvement of Poland and its Prime Minister in the second half of 2012. Did Poland's Prime Minister and the Polish Presidency appease, if only to a minimum extent, the EU's need for a considerate leader in the EU's post-crisis order?

At the inauguration of the Polish Presidency, Prime Minister Tusk said: "[…] we will contribute a great deal of Polish enthusiasm, Polish energy and Polish optimism, something which has allowed us to come through the crisis fairly safely, because we really do believe in Europe and we want, together with you and by carrying out these practical tasks, to enable us to open a fresh chapter of investment in Europe, and to help us all to believe in Europe again.".[31] Tusk underlined the meaning of values, and mainly the meaning of faith in united Europe. The reference to solidarity was an important element of his speech. The Prime Minister emphasised that in times of crisis, it is solidarity that constitutes the basis for overcoming economic problems of the European Union. The term "crisis" was the most often used word in the speech of Donald Tusk. The Prime Minister used it 26 times. The words "solidarity" (8), "experience" (8) and "values" (7) were the response. It follows that these four keywords describe the Polish Presidency and are basic for the assessment of the implementation of Polish priorities.

In the Presidency programme, its three chief priorities were presented: European Integration as a Source of Growth; Secure Europe – Food, Energy, Defence; Europe Benefiting from Openness.[32] The first comments after Tusk's speech to the European

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[30] Cf. *Government report*..., p. 11.

[31] Speech of Donald Tusk before the European Parliament in Strasbourg on 6 July 2011 opening the Polish Presidency of the Council of the European Union, http://www.europarl.europa.eu/sides/getDoc.do?type=CRE&reference=20110706&secondRef=ITEM-002&format=XML&language=EN. Accessed 10.01.2012.

[32] Programme of the Polish Presidency of the Council of the European Union, 1 July 2011-31 December 2011, http://pl2011.eu/sites/default/files/users/shared/o–prezydencja/program–polskiej–prezydencji–w–radzie–ue.pdf. Accessed 15.02.2011.

Parliament were positive. José Manuel Barroso expressed the European Commission's full support for Polish priorities. Martin Schulz, German MEP at the time and now President of the European Parliament, made an important comment: "In Donald Tusk we have a President who says Europe is part of the solution, not the problem".[33] Guy Verhofstadt[34] underlined that the Polish Presidency came at the crucial time in the on-going crisis, and agreed with the Polish Prime Minister that to overcome the crisis, the EU needed more European integration. Verhofstadt referred to Tusk's education saying that as a historian, the Polish PM knew very well that the continent without the EU was a land of dispute, war and genocide.[35]

Expectations about the Polish Presidency of the Council of the European Union were high. Poland was dubbed the "green island" or the "model state" to underline that it was the country only slightly affected by the economic crisis.[36] It is worth recalling that the Czech Presidency was remembered mainly for the Czech internal political crisis and the euroscepticism of Vaclav Klaus, whilst Poland's predecessor, Hungary, was associated mainly with its Media Act and changes to the Hungarian political system which many deemed limiting to Hungarian citizens' civil rights.[37] It was expected of Poland to co-create the image of a Member State that serves as a positive (back)ground against the struggle with the crisis in the European Union, where the Eurozone players are the main players. Poland was perceived as a stable partner that was to create favourable conditions for the implementation of the interests of the most powerful EU Member States. One might agree that Poland fulfilled those expectations.

"We leave Europe in good hands" – said German Foreign Minister Frank-Walter Steinmeier upon the handing over of the Presidency to Poland. The only concerns mentioned referred to the uncertainty about the struggle for the single EU currency, as Poland is not a Eurozone member, and its citizens are sceptical about the euro.[38]

The opening of the Presidency by the Polish Prime Minister was welcomed by German weeklies. Poland was presented as a stabile country headed by a politician who does not seek conflict and is a 'synonym' of tranquillity on the political arena. German journalists underlined that Tusk was the response to the current situation in the European Union as the EU needed concrete solutions and not political conflicts.

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[33] Plenary session in Strasbourg on 4-7 July 2011, in: http://www.europarl.europa.eu/news/pl/headlines/content/20110627FCS22686/10/html/Donald-Tusk-w-PE-Potrzebujemy-wi%C4%99cej-Europy. Accessed 10.01.2012.

[34] Guy Verhofstadt – Prime Minister of Belgium in the years 1999-2008, currently Member of the European Parliament, since 2009 leader of the Group of the Alliance of Liberals and Democrats for Europe.

[35] *Ibid.*

[36] More on this issue: *Przed polską Prezydencją w Radzie UE...*

[37] This does not alter the fact Brussels experts praise both Presidencies for their involvement, efficient EU Council administration and fast solving of conflict-inducing issues, e.g. the Czech Republic for stifling the conflict concerning the climate and energy package and Hungary for the prelude to the discussion on the Multiannual Financial Framework.

[38] U. Krökel, *Europas Musterland übernimmt die Führung*, "Die Zeit Online" 30.06.2011.

It was also underlined that, for the first time since 1989, the Polish government had a chance to be re-elected, which bode the Polish Presidency well.[39] Poland appeared to be a "green island" not only economically but also politically. While Prime Minister Donald Tusk benefited from the positive reaction to the launch of the Polish Presidency, right across the border, Angela Merkel had to face a serious crisis of trust not only among the society but also in her own camp. She was criticised for her approach to Greece and her failure to provide explanations concerning the crisis. Attention was drawn to the Merkel-Sarkozy duo who together were to fight for a new shape of the EU again.[40]

Writing about EU politics, German weeklies devoted most space to the position of Germany in the modern European Union drawing attention mainly to economic issues and debating the future of the European Union in terms of ideas and values. Much was written about the crisis of trust in the EU as a warrant of security and stability, as well as the lack of trust toward politicians, which together spurred discussions on the legitimacy of power in the European Union.[41] It was underlined that decisions taken in Berlin and Brussels would be presented as a rescue plan and that mainly Germany would delineate the direction of the reforms.[42] During the Polish Presidency, German media judged Poland to be a very good and trustworthy partner. Radosław Sikorski demonstrated his political strength and courage in his speech given in Berlin. His words were greeted with less enthusiasm in Poland than in Germany. That might have been an effect of the lack of a vast political debate on the strength of the Polish voice in the European Union and on the implementation of Polish priorities. In Poland, the speech of Radosław Sikorski was criticised by the opposition[43], *inter alia*, because his courageous, yet not new, proposals on European integration had not been consulted with various parties in Poland. Although good results of the Polish economy were underlined, it was emphasised that Poland's voice wears thinner in discussions on the Eurozone crisis. As a result, two clubs were created, i.e. Eurozone members and Member States waiting to join in. Dividing euro debates into the above groups met with comments and concerns regarding the EU's unity. Questions on establishing an exclusive EU club for some Member States were raised.[44] The European Union was called "a Europe in Europe", and the

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[39] C. Tatje, *Wir betreten Neuland*, "Die Zeit" no. 29, 14.07.2011.

[40] M. Naß, *List der Vernunft*, "Die Zeit" no. 35, 25.08.2011, M. Brost, T. Hildebrandt, *Merkels Wille*, "Die Zeit" no. 36, 01.09.2011.

[41] A. Wilkens, *Europäer bewegt euch!*, "Die Zeit" no. 40, 29.09.2011; "Die Zeit Online" 06.10.2011; U. Greiner, *Europa vergißst seine Wurzeln*, "Die Zeit" no. 40, 29.09.2011.

[42] M. Brost, T. Hildebrandt, *Alle Macht den Deutschen?*, "Die Zeit" no. 44, 27.10.2011.

[43] Also A. Smolar points to the lack of consultation of the theses presented in R. Sikorski's speech. Smolar notes that in Poland there is generally little reflection on strategic interests of Poland in the EU and the role that the EU wants to play in the region thanks to Poland's EU membership. *Cf.* Aleksander Smolar's interview with Cezary Michalski, *Piosenka o końcu świata*, "Tygodnik Powszechny" 22.04.2012, pp. 12-14.

[44] P. Buras, *Nicht über uns ohne uns*, "Die Zeit" no. 50, 08.12.2011. The comment that Angela Merkel wanted to save mainly German competitiveness was also voiced. According to the German

solution to the crisis was sought in Germany. However, one should not forget that in March 2011 Poland, when preparing for her Presidency, put forward a realistic plan of inclusion of the non-Eurozone members aspiring to the adoption of the single currency, i.e. "Eurozone – plus". That proposal should be interpreted as an element of the anti-crisis scenario of joint efforts to combat the crisis.

In Germany, Poland kept being mentioned mainly in the context of her good economic performance. Poland was named a new "miracle country".[45] The weekly "Stern" noted the launch of the Polish Presidency, the victorious for Civic Platform elections and the caring attitude of the Polish Prime Minister to saving Europe. Tusk was often described as "a friend of Europe". It was also emphasised that relations between Poland and Germany during Donald Tusk's first term were exemplary.[46] German-Polish relations were also commented upon when Donald Tusk kissed Angela Merkel's hand, clearly surprising the German Chancellor. In Poland, this gesture expresses appreciation and respect whereas in Germany such a conduct toward women is very rare. It was admitted that that event was of little interest to the world but it was worth considering in the context of the event formality, place and context.[47]

The Polish Presidency of the Council of the EU attracted great interest of electronic media. Research demonstrated that a large part of the information on the Presidency kept changing with particular events, that is the interest in the Presidency of the Council of the EU increased or decreased depending on the nature of its events. In Poland the Wirtualna Polska and Onet.pl web portals were the primary source of information. Gazeta.pl was second. During the Presidency, Donald Tusk was the politician that attracted most interest (52%), followed by Minister of Foreign Affairs Radosław Sikorski and President of the Republic of Poland Bronisław Komorowski. Analysts are of the opinion that the Polish Presidency ended with a media success, despite the fact that not all set goals were achieved. The image of the Polish Presi-

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Chancellor, there is only one rule: "The state that pays decides". It was often underlined that Angela Merkel wants to model the European Union after Germany. *Cf.* D. Kurbjuweit, R. Neukirch, Ch. Reiermann, S. Christoph, *Europa der zwei Europas*, "Der Spiegel" no. 44/2011, 31.10.2011, F. Ehlers, J.A. Heyer; R. Neukirch, J. Puhl; M. Rohr, H. Zuber, *Unheimlich deutsch*, "Der Spiegel" no. 49/2011, 05.12.2011.

[45] *Trotz Krise, Rating-Riese stellt Polen bessere Note im Aussicht*, "Spiegel Online" 15.12.2011, http://www.spiegel.de/wirtschaft/soziales/0,1518,803861,00.html. Accessed 10.01.2012.

[46] *Europafreund gewinnt die Wahl*, Stern.de, 10.10.2011, http://www.stern.de/politik/aus- land/polen-europafreund-tusk-gewinnt-die-wahl-1736879.html. Accessed 15.02.2012; *Polens Ministerpräsident Tusk stellt neues Kabinett vor*, Stern.de, 17.11.2011, http://www.stern.de/news2/aktu- ell/polens-ministerpraesident-tusk-stellt-neues-kabinett-vor-1752301.html. Accessed 15.02.2012, *Tusk sieht Finanzkrise ein Mittelpunkt von Polens EU-Ratsvorsitz*, Stern.de, 30.06.2011, http://www. stern.de/news2/aktuell/tusk-sieht-finanzkrise-im-mittelpunkt-von-polens-eu-ratsvorsitz-1701019.html. Accessed 15.02.2012.

[47] H. Unterstöger, *Feuchte Geste des Respekts*, "Süddeutsche Zeitung" 27.10.2011, http://www.sueddeutsche.de/leben/handkuss-fuer-frau-merkel-feuchte-geste-des-respekts-1.1175231. Accessed 15.02.2012. In Poland, some politicians interpreted this gesture as an expression of submission and a tribute of the Polish Prime Minister to the German Chancellor.

dency that emerged in the electronic media was that of an ambitious and efficiently managed undertaking.

Assessments of the Polish Presidency were mostly positive and concerned its course. It needs to be mentioned that the interest of foreign media in the Polish Presidency was relatively low, though the Presidency was described as compromise-seeking and judged better than the Czech and Hungarian Presidencies.[48]

Political marketing strategies used during the Polish Presidency were successful at the European level but did not contribute much to a positive assessment of the Presidency at the national level. Prime Minister Donald Tusk was more visible at the European level as the politician presiding over the Council of the European Union than he was in Poland.[49] One might have an impression that the message was directed mainly at politicians active at the European level. In Poland, the coming electoral campaign met with more interest than the Presidency, and the European Union was more concerned with the economic crisis. It follows that the marketing strategies used were more conducive to a political campaign than the implementation of Polish priorities in the European Union.

The above interdependencies were reflected in Polish opinion polls on the assessment of the Presidency's activities. In the opinion of 45% of respondents, Poland was not active enough during the Presidency, while 53% believe that Poland failed to achieve much during her six-month leadership of the EU. When it comes to the evaluation of the achievements of the Polish Presidency, opinions of respondents were divided. Differences can be attributed to respondents' different education level, political preferences and degree of interest in politics. Majority of respondents (63%) agree that the Polish Presidency succeeded in improving Poland's image in Europe and globally. Opinions about Poland's influence on EU policies vary. 43% of respondents think that Poland has an influence on the implementation of EU policies but 40% does not think so. Supporters of all political parties notice a positive influence of the Presidency on Poland's image. Nevertheless, all electorates are convinced that Poland did not contribute to combating the Eurozone financial crisis. The respondents seemed to firmly believe that the largest Member States have the greatest influence on EU policies (75% of respondents is of that opinion). Since Poland joined the European Union, the percentage of persons who believe that Poland is somewhere in the middle of the EU hierarchy has been growing. In January 2012, 68% of respondents declared such a belief, which is an increase by 21% in

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[48] *Polska prezydencja w UE*, Analysis of the Centre for Political Analysis of the University of Warsaw, http://oapuw.pl/index.php?option=com_content&view=article&id=348%3Arelacja-z-seminarium-oap-uw-pt-qpolska-prezydencja-w-ueq&catid=152%3Akomentarze-artykuy&Itemid=5&lang=pl. Accessed 29.02.2012.

[49] The opposition accused the Prime Minister of using his active involvement at the EU level to carry out his electoral campaign and, at the same time, strengthen his political party before the parliamentary elections in the second half of 2011. Also the campaign spot with Commissioner for Financial Programming and the Budget Janusz Lewandowski gathered unfavourable reviews.

comparison to 2004.[50] The Polish society appears to be aware of Poland's role in the European Union and is capable of performing its realistic assessment. The situation was similar in France and Germany during the German Presidency and before the French Presidency, when the issue of the strength of a Member State's voice in the EU was raised. At the time, 79% of German citizens believed that they had a say in the European Union, while in France the percentage amounted to as much as 86% and was the highest in the European Union.[51]

In his summary of the Polish Presidency presented to the European Parliament on 14 December 2011, Prime Minister Donald Tusk underlined the involvement and determination of many people. Despite his satisfaction with the work done, he did not feel that Europe was more united than before. The Prime Minister, like in his opening speech, frequently used the word "crisis" (36 times). He indicated that the crisis was not over and that its roots have been not only in the banking sector but also in the lack of trust in the European Union, the idea of integration and a waning feeling of belonging to a community. The word "community" was used 14 times in that speech. The Prime Minister pointed to the need for leadership in the European Union (this phrase was used 6 times). Tusk boldly summed his speech up by saying that Europe was at the crossroads and that the only solution was to work together with involvement and toward further integration.[52] His words met with a strong support of the leader of the German Social Democratic Party, Martin Schulz, who stated that the Polish Presidency was one of the best Presidencies of recent years. Jose Manuel Barroso thanked the Polish Prime Minister for Poland's leadership and involvement in European affairs.[53]

CONCLUSIONS

1. Certainly, the economic crisis affects the way the process of European integration is to be managed in the coming years. It is to be expected that intergovernmental mechanisms of anti-crisis coordination of EU policies will be strengthened and that the guidelines will be laid down by a group of Member States led by France and Germany, and delivered by the European Council whose President grows to become one of the leaders of the European post-crisis order.

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[50] Assessment of the Polish Presidency of the Council of the European Union, CBOS-BS/11/2012, http://www.cbos.pl/SPISKOM.POL/2012/K–011–12.PDF. Accessed 28.02.2012.

[51] Eurobarometer 68 Public Opinion in the European Union, Autumn 2007, National Report Germany, Executive Summary, http://ec.europa.eu/public–opinion/archives/eb/eb68/eb68–de–exec.pdf. Accessed 28.02.2012. National Report-France, Executive Summary, http://ec.euro- pa.eu/public–opinion/archives/eb/eb68/eb–68–fr–exec.pdf. Accessed 28.02.2012.

[52] Speech of Donald Tusk to the European Parliament of 14 December 2011, http://www.premier.gov.pl/premier/przemowienia/przemowienie–w–pe–podsumowujac,8584/. Accessed 16.02.2012.

[53] Prime Minister's conclusions of the Polish Presidency presented to the European Parliament on 14 December 2012, http://www.europarl.europa.eu/news/pl/headlines/content/20111214STO34102/html/Tusk-UE-na-rozdro%C5%BCu-albo-podejmiemy-walk%C4%99-albo-b%C4%99dziemy-p%C5%82aka%C4%87. Accessed 16.02.2012.

2. The function and role of the Presidency of the EU Council is changing. Thanks to the Presidency's effective organisation and management of proceedings, its constructive dialogue with the permanent President of the European Council and good cooperation within the trio, the Presidency stands the chance of implementing its priorities.
3. As a result of the economic crisis, the position of the European Council and its permanent President has been strengthened. This institution rises to be the main script writer of the post-crisis European order, as it serves as a catalyst of the European Commission's ideas as well as of various ideas of Member States, mainly the French-German duo.
4. There is a need to coordinate cooperation among Member States which are not part of the Eurozone. In this case, the Polish Euro Plus project should be considered a good solution with Poland as the group leader since Poland's leadership already succeeded in establishing a coalition of "friends of cohesion" comprising thirteen Member States.
5. In its political narrative (delivered by the Polish Prime Minister and the Minister of Foreign Affairs), the Polish Presidency of the Council of the European Union attempted at playing the role of a European leader. However, due to the change in the formula of the Presidency and the shift of decision making capacity in matters related to the financial crisis to the Eurogroup, the voice of a Member State that is not part of the Eurozone is less heard in EU-27.
6. The duo of Angela Merkel and Nicolas Sarkozy overshadowed the image of the Polish Prime Minister, which is clearly indicative of Poland's place in the European Union. Poland is perceived as a trustworthy partner that supports Germany in the struggle against the crisis, but still plays second fiddle. That situation results not only from Poland's relatively short membership in the EU but also – at present – from her not having adopted the euro and thus having a limited say on the single currency issues. The Polish Presidency was received as well-organised, involved and European.
7. Donald Tusk, as Prime Minister of the state that held the Presidency of the Council of the European Union for the first time, underlined the value of community and solidarity, which should be the response to the economic crisis and first of all to the decreasing trust in the European Union. Although Poland signed the fiscal pact, which was not really in line with a community approach, Donald Tusk was remembered as a reliable partner in the struggle against the crisis, a partner who seeks integration-friendly solutions and undertakes efforts to avoid further disintegration. Poland proved that she is a predictable player on the European arena though her voice is less heard than those of France or Germany. Finally, the Polish Presidency was positively assessed by the European Parliament, and Prime Minister Donald Tusk won the respect of most important European politicians, which might be relevant to his future political career.

ABSTRACT

The need of leadership in the European Union becomes especially conspicuous in situations of crisis. So far the Member States managed to weather many such crises unscathed and afterwards adopted a new treaty or reached a gentlemen's agreement to clarify any controversial regulations of the treaty in force. However, the consequences of the global economic crisis for the EU and its particular Member States seem to have a deep effect on the nature of the EU and the character of cooperation between its Member States. In a natural way therefore there emerges the need for an anti-crisis leadership, especially a collective one. The authors of the article strive to answer the following questions: How does the crisis affect the functioning of EU institutions?; How can the Presidency of the EU Council act as the principal coordinator of the EU's anti-crisis measures?; and finally: How did Poland during its Presidency of the EU Council influence the scenarios of overcoming the crisis within the EU?; What was the role of the Polish Prime Minister in this context?

PRZEGLĄD ZACHODNI
I, 2013

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THE POLISH PRESIDENCY AND THE BUDGET OF THE EUROPEAN UNION

The Polish Presidency was dominated by conferences and meetings at ministerial and expert levels. Their goal was to realise three priorities: European integration as the source of growth, Secure Europe, and Europe benefiting from openness. In each and every area Poland both succeeded and failed. One of the greatest achievements of the Polish Presidency was the launch of negotiations on the future Multiannual Financial Framework of the EU, based on the draft legislative act prepared by the European Commission. Poland included the European Parliament in the negotiations.

The future multiannual budget of the European Union after 2013, i.e. the Multiannual Financial Framework (MFF)[1], was to define the direction in which the European Community would be heading in the coming years. Its final shape will be an answer to, *inter alia*, the following questions: Will the EU remain an organisation that follows the budget solidarity principle? Will it still finance mainly agriculture and cohesion or support other policies to a greater extent? Will it be capable of implementing the ambitious objectives of the Europe 2020 strategy? The draft MFF titled "A Budget for Europe 2020"[2] was an attempt of the European Commission to answer those questions. The draft was published in the end of June 2011. According to Commissioner Janusz Lewandowski, the proposed budget was an "ambitious, but realistic" one with room to finance "new priorities, such as cross-border infrastructure for energy and transport, research and development, education and culture, securing external borders and strengthening our neighbours to the South and East."[3]. The total budget should amount to EUR 1.025 billion in commitments (1.05% of EU GNI) and EUR 972.2 billion in payments (1% of EU GNI). The proposal of the Commission balances the requests of six states – the so-called net contributors, to freeze the multiannual budget[4] and the appeal of the European Parliament to increase

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[1] Article 312 of the TFEU.

[2] http://ec.europa.eu/budget/library/biblio/documents/fin–fwk1420/MFF–COM-2011-500–Part––I–en.pdf.

[3] http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/799&format=HTML&aged=1&language=PL&guiLanguage=en.

[4] http://www.number10.gov.uk/news/letter-to-president-of-european-commission/.

future MFFs by 5% compared to the 2013 level.[5] Consequently, the draft constitutes a sound basis for the launch of the traditionally difficult – and currently even more demanding due to the public debt crisis and the Eurozone turmoil – process of negotiating EU finances.

The draft MFF presented by the Commission also shows that the EU learnt its lesson from the negotiations on the current financial perspective that were informally launched already in 2002 when France's president, Jacques Chirac, and Germany's chancellor, Gerhard Schröder, arbitrarily agreed to freeze agricultural expenditure at its 2006 level. The fate of the still unpublished Commission's proposal drafted by Romano Prodi was decided in December 2003 by the so-called "letter of the six" in which Austria, France, Germany, the Netherlands, Sweden and the United Kingdom demanded[6] that the future financial perspective would not exceed 1% of GNI. This spurred the Commission to present its Communication of February 2004 proposing a seven-year spending level of 1.14% of the EU GNI [7], which was deemed unfeasible by the majority of the Council of the European Union. Eventually, the agreed commitments amounted to 1.045%.[8]

It was a goal of the Polish Presidency to keep the original Communication of the European Commission on the negotiation table. Theoretically, the Communication reduced the commitments in future MFFs to 1.05% of GNI but, on the other hand, it increased them to 1.11% of GNI – after adding funds allocated to, *inter alia*, the Solidarity Fund, the European Development Fund, the European Globalisation Adjustment Fund and the GMES and ITER programmes. The Polish Presidency managed to achieve its goal. By the end of July 2011, at the informal Sopot summit, a vast majority of the Member States voted in favour of the adoption of the EC's proposal as the official basis for further negotiations on MFFs. The United Kingdom, Hungary and Sweden were the only Member States that opposed it. At successive meetings of the General Affairs Council, which was recognised competent to consider the future expenditure and income of the EU, the discussions focused on the European Commission's proposals for the general shape of the MFF and particular EU policies and programmes. The Polish Presidency decided that it was necessary to first discuss the general objectives of the modified policies and programmes and the expectations of the Member States and thus avoided a risky official debate on the general MFF level of revenue and commitments. The Polish Presidency adhered to this position, effectively blocking informal initiatives of net contributors till the very end. At the beginning of December 2011, the Presidency presented its report on the progress

[5] EP//TEXT+TA+P7-TA-2011-0266.

[6] Austria, France, Germany, the Netherlands, Sweden and the United Kingdom: letter to President Prodi, 15.12.2003.

[7] http://eur-lex.europa.eu/LexUriServ/site/en/com/2004/com2004–0101en02.pdf.

[8] http://europa.eu/generalreport/pl/rg2005.pdf.

of negotiations.[9] The report pointed to numerous trouble spots identified. The most contentious issues included:

- in the cohesion policy: establishment of new transition regions with per capita income ranging from 75% to 90% of EU GDP, the 2.5% of GDP capping, i.e. the limit on possible cohesion funds received from the EU budget, and macroeconomic conditionalities of structural funds disbursements;
- in the agricultural policy: its budget and the issue of levelling direct payments to farmers of new and old EU Member States;
- EU own resources: an introduction of new sources of EU income (e.g. the financial transactions tax) that would partly replace contributions from national budgets, and reform of rebates.

Thanks to such a course of action, Poland, which during its Presidency performed the role of an honest broker and could not take a decisive stand in budget debates, was not suspected of promoting its own interests during the six-month talks. This strategy made it possible for Poland to smoothly join the turbulent negotiations until Denmark took over. It is worth noting that the draft of the official position of the Polish government on the MFF was adopted by the Committee for European Affairs right after the end of the Polish Presidency.[10]

In the second half of 2011, the European Parliament (EP) became the ambassador of Polish interests. In the time of crisis, the European Parliament has been one of most pro-European EU institutions caring for the interests of the EU as a whole. The above is highly relevant as the Treaty of Lisbon guarantees that MEPs have a say in negotiations on the Multiannual Financial Framework.[11] While adopting the annual 2011 EU budget, the EP could demand – on the basis of the above mentioned provision – that they would participate in the Member States' deliberations on the Multiannual Financial Framework. At the end of 2010, declarations on the participation of the EP in briefings and debriefings before and after meetings of the General Affairs Committee were made by four next Presidencies, including Poland.

More importantly, the Polish Presidency officially invited the EP delegation to participate in debates at the informal meeting of the General Affairs Council in Sopot, when the EC's Communication on future MFFs was discussed for the first time. At that meeting, the EP delegation presented the EP's position – a report of the SURE Political Challenges Committee entitled "Investing in the future – a new Multiannual Financial Framework (MFF) for a competitive, sustainable and inclusive Europe" –

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[9] http://register.consilium.europa.eu/pdf/en/11/st17/st17448-re01.en11.pdf.

[10] The draft position of the Republic of Poland on the EU Multiannual Financial Framework Package for the years 2014-2020. 2.01.2012

[11] Article 312 point 2 of the TFEU – "The Council, acting in accordance with a special legislative procedure, shall adopt a regulation laying down the Multiannual Financial Framework. The Council shall act unanimously after obtaining the consent of the European Parliament, which shall be given by a majority of its members." Moreover, the European Parliament takes joint decisions with the Council in the form of detailed regulations that implement the draft legislative acts of the European Commission on MFFs.

adopted in June 2011 by a vast majority of the European Parliament. That mandate to a large extent reflected Poland's expectations concerning both the size and structure of the future EU Multiannual Financial Framework. First and foremost, taking into account the new competencies of the EU and the ambitious strategic goals of the Europe 2020 strategy, Poland has suggested increasing the 2014-2020 MFF by at least 5% in comparison to 2013. Moreover, Poland wishes to protect the generous cohesion policy, considering it to be "one of the Union's most significant, visible, and successful policies"[12] that contributes to convergence and the generation of economic growth in the EU. MEPs have cautioned against making disbursement of structural funds dependent on macroeconomic conditionalities which the Polish government strongly opposes too. The European Parliament also advocates a more fair distribution system of direct payments between the Member States and that the funds allocated to the CAP in the budget year 2013 should be at least maintained during the next financial programming period. From Poland's perspective, the EP's postulates to increase expenditure on infrastructure and the European Neighbourhood policy are also important. All these postulates give hope that in the negotiations on the future Multiannual Financial Framework, Poland will be able to count not only on her traditional allies e.g. "the friends of cohesion", but also on a vast majority of MEPs.

In that situation, the Polish Presidency welcomed the proposal of MEPs on the organisation of a multilateral conference on the 2014-2020 Multiannual Financial Framework. The conference was organised in October 2011 and gathered not only representatives of EU institutions and the Member States but also of civil society, in its broad sense, and NGOs. It was a unique occasion to exchange views on EU priorities and their funding. Moreover, in the area of the Cohesion Policy, the conference revealed a discrepancy between governments of EU Member States and their regions. To given an example, Wales turned out to be much more for structural funds that the London-based government. More importantly, it seems that the initiative of the Polish Presidency will become a regular event. Denmark, already in October 2011, declared that it would organise a similar event during its Presidency. The Danish conference was held in Brussels on 22-23 March 2012 and focused on the issue of the MFF volume, which was understandable as the Council was about to formulate its opinion on the MFF. Net contributors which had already stated that the draft legislative act of the European Commission was too ambitions, argued that the future MFFs should be reduced by at least 10%. In such moments, Poland relies on the European Parliament which would do everything in its power to defend the future European Union budget.

[12] Article 64 EP//TEXT+TA+P7-TA-2011-0266

ABSTRACT

The Polish Presidency of the Council of the European Union was the first to start formal negotiations on the EU's multi-annual budget, i.e. the Multiannual Financial Framework (MFF). It was a significant merit of Poland's chairmanship that the negotiations focused on the MFF project of 2011 prepared by the European Commission and that representatives of the European Parliament were invited to take part in the debate, since the EP traditionally supports a generous EU budget. The project of the Commission balances the demands to freeze the multi-annual budget voiced by countries that are net payers and the Parliament's appeal for an increase of the future MFF by 5% compared to 2013. Inclusion of the European Parliament in these negotiations follows from the regulations of the Lisbon Treaty and is important because in times of crisis it is this institution that protects the interest of the EU as a whole. Such a state of affairs is a positive signal for Poland that in negotiations of the 2014-2020 budget it can rely not only on its traditional allies, e.g. the so-called friends of the cohesion policy but also on a vast majority of the members of the European Parliament.



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Foreign Policy of Reunited Germany

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Poznań 2011, pp. 399.

Twenty years ago, on 12 September 1990, at the consent of the Four Powers that until then bore responsibility for the two German states, Germany was reunited. The new Federal Republic of Germany was a completely sovereign state that could define its foreign policy without any limitations. In the new situation Germany had to define its international objectives anew. At the same time, Germans had to remember about their past, responsibility for WW2, violence and calamities their neighbours and other states had suffered. In the 1990s, Germany's geographical and geopolitical location in the heart of Europe, its human and economic potential and the resulting ambitions and aspirations made Europe and the world take an interest in reunited Germany which, in turn, had to face higher expectations as well as fears and concerns expressed in international public opinions.

This book is the first volume of the series titled "The Federal Republic of Germany. Twenty Years after the Reunification". This publication is a discussion on international activities of the reunited FRG and an evaluation of its major objectives and decisions in the area of foreign policy. In an analytical perspective, four main areas of Germany's external activity are assessed, i.e. its approach to the European Union, the transatlantic agreement, its policy toward Russia, and reactions to most important challenges and threats of modern times. The authors have succeeded in describing the continuation and changeability of Germany's external strategies, indicating the factors that influenced the shape, direction and character of the foreign policy of the Federal Republic of Germany and their consequences for Germany and its international environment. In the complex European and global environment, Germany keeps trying to develop and implement a strategy corresponding to its new potential.

PRZEGLĄD ZACHODNI
I, 2013

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RAISON D'ÉTAT AND THE POLISH PRESIDENCY

The Presidency of the Council of the European Union, whose former legal models date back to the European Economic Community and the current model is exercised under the Treaty of Lisbon, is an institution that links the European communities with their foundations, i.e. nation-states. This institution of European law, practiced since 1958, evolved under the changing provisions of Treaties and the growth dynamics of the EEC and the EU. Whatever legal solutions determined the function of Presidency at various stages of its evolution, a Presidency has always shifted the responsibility for the execution of European communities' tasks to the level of a Member State. Political responsibility to take action (also in crisis situations), for coordination and implementation of priorities set and, finally, the delivery of growth strategies is in the hands of the institutions of the state that holds the rotating Presidency. This exceptionally prestigious task which requires maximum mobilisation of logistic capacity and competences is considered – especially after EU enlargement in 2004-2007 – to be a "maturity exam" for each nation-state that tests its capacity to act in consideration of European interests and be flexible enough to overcome emerging obstacles and controversies. The Treaty of Lisbon introduced changes that have limited the impact of the Presidency. Among others, it extended the turn taking time in the rotation system from 2.5 years to 12 years and established new EU bodies: the President of the European Council and the High Representative of the European Union for Foreign Affairs and Security Policy. One might perceive those changes as an attempt to decrease the role of nation-states in exercising power at the EU level, however, the changes are also indicative of the Presidency evolving not only under law but also under the influence of the political culture of various countries, personalities of politicians, organisational competencies and cooperation capabilities, and – last but not least – financial resources.[1]

The Presidency gives prominence to national sovereignty, i.e. the statehood status of the presiding state and this facilitates references to *raison d'État*, that is the national interest or the reason of state, and its evolution. In the reality that has

[1] Cf. M. M. Brzezińska, *Kształtowanie się i rozwój prezydencji w Radzie*, in: P. Burgoński, S. Sowiński (ed.) (2011), *Od akcesji do prezydencji. Kościół katolicki w Polsce i Unia Europejska*, Toruń, pp. 61-63.

been shaped for decades by political Treaties of European communities including the most recent Lisbon Treaty, the question about the prospects of a nation-state is still up-to-date. The end of Presidencies prophesied by eurosceptics and many participants of European debates seems to be premature. This has been confirmed by the language of public debates where the term "reason of state" has been revived not only in reference to internal, but also supranational issues.

The term "reason of state" that has accompanied modern European politics and is intertwined with histories of nation-states proved to be an apt concept also in recent decades when Poland experienced the democratic breakthrough and transformation of its political system. This term, associated with Niccolo Machiavelli (though he was not the first to use it), defines superiority of the interest of state where 'state' is a (national) community. It has often been used to justify violation of legal, ethical or traditional norms by those in power to gain profit. Such an abuse was often drastic and its examples can be found even in the last decades of political history of the People's Republic of Poland. However, similarly as Machiavelli's ideas were interpreted anew and their positive aspects approved by ethics and law, the concept of "the reason of state" started to occur in the context different than the attempts to justify the imposition of martial law in 1981, that is in discussions on Polish public life in the period of political transformation and the shaping of the democratic order. The author of "The Prince" was recognised as the promoter of civic ideas, the reviver of Roman republican ideas in Italian towns and, with the publication of his works in the 'new' world, the concept of "the reason of state" was refreshed.[2]

In Polish public debates, the often highlighted issue of civil society put the reason of state in a new light also in reference to the pre-1989 period in Poland. Then postulates of stronger connectivity between the government's reasons of state and the actual national interest voiced by the new opposition as well as the need to speak "about Poland and for Poland" voiced by representatives of the Church were both a call for a coherent state legitimised by its sovereign under a full catalogue of civil rights. The postulates of those participating in the 1980 strike, though largely referring to the dramatic economic situation, linked overcoming the crisis with exercising civil rights. The 1981 October Programme of the Independent Self-Governing Trade Union "Solidarity" negotiated in the 1980-1981 turbulent re-evaluation period, was based on the general postulate that the "Solidarity" would represent the people of labour and defend their rights, dignity and interests, as well as human, civil and employee rights. The notion that effectiveness of actions and efforts is warranted by economic governance coupled with the need for democratic legitimisation to exercise power was derived from the conviction that it is necessary to implement an economic reform that would improve the living conditions of the society and increase economic effectiveness. The cause of the ineffectiveness of the system and the economic downturn was sought in the fundamental anthropological error that

[2] Cf. A. Rzegocki (2008), *Racja stanu a polska tradycja myślenia o polityce*, Cracow, pp. 333-334.

resulted in the impossibility of appeasing human needs, but primarily in the marginalisation of citizens living in an ill-managed state and deprived of opportunities for self-fulfilment and creativity. Postulates of the rule of law, transparency of public life and self-governance that were voiced in the 1980s, were not only the core values of "Solidarity", but also paved the way for systemic changes which took place at the end of that decade. Those postulates, sustained when "Solidarity" was delegalised, continued to be valid in new circumstances when implementation of the principle of self-determination of the nation and democratically legitimised statehood became possible.

The experience of nearly 25 years of sovereignty of the Republic of Poland must suggest divergent assessments of the scale of civic actions and the quality of political culture. Poland, considered to be the initiator and a pillar of democratic transformation of Eastern and Central Europe, has encountered the problem of a relatively low involvement of citizens in the process of legitimising the political system. Even during the breakthrough 1989 parliamentary elections, less than 63% of eligible citizens cast their vote, and an inglorious record was set in the 2004 elections to the European Parliament when only 20% of voters cast their ballot. This quantitative data reflects the lack of trust toward the political class or a strong focus on private interests, both of which are to a large extent a legacy of the times when citizens had very limited means of influencing the public sphere and a long-term result of the above strategy of the communist authorities that was aimed at marginalising citizens in their own state. The democratic legitimisation of power after 1989 was not limited to a mechanical cabinet reshuffling and setting of new goals. The change did not occur in a void, but against the backdrop of dynamic transformations on the international arena and the changing global trends. The national ethos, brought to light after years of restrictions and prohibitions, was confronted with globalisation that erased the system of clear-cut borders and, especially in Europe, with advancement of integration processes and institutionalisation of the supranational order. Also the very exercise of power taken over by former oppositionists was not limited to following the procedures that were previously carried out by Józef Cyrankiewicz, Piotr Jaroszewicz and Zbigniew Messner. "In 1989 the government of Tadeusz Mazowiecki inherited state institutions that were not suited to govern the state but to carry out directives formulated elsewhere. The Council of Ministers was not prepared to gather and process generally available information; there were no communication mechanisms within the administration. The tools facilitating effective governance had to be created from scratch".[3] There was much to be dealt with. There were ideological clashes, state administration had to be reconstructed (the most essential element of which was the radical reform of local government), and next to those, the urgent need to develop governance standards and to lay the constitutional foundations for the evolving state order.

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[3] R. Matyja, *Przywództwo i instytucje*, in: I. Jackiewicz (ed.) (2004), *Budowanie instytucji państwa 1989-2001. W poszukiwaniu modelu*, Warsaw, p. 13.

This evolutionary manner of political transformation and democratisation brought about many far-reaching paradoxes. What was lacking was a clear turning point that would mark the moment of change and a clear demarcation line between the old and the new order. Although the peaceful and evolutionary political change was undoubtedly a timeless historical achievement, it was underestimated by the society at large, i.e. its social recognition and impact on shaping civil awareness were low. Though it is possible to discern the short period when the authoritarian regime was phased out (1989-1991), the period when institutions and legal bases of the new order were introduced (until the adoption of the Constitution in 1997), and the stage of democracy consolidation[4], subsequent attempts to depreciate the achievements of the sovereign state proved that social awareness of the fundamental change was very weak. The adoption of the Constitution in 1997 was not perceived by the society as a breakthrough moment, partly due to disputes and polemics accompanying it. As drafting the new basic law took nearly 10 years, the "constitutional momentum" had been identified with by the agreement that led to the 1989 elections.[5] The proportional electoral law that favoured politicians and political parties, which mushroomed in the 1990s as a natural consequence of 50 years of single-party rule in Poland, also had an impact on the constitutional solutions. In the situation where the political arena was strongly diversified and the potential and capacity of particular parties were difficult to assess, solutions adopted favoured general interests of the scattered political class, not democratically legitimised interests of civil society.[6]

To say categorically that this phenomenon was a gross mistake that cast a shadow on the political transformation is disputable. From the now longer distance, the weakness of the 1990s political scene can be seen as a maturing phase of pluralistic political culture. Despite the political fragmentation there was the agreement on fundamental issues such as the reorientation of foreign policy, the economic reform implemented according to the Balcerowicz Plan and adjustment of transformation processes toward Poland's integration with Europe and NATO security structures. Major discrepancies in defining the interest of state surfaced later on when the political scene polarised. This took place both under the government of the post-communist left and after 2005 when the main political groups competing were all post-Solidarity formations. The debate on the state was revived when it was needed in order to achieve the main objectives of Poland's policies after 1989. The political dynamics and social energy directed toward the implementation of the state's basic objectives outlined at the turn of the 1990s had its culmination point at the time of the EU accession referendum (7-8 June 2003) and the preceding campaign, but these were not

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[4] Cf. M. Cześnik, R. Markowski, *Uwarunkowania budowy polskiego systemu partyjnego: instytucje i procesy*, in: I. Jackiewicz (ed.), *Budowanie instytucji*..., p. 29.

[5] *Ibid.*, pp. 33-34.

[6] *Cf.* A. Z. Kamiński, *Stracony moment konstytucyjny w pokomunistycznej Polsce: skutki dla jakości rządzenia dwadzieścia lat później*, in: W. Morawski (ed.) (2010), *Modernizacja Polski. Struktury agencje instytucje*, Warsaw, p. 327.

fully used to strengthen or upgrade the political culture and civic ethos. The latter has been more successfully shaped by activities of local government and bottom-up initiatives than by any stimuli of state institutions. At the same time "it is impossible to improve the Polish state, unless one scrutinises the sources of low-quality governance. There is also no chance to enhance the growth of political culture in the society and the level of citizens' awareness, without deep changes in the system of public institutions. The changes cannot be limited to reforming the administration because its status is determined by factors present in the political system as a whole and, primarily, by legislative procedures and control mechanisms that facilitate assessment of decisions taken and holding decision-makers accountable for their actions."[7] Negative assessments of political elites, confirmed by gradually decreasing election turnouts, corroborate problems in the functioning of the state and its institutions.

Difficulties in shaping stable foundations of a democratic state ready to face a new era were in the background of Poland's integration with European structures. Poland's accession to the European Union was not a single process. The preparations had to follow a defined schedule and in their course some changes in the functioning of state and local government institutions had to be introduced (e.g. further acts on civil service). Despite all efforts, there was an organisational chaos that accompanied the establishment and transformation of state institutions and agencies that supported the introduction of EU standards to Polish law and realities. Like in the case of the building of state structures and deciding on the electoral law, the evolution of institutions that served the purpose of Poland's integration and accession was a resultant of political games and coalition agreements and not the outcome of the optimal and planned strategy of Poland's path towards the EU.[8] It may be necessary to consider the specificity of Polish democracy where "the strength and effectiveness of state governance is not determined by wide competences and flexibility of its executive bodies, but the feeling of societal agency and civic responsibility as well as the societal awareness of citizens' obligations and rights toward the state. A modern state cannot be effective unless its citizens identify with the state, and this is possible only under parliamentary democracy and full civil liberties."[9] In Poland, this means referring to the tradition of the "Solidarity" ethos. The "Solidarity" was a social movement with a strong drive toward democracy, often verging on anarchy, that favoured public opinion over legal authority. Tensions between institutions of government and citizens' feeling of the sovereignty of the state remain tangible.

The six-month Polish Presidency of the Council of the European Union was the time of Poland's great organisational and administrative efforts. Seven years after Poland's accession to the EU, Poland had a chance to deepen the awareness of the EU and its institutions among the citizens of the Republic of Poland. In the context

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[7] *Ibid.*, p. 352.

[8] *Cf.* A. Biegaj, *Dostosowanie struktur władzy w Polsce do realizacji polityki integracji europejskiej*, in: I. Jackiewicz (ed.), *Budowanie instytucji...*, p. 265-266.

[9] M. Śliwa (2010), *Demokracja polska. Idee – ludzie – dzieje*, Warsaw, pp. 272-273.

of the latter, it was important to propagate the obvious, but not generally accepted opinion that the EU is not "them" any more, that Poland has become an integral part of that enormous body and has an impact on EU activities proportionally to its potential and the power of its arguments. The Polish Presidency was not free of paradoxes: the economic crisis and attempts to counteract its effects seemed to be blowing the Union up from within, while, at the same time, accession negotiations with Croatia and Iceland were held. Criticism of the ambitions of particular countries and methods of EU policy implementation does not thwart the approval for the community, and even most fervent critics of Poland's EU membership find it difficult to discount their outright protests voiced eight years ago. Positive assessments of the Polish six-month EU leadership by external observers and the measurable scope of achieved objectives are just one side of the coin. The other side of the coin is that the Presidency used its six months to strengthen political culture and civic education in the country. Preparation and coordination of the implementation of the pre-set goals in accordance with the binding Treaty regulations, practically boil down to rendering efficient administrative services, and the presiding state is rather to perform the role of a professional moderator than a player.[10] The Polish public administration passed the Presidency "maturity exam" successfully not only in terms of its efficient operation but also its capability to present EU positions in external relations in a nuanced manner, even if those positions differed from the Polish stance. An example of such impartiality was the Climate Change Conference in Durban held after Poland's veto on the EU compromise on CO_2 emission.[11]

Holding the Presidency strengthens the position of the Member State in European Communities. At the same time it is an impulse to strengthen the very institution of the state itself and to underline its priorities pursued on an every-day basis, foreign affairs included. The hallmark of the Polish Presidency were the relations with the EU's eastern neighbours, though Polish efforts did not produce the expected results. The signing of the accession agreement with Croatia did not balance the troubled relations with Ukraine and Belarus, which, however, were troubled due to internal political situations in those states. Poland's ambitions to recall the solidarity of European nations clashed with a logic divergent from EU priorities. On the other hand, the same solidarity was to inspire solutions to the current crisis-related problems in the EU and the Eurozone. Steps taken to save the stability of the Communities were the result of cool calculations and common sense. However, making this issue a subject of the debate held between authorities and citizens meant that an axiological argument had to be used. Crisis-ridden Europe (not only the European Union) experiences a serious deficit of the values that hold it together. The discussion on the role of values in the public sphere, intense in Poland before the

[10] *Cf.* S. Sowiński, *Kościół szansą polskiej prezydencji, prezydencja szansą Kościoła*, in: P. Burgoński, S. Sowiński (eds), *Od akcesji do prezydencji*..., pp. 113-114.

[11] See B. Nowak (2012), *Ostatnia prezydencja dużych oczekiwań– refleksje po Prezydencji Polski w Radzie UE*, Reports and analyses, Centre for International Relations 2/2012, Warszawa, pp. 4-5.

2003 referendum on Poland's accession to the EU and the actual accession, was at the time viewed in an utilitarian way as a tool for achieving the objective of formal integration with EU structures. The current crisis situation, which is painful for most European states, has demonstrated however, that this discussion cannot be stopped or used as a tool to achieve even the most basic goals. This is not only about eliciting temporary empathy and solidarity among EU Member States that would legitimise governments' activities aimed at rescuing most indebted national economies. The necessity to arduously work out such a consent by national governments painfully revealed that Europeans lack civic awareness. Advanced integration requires a stable political foundation based on values and civic ethos. To make that happen, it is necessary to change the understanding of the goals and tasks of the state and supranational communities. Political theorists are not the only ones to be held responsible for redefining the term "the reason of state" adequately for the time of globalisation and integration movements. The success of the "European project" has always depended and will on the feeling of belonging to the community based on its identity and solidarity, that is on values and not only on interests. The validity of the above had been proven with the current crisis. The discussion on the crisis causes and attempts to overcome it, in which Poland – the then presiding state of the Council of the European Union – participated, was another attempt at drawing attention to the values that are the foundations the European community. Paradoxically, the complex crisis situation might have made Europe pay greater attention to the issue of values, and the Polish Presidency was not exposed to sceptic comments such as "we'll listen to you another time". Opinions presented by intellectuals and researchers specialising in European history could have been heard better by politicians who had to confront both the consequences of the economic crisis and their failures in promoting democracy and human rights while dealing with the EU's eastern neighbours. It was the situation where the integration legacy of the EU and the search for effective solutions that would stabilise the EU in the nearest future were questioned, that pointed to the domain of concepts and values where action guidelines should be searched for.

Opinions presented at Europe's most important forums cannot replace arduous work dedicated to civic education that will help create a social network of citizens and third-sector institutions, and prepare the foundation for cooperation that will be not only international, but will involve nations. This is the only right path to create a Europe that respects the principle of authentic solidarity, that calls on its history and adheres to a range of positive values, as well as a Europe that operates in compliance with the principle of subsidiarity. Adopting the perception of Europe as a community of values requires a redefinition of the reason of state. Europeanization is considered to be not only the formal act of accession but also an advancement of civilisation standards that facilitates detachment from the past era of isolation and backwardness. It also gives Poland an opportunity to take the place it deserves in terms of its potential among the free and democratic states of the continent. Such understood Europeanization is an element of the modern reason of state. This does not mean, as those who interpret politics sometimes put it, that Poland is forced to

abandon the model of nation-state. To the contrary, Europeanization means that Poland has to undertake actions aimed at guarding its institutions in the face of modern challenges. Nowadays not only economic enterprises and political interests but also threats have global outreach. The response of European states, i.e. the decision to implement integration projects that dates back to the end of WW2, is burdened with numerous imperfections and is far from its *finalité*. However, for CEE countries, their integration with European community, which was a mythical goal in times of their struggle for sovereignty, it is a reference point guiding their modernisation and securing the state's existence.

The first years of Poland's membership in the EU revealed a significant discrepancy between the practice of integration and the ideas necessary to enhance civic awareness and political culture. In Poland, the consumption of material profits resulting from the EU membership probably feeds the social support for integration which remains high in contrast to other Member States and despite the crisis that affects the Community. However, the deficit of thinking in terms of strategies and identification of national interests becomes increasingly apparent. The achievement of the goals set almost half a century ago by the state that gradually regained its sovereignty led to the establishment of a strategic vacuum in the current political thought and practice. Nowadays, this empty space can be veiled by the implementation of integration, that is the implementation of structural modernisation programmes, which was truly necessary and approved of. Similarly, in the area of foreign policy, much time has been needed to adjust actions and short-term strategies to the pace of changes in the international political and security order. There is little space and time left for a more thorough discussion and reflection on the prospects of Poland's further modernisation and policies. It is difficult to imagine that in a state dedicated to democracy and sovereignty such a discussion takes place solely among the political class, but the superfluous nature of Polish public debates is not very promising in that respect. The Polish Presidency was a new impulse for non-governmental organisations, local communities and educational institutions that make the society better acquainted with the history and functioning of the EU. There is a need for their involvement on daily basis to enhance both a basic knowledge of the mechanisms of the EU and its relations with nation-states, and to advance the discussion on the direction in which this special project should be heading. It seems that eight years after Poland's accession to the EU, its structural modernisation, so generously supported with EU funds, is still the dominant dimension of Poland's membership, and the support of Poles for European integration, for years exceeding 80%, is more intuitive than resulting from monitoring EU developments and in-depth knowledge of the structure and competences of EU institutions. The prevailing view that integration is no threat for Poland's sovereignty and that Poland's membership in the group of Members States that cooperate most closely is beneficial for Poland, is the measure for Polish euroenthusiasm, even in the time of crisis.[12] Therefore, when politicians speak about

[12] *Polacy o pakcie fiskalnym i pogłębianiu integracji w Unii Europejskiej*, Survey report, Public Opinion Research Centre, Warsaw, February 2012, pp. 2; 11-14.

the potential of fresh energy that the country located between the Oder and the Bug has to offer, it is not a cliché. It would be a valuable contribution to the EU if the civic foundation of Poland's statehood was recognised again and brought bold and convincing ideas to the European discussion on the future; ideas that would allow for drafting a new interpretation of the reason of state reflecting realities of the state that realises its sovereignty in frames of supranational cooperation.

A similar vision – *toutes proportions gardées* – seems to emerge from the six-month Polish Presidency. It was undoubtedly the time when Poland efficiently organised activities necessary to coordinate and manage current policies. Poland's efficiency was highly appreciated also in the context of the needed adjustment and response to the current crisis situation. The question that needs to be answered is whether Poland – the state that was the cradle of the "Solidarity" movement and works toward its prosperity and security, have implemented the tasks of the Presidency playing the liaison role and promoting the values and ideas that have been the cornerstone of the European community. Have Poland's eastern neighbours perceived Poland as a symbol of the EU's openness? The experience of the laborious process of uniting the European continent should be food for thought for governments in western Europe and prove useful for the community, not only in the nearest future.

ABSTRACT

The Presidency of the Council of the European Union is an institution of the European law which has been exercised since 1958 and evolves together with changes of the Treaty and the dynamism of development of the European Communities and the EU. It binds the European communities to their foundation, i.e. nation-states, and by giving prominence to the subjectivity of the state it facilitates references to the idea of the reason of state. In Poland, this idea manifested its validity in the last decades which are identified with the democratic breakthrough and transformation of the state system of government. The civic theme voiced in public rhetoric showed the reason of state in a new light, revealing its affinity to national interest. The civic foundation of statehood is expected to contribute bold and convincing ideas to the European debate on the future. This will help to outline a new interpretation of the notion of the reason of state, compatible with the model of a state that realises its sovereignty within the framework of an institution of transnational cooperation.



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German Economy 20 Years after Reunification

Tomasz Budnikowski, Editor

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This publication is devoted to the challenges that the German economy faced in the first 20 years after the reunification, a topic which is both current and important from the perspective of research and economic performance. The authors – J. Misala, M. Götz, I. Romiszewska, P. Kalka, T. Budnikowski and M. Żukowski – comprehensively discuss the most important issues since East and West Germany merged.

The first issue discussed is how big the economic disproportions between the eastern and western lands still are. Then changes in Germany's foreign trade are analysed in detail as its role in Germany's economic growth is important. Next the focus moves to the structure of R&D expenditure. A comparison of R&D outlays in Germany and other highly-developed countries shows that the volume of Germany's investments continues to be relatively huge.

Much space is given to Germany's social integration, primarily to unemployment resulting from the introduction of market economy in the former German Democratic Republic. Another issue tackled is the rapid ageing of the German society and the functioning of the social security system.

Conclusions offered in each paper are on both the theory and practice of the German economic policy making this publication useful for researchers, students of economics as well as politicians and economists.

PRZEGLĄD ZACHODNI
I, 2013

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CULTURAL PROGRAMME OF THE POLISH PRESIDENCY: STRATEGY AND REALITY

The cultural programme constitutes an integral part of each and every Presidency of the Council of the European Union. Drawing on experiences of other Member States, it follows that the cultural programme presented by the presiding state is often perceived as "the flagship of the state, and is often considered to be a means of promoting the country both in the European Union and in the world".[1] Moreover, it plays a crucial role in shaping the image of the presiding state.[2] The Cultural Programme of the Polish Presidency was to a large extent a promotional and image-enhancing tool integrated with Poland's public and cultural diplomacy.[3]

"Using the Presidency" to carry out an image-enhancing campaign was strongly underlined during the preparations for the Polish Presidency of the Council of the European Union. At a meeting of the Sejm [Parliamentary] Committee, Government Plenipotentiary for the Polish Presidency in the EU, Secretary of State at the Ministry of Foreign Affairs Mikołaj Dowgielewicz emphasised that: "the Polish Presidency is the greatest campaign promoting Poland since 1989". Events presenting Polish culture, politics and objectives of Polish foreign policy were organised by 159 Polish diplomatic and consular outposts worldwide, including 21 Polish Institutes.[4] The Ministry of Foreign Affairs was very active and other Polish ministries also underlined that the Presidency was first of all a political project, an unprecedented opportunity to promote Poland and Polish culture beyond its borders. For this reason the Cultural Programme was judged very important. The approach was that it "is not some additional element of preparations and then of the Polish Presidency of

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[1] *Strategiczne założenia programu kulturalnego polskiej prezydencji w drugiej połowie 2011 roku*, Warsaw 2009, p. 2.

[2] M. Zuber (2010), *Rola Prezydencji Rady Unii Europejskiej*, Warsaw, p. 41; K. A. Wojtaszczyk, *Prezydencja w Radzie Unii Europejskiej z perspektywy Traktatu Lizbońskiego*, in: K. A. Wojtaszczyk (ed.) (2010), *Prezydencja w Radzie Unii Europejskiej*, Warsaw, p. 14.

[3] B. Ociepka, *Akcja czy reakcja? Dyplomacja publiczna i kulturalna w Europie*, "Res Publica Nowa" 15.12.2011, http://wszechnica.org.pl/?p=11&id–content=589&id–keyword=120. Accessed 12.01.2012.

[4] Joint meeting of the Commission for the European Union and the Commission for Culture and Media held on 31 March 2011 – information on the Cultural Programme of the Polish Presidency, its promotion in Poland and abroad, and visual identification.

the Council of the European Union, but its integral element complementing political activities that are and will be undertaken".[5]

It is no surprise that the Cultural Programme was part of Polish public and cultural diplomacy. Putting aside the multiplicity of meanings of public and cultural diplomacy[6], one of its basic objectives is to build a positive attitude toward a country and its policies.[7] In order to create positive attitudes among the very broadly understood foreign addressees (this group encompasses governments, political decision-makers and non-governmental bodies: organisations, the media, corporations and even individuals), it is necessary to develop a network serving long-term cooperation. Culture, in its broad sense, is a means serving that purpose.[8]

Assuming that a presentation of the cultural heritage is an effective instrument of modern public and cultural diplomacy, the Cultural Programme of the Polish Presidency played an indisputably important role in the promotion of Poland abroad and in shaping its positive image.[9] Culture is also an instrument impacting its native audience. Therefore events organised in Poland were an important component of the Presidency's Cultural Programme.

OBJECTIVES OF THE CULTURAL PROGRAMME OF THE POLISH PRESIDENCY

All cultural events that took place during the Presidency were organised under the document titled *The Strategic Priorities of the Cultural Programme of the Polish Presidency in the Second Half of 2011* adopted by the Polish government at the meeting of the European Committee of the Council of Ministers on 28 September 2009. The document, drafted by the Polish Ministry of Culture and National Heritage, contained the goals and priorities of the Programme, types of projects, and the division of tasks between particular entities. Under this document, the Cultural Programme of the Polish Presidency was to strengthen Poland's image as a dynamic modern state with its own traditions and history. It was to serve Poland's promotion in the

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[5] M. Smoleń, Undersecretary of State at the Ministry of Culture and National Heritage, joint meeting of the Commission for the European Union and the Commission for Culture and Media held on 31 March 2011 – information on the cultural programme of the Polish Presidency, its promotion in Poland and abroad, and visual identification, shorthand report.

[6] B. Ociepka, *Public Diplomacy* (encyclopaedia entry), in: W. Donsbach (ed.) (2008), *The International Encyclopedia of Communication*, Blackwell Publishing Ltd., Malden-Oxford-Carlton, vol. 9, pp. 3956-3960. B. Ociepka (2008), *Dyplomacja publiczna jako forma komunikowania międzynarodowego*, in: *Dyplomacja publiczna*, Wydawnictwo Uniwersytetu Wrocławskiego, Wrocław, pp. 11-12. M. Leonard, C. Stead, C. Smewing (2002), *Public Diplomacy*, Foreign Policy Centre, London, pp. 7-11.

[7] *Cf.* J. Nye (2007), *Soft Power, jak osiągnąć sukces w polityce światowej*, Warsaw, pp. 146-148; J. Melissen (2005), *Wielding Soft Power: The new public diplomacy*, Clingendael.

[8] B. Zdrojewski, *Podsumowanie Prezydencji w kulturze*, 2 January 2012.

[9] P. Potoroczyn (Director of the Adam Mickiewicz Institute) in an interview for the Polish Radio said that "Culture is a product, and as such it is subject to trading and exchange. And still, it elicits emotions." http://www.polskieradio.pl/8/402/Artykul/339108,Chca-sprzedac-polska-kulture. Accessed 02.04.2011.

EU, promote Poland and the EU on a global level (Poland as an EU ambassador) and promote the EU in Poland.[10] One ought to underline that the Programme was to be closely related to the priorities of Polish foreign policy and their implementation.[11]

The above is a clear indication that the Polish government, the patron of cultural events and projects, tried to achieve particular political goals. The necessity to correlate the Cultural Programme with the priorities of the Presidency was emphasised at the very early stage of preparations to EU leadership, i.e. already in 2008. At the time, it was underlined that

> The Cultural Programme of the Presidency should correspond to the priorities of the Presidency and focus on the main motto of the Presidency. The events do not have to be numerous. What is important is that their quality will make them the flagship of the Polish Presidency.[12]

The need to integrate the Cultural Programme with Poland's long-term promotion strategy in general, including economy and tourism promotion objectives, was pointed out in the abovementioned *Strategic Priorities of the Cultural Programme of the Polish Presidency in the Second Half of 2011*. In the opinion of their authors, the Cultural Programme was be treated as an element of Poland's general strategy, and thus its own cohesiveness was not the objective.[13] Cooperation was another key assumption in line with which the Cultural Programme was to be designed. This referred to "emphasising the promotion of Polish culture through projects realised in cooperation with artists and artistic/culture organisations from other EU Member States and non-EU countries".[14]

It was the Polish Ministry of Foreign Affairs which coordinated all the events organised during the Polish Presidency. This Ministry was also responsible for choosing 10 capital cities where the Polish foreign cultural programme would be presented.[15] As a result, five EU capitals were chosen: Berlin, Brussels, London, Madrid,

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[10] *Strategic Priorities of the Cultural Programme...*, p. 2.

[11] In the *exposé* presented to the Sejm on 13 February 2009, Minister of Foreign Affairs Radosław Sikorski, among the four priorities of Poland's foreign policy, mentioned public diplomacy. This term embraces the broadly understood promotion of Poland and activities aimed at persuading foreign public opinion to recognise Poland's point of view and the Polish understanding of international issues. Response of Secretary of State at the Ministry of Foreign Affairs Jan Borkowski, upon authorisation of the Minister, to interpellation no. 9511 on the activity of Polish Cultural Institutes in Europe and in the world, 3 June 2009.

[12] Document of the Department of Coordination of Preparations for the Presidency of the Council of the European Union, Office for the Committee on European Integration, Warsaw 2008.

[13] Such postulates might seem slightly "over the top", as both in documents issued by state institutions and academic publications attention is drawn to the lack of a long-term strategy of the state in the area of promoting Poland abroad (in the area of culture, tourism, economy, etc.) that would be adopted by all ministries and coordinated by the Ministry of Foreign Affairs.

[14] *Strategic Priorities of the Cultural Programme...*

[15] Initially, the following cities were listed: Brussels, Paris, Berlin, London, Rome, Madrid, Beijing, Tokyo, Moscow, New Delhi, Washington, Seoul and Ankara.

Paris, and 5 non-EU capitals: Kiev, Minsk, Moscow, Beijing and Tokyo. They were selected owing to their relevance to Polish economy and/or Poland's political interests.[16]

Under an agreement reached among Polish Ministries, the Ministry of Culture and National Heritage (MCNH) was the coordinator of the Cultural Programme abroad and in Poland. That Ministry was responsible for the implementation of a twofold task: coordination of National and Foreign Cultural Programme of the Polish Presidency and organisation of events in the area of culture, audiovisual affairs and copyright.[17] The Minister of Culture delegated some of his competences to two subordinate agencies. Under the Minister's decision of 9 August 2009, the programme and coordination of cultural events in Poland were carried out on behalf of the MCNH by the National Audiovisual Institute (NInA). The coordination of the tasks connected with the preparation of and carrying out the Foreign Cultural Programme was delegated to the Adam Mickiewicz Institute (AMI). Both entities were obliged to prepare the programme of cultural events and projects accompanying the Polish Presidency.

Of course, other national and foreign institutions were also directly involved in the realisation of the Cultural Programme. In the case of its national part, it is worth mentioning that the programme was co-designed and implemented by local governments of major Polish cities (e.g. Lublin, Cracow, Warsaw and Wrocław), regions, and non-governmental bodies and cultural institutions. In addition to events endorsed by the Polish and European cultural institutions, "niche" artists also put forward their proposals.[18] Volunteers also played an important role in the organisation of events and meetings.[19]

The foreign programme was organised in cooperation with Polish diplomatic and consular outposts, mainly Polish Institutes (in Brussels, London, Madrid, Minsk, Moscow, Berlin, Kiev) and Embassies (particularly cultural counsellors and attachés of Polish embassies, e.g. in Beijing and Tokyo). Most events were prepared in cooperation with foreign partners, mainly with institutions that are part of the established cultural infrastructure in their countries, which was undoubtedly in line with the more general concept of using the instruments and tools of Polish public and cultural diplomacy. Polish projects were presented in places recognised and appreciated in their respective countries, for instance at BOZAR (Brussels), Royal Festival Hall, Whitechapel Gallery, Barbican (London), Palacio Real, Teatro Real (Madrid), Pid Inn Club, Ahashi Concert Hall (Tokyo), Central Conservatory of Music in Beijing

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[16] M. Smoleń, *op. cit*.

[17] Polish Presidency of the Council of the European Union, The Double Task of the MCNH, http://www. mkidn.gov.pl/pages/pl2011/pl/gora/prezydencja.php. Accessed 24.09.2011.

[18] Press release, Attention Culture!, National Cultural Programme of the Polish Presidency, Warsaw, 2 January 2012, pp. 3-14, http://www.nina.gov.pl/docs/zam%C3%B3wienia-publiczne/kpk-pp-2011- podsumowanie---informacja-prasowa.pdf.

[19] More than 550 volunteers were involved in the organisation of the European Culture Congress in Wrocław.

(Beijing), National Philharmonics (Kiev, Minsk), The Pushkin State Museum of Fine Arts, the Meyerhold Centre (Moscow). In accordance with the objectives of public diplomacy, some projects were presented in public spaces in central locations in the abovementioned cities, and even in the underground railway facilities, thanks to which wide and numerous audience was reached. The cooperation networks established with local partners might prove useful in the future.

Both institutions: NInA and IAM, when planning the cultural setting of the Polish Presidency, proposed ideas and catchphrases that inspired the implemented series of cultural events. The main message of the 2011 National Cultural Programme of the Polish Presidency was expressed in its motto "Art for Social Change". This motto was to express the conviction that nowadays culture is an integral part of social processes and an important element of every-day life. In the opinion of the authors of the programme "Participation in culture notably influences the establishment of interpersonal relations by providing a sense of identity and belonging both at the local, national and international levels". The Programme was to encourage its recipients and artists to adopt an approach that increases artistic and social awareness and critically reflects on culture and civilisation.

The motto of the foreign programme was different and read "I, Culture", which in the opinion of the AMI director underlined that each and every individual plays an important role as each of us creates, experiences, and questions culture, and thus we all create culture and participate in it: "There is no 'I' without culture. 'I' without culture makes no sense".[20] This sort of "promoting the state through culture" was to create an image of Poland as "a creative hub of Europe".[21]

COMPONENTS OF THE CULTURAL PROGRAMME OF THE POLISH PRESIDENCY

As part of the Cultural Programme of the Polish Presidency held from 30 June to 31 December 2011, 1,400 events were delivered: 1,000 in Poland and 400 abroad. Such a high number of events organised might provoke questioning their quality and purposefulness. Another question to be asked is whether it is possible to evaluate such a large-scale undertaking. Finally, it is important to consider if such an eventful programme did not overshadow the Presidency's strategic goals, especially in the face of the fast changing circumstances on the international arena (mainly the economic crisis and the "Arab Spring" events). In press releases issued by both agencies

[20] I, Culture, Made in the EU, Powered by Poland, http://www.culture.pl. Accessed 29.01.2012.

[21] The AMI Director presented his point of view on the opportunity of "using culture" to promote Poland at the first Culture Congress held in Cracow. At the time, he indicated that "nowadays, cultural promotion is an especially important element shaping international economic and political relations. The role of culture in the overall exchange of goods and values of civilisation is on an increase and is *per saldo* one of the economically cheapest and most effective means of such an exchange". *Raport: Od wymiany kulturalnej do nowej inteligentnej siły, Promocja Polski przez kulturę*, ed. P. Potoroczyn (2009), *Raport o promocji kultury polskiej za granicą*, Polish Culture Congress, Cracow, p. 4.

coordinating the Cultural Programme it was underlined that the programme was "the greatest all-encompassing cultural campaign in history" and "the largest programme promoting Polish culture abroad delivered by the Adam Mickiewicz Institute".

To compare, throughout the period of the Czech Presidency, from 1 January to 30 June 2009, over 600 cultural events were organised (450 abroad including 60 events which were organised in Brussels), though officially their number was 300.[22]

Both NInA and AMI specified "types" of flagship projects which those institutions were to coordinate and organise.[23] Owing to the multitude of events, selecting the most important "types" seems to be a reasonable solution.

The following three groups of projects constituted the national programme of the Polish Presidency:

- "special projects" initiated by NInA in cities that hosted high-level meetings, i.e. in Sopot, Wrocław, Cracow, Poznań and Warsaw, and additionally in localities engaged in the Eastern Partnership Programme, i.e. Lublin, Białystok, Katowice and Krasnogruda;
- "projects recommended by the Programme Council for the Cultural Setting of the Polish Presidency of the EU Council" organised by national culture institutions and selected institutions co-managed by the Ministry of Culture (museums, theatres, opera houses and other institutions);
- and the most important "regular events and festivals" held in Warsaw, Cracow, Wrocław, Poznań, Katowice and the Tricity (Gdańsk-Sopot-Gdynia).[24]

The Programme was not limited to a provision of artistic settings for political meetings. In most cases, instead of organising concerts for political decision-makers only, the Polish Presidency decided to cooperate with NGOs and local institutions. The scale of this cooperation was the largest ever.

Among most important events organised by NInA were: the open air concert inaugurating the Presidency at the Parade Square [Plac Defilad] in Warsaw and meetings dedicated to the works of Czesław Miłosz (among others the European Agora in Krasnogruda). The latter project was initiated by the Borderland Foundation and the Centre "Borderland – of arts, culture, nations" and implemented under the patronage of UNESCO. It took place on the 100th anniversary of Miłosz's birth, on 30 June 2011. During the European Agora, the International Dialogue Centre was launched. This is to be a facility oriented at the establishment and deepening of intercultural

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[22] M. Czyżniewski, *Czeskie przewodnictwo w Radzie Unii Europejskiej*, "Analizy Natolińskie" no. 1 (43) 2010, pp. 10-12.

[23] *Cf*. A. Umińska Woroniecka (2011), *Program Kulturalny Polskiej Prezydencji* (*w kontekście Europejskiego Kongresu Kultury we Wrocławiu*), in: A. Zeidler-Janiszewska (ed.), "Kultura Współczesna. Teorie. Interpretacje. Praktyka" special edition no. 5 (2011), pp. 189.

[24] http://http://www.nina.gov.pl/docs/prezydencjabiuroprasoweplikidopobrania/krajowy-program-kulturalny-polskiej-prezydencji-2011.pdf.

dialogue.[25] Other NInA flagship projects included the European Culture Congress[26] in Wrocław and a series of events in Lublin that were aimed mainly at promoting the Eastern Partnership.

The national programme included festivals and concerts held regularly in Poland, among others the Gdańsk Shakespeare Festival, the Cracow Sacrum Profanum Festival and international festivals of contemporary music: Warsaw Autumn, Jazz Jamboree, and Wratislavia Cantans.[27] The "blessing of the Presidency" turned out to be very helpful for many organisers, as in the period of savings and financial cuts it averted the threat of budget reduction or discontinuation of the festivals.

The Foreign Cultural Programme also included leading projects called the six pillars of the Programme. On 5 January 2010, the Programme Council for the Cultural Setting of the Polish Presidency of the EU Council approved the six pillars of the Foreign Cultural Programme of the Polish Presidency prepared by AMI. Most of those projects were carried out in all ten capital cities chosen and as such they were a regular component of the foreign programme. They included presentations of the works of Stanisław Lem, Czesław Miłosz and Karol Szymanowski. The avant-garde open air theatrical performance titled "Planet Lem" produced and staged by Teatr Biuro Podróży was presented in seven capitals. As the year 2011 marked the 100th anniversary of Czesław Miłosz's birth, the programme included events during which his works were presented. On the occasion of the Presidency, the Czesław Miłosz Audiobook was produced. Outstanding personalities of film and theatre from various countries recited Miłosz's poems in over ten languages. "King Roger" opera by Karol Szymanowski, directed by David Pountney, inaugurated the Polish Presidency in Warsaw on 1 July 2011. This opera was also performed in prestigious concert halls around the world, among others at La Monnaie in Brussels, the Berliner Philharmonie, the Moscow Philharmonic, Theatre de Chatelet and the Kiev Opera at the closing of the Presidency.

The *I, CULTURE Orchestra* project was especially successful. This AMI project gathered young musicians from Eastern Partnership states: Armenia, Azerbaijan, Belarus, Georgia, Moldova, Poland and Ukraine. Conducted by Sir Neville Marriner and Paweł Kotla, the orchestra gave concerts in recognised European venues, among

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[25] A. Warywoda, *W przeddzień inauguracji – Europejska Agora w Krasnogrudzie*, http//www.uniaeuropejska.org. Accessed 16.01.2012.

[26] The events that were classed as priority events were also awarded appropriate funds for their organisation. To give an example, the cost of the concert organised in Warsaw on 30 June amounted to approx. PLN 10 million, and the European Culture Congress held in Wrocław to approx. PLN 13 million.

[27] As one of the commentators noted: "The vast majority, however, was not prepared with a view to be held during the Polish Presidency. Though almost 60 festivals, as well as a high number of exhibitions, concerts and theatre performances, were entered onto the Institute's list, a vast majority of these events would have been held anyway. The Poznań Malta Festival, the Polish Music Festival in Cracow, the Warsaw Film Festival or the Gdańsk Shakespeare Festival have been organised for years." J. Marczyński, *Atrakcyjne prezenty dla świata*, "Rzeczpospolita" 2.01.2012.

others at the Berliner Philharmonie, the Royal Festival Hall[28] in London and the Teatro Real in Madrid. Most importantly, the project has not been closed and the young musicians are scheduled to play in Lublin, Warsaw, Minsk, Kiev, Chisinau, Yerevan, Tbilisi and Baku. In this case, one can speak of a successful marriage of culture and the political priorities of the Presidency.

The remaining two pillars of the programme were the *I, CULTURE Puzzle*[29] and *A Guide to the Poles*.[30]

Both NInA and AMI stressed the important role non-governmental organisations and institutions played. In this case, solutions tried and tested by previous Presidencies e.g. the French and Slovakian Presidencies, were employed.[31] Already at the preparatory stage, recommendations on how to support projects of Polish NGOs that promote Poland and its culture abroad were drafted. They included pointing out that the Polish administration should be ready to cooperate with non-governmental organisations, that online communication tools should be used, and that new financial solutions should be adopted to support NGOs. The latter boiled down to allocation of funds via competitions and grants.[32] As a result, 106 non-governmental organisations and institutions won subsidies in a competition organised by AMI. The funds were allocated to projects and events chosen to be part of the Foreign Cultural Programme. Funds allocated to selected entities in the "Promesa" competition alone amounted to PLN 19,993,993.[33]

As many as one fourth of 400 cultural events abroad were held in Ukraine. This means that the Ukrainian audience was considered to be the priority addressees of Polish cultural diplomacy. The multitude and diversity of the events, as well as the idea to organise the concert concluding the Polish Presidency in Ukraine underlined the important position of Ukraine in Polish foreign policy. In compliance with the document drafted by the Ministry of Foreign Affairs titled "Directions for promoting Poland until 2015", Ukraine is indeed a priority in Poland's promotion at large. The

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[28] Positive reviews of this event were published in "The Times" and "The Guardian".

[29] The multimedia I, CULUTRE Puzzle project carried out in public space in Berlin, Brussels, Kiev, Copenhagen, London, Madrid, Minsk, Moscow, Paris, Beijing, Tokyo and Warsaw was to unite its participants. Citizens of world capitals were invited to participate in happenings during which they created puzzle elements from fabric.

[30] The series of documentary films was designed to show "the modern Polish society in an interesting and at the same time surprising way." Poland's most recent history was presented through rock music, fashion, games and toys, Himalayan expeditions" L. Stomma, *Polaków seks wyjątkowy*, "Polityka" no. 7 (2794), 12.02.2011.

[31] *The Polish Presidency of the EU Council: cooperation between public administration and the non-governmental sector*, Expertise of the Institute of Public Affairs commissioned by the Office of the European Integration Committee, Warsaw 2008, p. 107.

[32] *Ibid.*, p. 109.

[33] Programme: 2011 Polish Presidency, Promesa, accepted applications, generally the allocated funds ranged from PLN 100,000 to PLN 200,000, though some projects received more funding, e.g., poems in the underground received PLN 1 million. http://www.iam.pl/public/files/Wnioski%20rozpatrzone%20pozytywnie.pdf. Accessed 27.02.2012.

deepening of Ukraine's integration with the EU might "make Ukraine even higher a priority for Poland. It is especially important [...] to focus on the image of modern Poland and our – to a large extent shared – history."[34] In a long-term perspective, it is necessary to undertake activities aimed at supporting the promotion of Ukraine in the European Community, on condition that Ukraine meets numerous criteria.[35] The network of Polish-Ukrainian relationships, already often of non-governmental nature, stands a chance to grow also thanks to the sports events organised jointly by the two states.

It is worth emphasising that in addition to the ten selected world capitals covered by the Foreign Cultural Programme of the Polish Presidency, many cultural events were organised elsewhere by Polish outposts subordinate to the Ministry of Foreign Affairs: Polish Institutes and cultural counsellors and attachés at Polish Embassies all over the world. Generally speaking, all their activities promoted the Polish Presidency starting from 1 July 2011. In their case, their promotion of Poland through culture was not temporary and was not limited to the Polish Presidency, as public and cultural diplomacy is a regular task of Polish outpost.[36]

The cultural setting of the Polish Presidency turned out to be a project of an unprecedented scale. Institutions responsible for the coordination of the culture promotion programme prepared a wide range of events that catered for Foreign and Polish audiences of varied artistic tastes. Also in terms of organisation and logistics, the Cultural Programme of the Polish Presidency has been on the whole evaluated positively.[37] The decision to entrust the coordination of the programme to government agencies (NInA and AMI) and the realisation of its specific elements to cultural institutions and non-governmental organisations in cooperation with local governments proved to be right.

AN ASSESSMENT OF THE CULTURAL PROGRAMME OF THE POLISH PRESIDENCY OF THE EU COUNCIL

Before an assessment of the Cultural Programme of the Polish Presidency is offered, some introductory remarks are in place. Evaluations of the Cultural Programme were mostly delivered by institutions responsible for the programme coordination and are full of quantitative data. About the national programme one can read that 1,000 projects were realised, that events were held on 184 days and that

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[34] *Kierunki promocji Polski do 2015 roku*, Council for the Promotion of Poland, Ministry of Foreign Affairs, Warsaw 2010, p. 88.

[35] *Ibid.*, p. 89.

[36] *Cf.* A. Umińska-Woroniecka, *Od promocji stosunków kulturalnych i naukowych do dyplomacji kulturalnej w działaniach polskiej służby zagranicznej*, "Polski Przegląd Dyplomatyczny" no. 5-6 (57-58), September-December 2010, pp. 51-56.

[37] Ł. Bukowiecki, *Taki wspaniały sukces*, "Res Publica Nowa" http://publica.pl/teksty/taki-wspanialy-sukces. Accessed 6.01.2012.

170 partner entities were involved. The implementation of the foreign programme was presented in a similar manner and included more figures: 10 capital cities, 400 events, 19 million recipients. During the Presidency, the European, Chinese and Japanese media informed about Polish cultural events more than 7,500 times. The culture.pl portal was visited by just under a million people from all over the world.[38] The quantitative data, however, does not give a full picture of the Presidency's Cultural Programme. Thus it is necessary to perform also a qualitative analysis of the Programme, and first and foremost to find whether it fulfilled its general and componential tasks. Difficulties that arise in the course of such evaluations may result from the lack of appropriate instruments and tools that enable an impartial qualitative assessment. To provide an example, an event targeted at a narrow group of recipients, e.g. professionals who have an impact on opinion formation (journalists, researchers, artists) might bring about better results in achieving political goals than projects aimed at a broader audience. Moreover, the assessment of concerts, theatrical performances and similar cultural events might elicit varied subjective opinions which often follow from personal preferences. The inauguration of the Presidency, i.e. the concerts held in Warsaw on 1 July 2011, is a good example. Some opinions were full of appreciation and recognition of the event[39], but there were also negative remarks suggesting the artistic value of the event was low.[40] When summing up the Polish Presidency in terms of the implemented Cultural Programme, one ought to take into account that many results and consequences (both positive and negative), might become visible in the coming months, or even years. In the final assessment of the Presidency's "cultural charge", one should take into consideration not only the sum-ups drafted by the organisers, which present the Programme as highly successful, but also opinions of milieus that form public opinion (the media, academics and artists).

The presented assessment of the Cultural Programme is not comprehensive. I agree with the opinion of Marcin Bogucki that "partial assessments – of particular projects and events of the programme – will provide a better evaluation of the six-month cultural programme than reports full of quantitative data"[41], therefore I will present assessments of individual projects that were part of the Cultural Programme of the Polish Presidency.

The National Cultural Programme included 1,000 events and was a project difficult to execute for reasons of its "size". The ambitious motto of this Programme: "Art for Social Change" was to encourage recipients and creators of art to discuss culture, reflect on its condition and undertake a creative activity. It was also aimed at

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[38] Press release, sum-up of the Presidency in culture, 2 January 2012, Ministry of Culture and National Heritage, http://www.mkidn.gov.pl/media/docs/20120102-inf–prasowa.pdf. Accessed 24.02.2011.

[39] J. Cieślak, *Pałac kultury odleciał*, "Rzeczpospolita". Wydarzenia, 02.07.2011.

[40] R. Pawłowski, *Kulturalna Prezydencja. Pierwsza taka ofensywa*, "Gazeta Wyborcza" 02.01.2012.

[41] M. Bogucki, *Szymanowski i Mykietin, Dwa oblicza programu kulturalnego polskiej prezydencji*, "Mała Kultura Współczesna" 26.01.2012.

increasing the society's participation in culture. In the opinion of Michał Merczyński, Director of NInA, this was achieved without much difficulty.[42] First and foremost, the Presidency succeeded in implementing the postulate of social involvement in culture, mainly by encouraging citizens to participate in the programme prepared by non-governmental organisations. A major achievement of the Presidency was making the public aware of the Eastern Partnership.[43]

The idea to structure the programme to impact various groups of recipients, both connoisseurs of classical music and audiences with less refined expectations, may be deem a success. An assessment of the organisation of the whole National Cultural Programme has been positive. A vast majority of projects were smoothly executed, well-organised and well-received. It is, however, understandable, that during such a large-scale project there were some failures (the Gesture campaign[44] or the pavilion of a Dutch artist in Warsaw).[45]

It is difficult to assess whether the general objectives of the Cultural Programme have been fully implemented that is to what extent the Presidency managed to involve an "average citizen" in the discussion on culture and whether the programme embodied its motto "Art for Social Change". Opinions are divided because as expected only popular culture events attracted large audiences[46], which was not the intention of the designers of the Programme.

From the point of view of a participant, complaints about the "insufficient integration" of the European Culture Congress (ECC), the most important event of the cultural setting of the Polish Presidency organised in Wrocław on 8-11 September 2011, "with the local community" might be justified.[47] It must, however, be clearly stated that the idea to bring together artists, academics, cultural institutions and

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[42] M. Merczyński, *Akcja czy reakcja? Dyplomacja publiczna i kulturalna w Europie*, "Res Publica Nowa" 15 December 2011, http:__wszechnica.org.pl_?p_11&id–content_589&id–keyword_120. Accessed 12.01.2012.

[43] B. Marcinik in conversation with Paweł Potoroczyn, Michał Merczyński, Olga Wysocka, *Trójka pod księżycem, Podsumowanie roku 2011 w kulturze*. (http://www.polskieradio.pl/Player).

[44] *Kity polskiej prezydencji, Akcja Gest*, "This was to be a social campaign that integrated Poles around the Presidency Programme. Similar to the "Light to Heaven" event organised by the Great Orchestra of Christmas Charity, during which people were encouraged to light candles and place them on their window sills. It turned out that this Gesture event consisted in putting on a paper mask of a Mr. Roman, the main character of a TV spot who visits an exhibition of modern art and returns home with a face resembling a work of Pablo Picasso."

[45] The project of Olafur Eliasson won the closed competition announced by the National Audiovisual Institute at the end of 2010. The Museum of Modern Art in Warsaw was a partner in the project. More on failures: Ł. Bukowiecki, *Taki wspaniały sukces*, "Res Publica Nova" http://publica.pl/teksty/taki-wspanialy-sukces. Accesssed 6.01.2012.

[46] M. Ostrowski, *Między wzniosłością a miernotą*, "Polityka" http://www.polityka.pl/kraj/opinie/1517406,1,inauguracja-polskiej-prezydencji-w-ue.read. Accessed 6.01.2012.

[47] Ł. Bukowiecki, *Dwie panoramy, obok Europejskiego Kongresu Kultury oraz Prezydencji*, "Mała Kultura Współczesna" 22.09.2011. The critical analysis of this project, performed mainly by culture experts, was presented in the special edition of "Kultura Współczesna".

non-governmental organisations from Poland and Europe, often representing various views on culture and its place in modern society, was much needed. The invitation of European and Polish experts, the artistic programme which accompanied the talks, and lively discussions concerning the Congress organisation[48] as well as its agenda made the ECC a success of the Polish Presidency, even though there were some flaws.

The organisation of festivals and events in Lublin and Białystok to promote the Eastern Partnership should be recognised as a success of the National Cultural Programme. In this case, the Presidency succeeded in making the Cultural Programme fit the strategic aims of the Presidency and Poland's general foreign policy. A high turnout at the exhibition "Journey to the East" held in Białystok might be indicative of Poles' increasing cultural awareness.

The meetings dedicated to the works of Czesław Miłosz also deserve praise, similarly as the establishment of the International Dialogue Centre which is likely to carry on its activities.

The unprecedented cooperation between culture institutions, NGOs and Polish administration in promoting Polish culture was undoubtedly a success of the whole programme. The formula of allocating grants for the execution of chosen projects turned out to be most appropriate and effective. In this case, it resulted in the establishment of long-term relations based on trust between the public sphere and the third sector.

It is, however, difficult to state whether the "size" of the National Cultural Programme ensured realisation of its announced objectives.[49] The multitude of mottoes, ideas and tasks as well as the high number of projects and events might have led to difficulties in getting its main message. Another negative feature was the omission of the educational factor at the preparatory stage of the Presidency. Promotional spots broadcast in the mass media could not make up for this omission. As a result, one might have an impression that the idea of the National Cultural Programme was not transparent to many people.

The concentration of cultural events in a six-month time span might have negative consequences, as it will be difficult to find an equally strong stimulus as the Presidency to increase the participation of artists and recipients in the discourse on involvement in culture in its broad sense. That is why it is so important that at least some of the projects launched during the Presidency are continued.

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[48] The problems with installations in the courtyard in front of the Centennial Hall in Wrocław were especially visible. They were considered to be unprecedented "artistic events" that proved impossible to present to the Congress audience. *Niezidentyfikowany obiekt kulturalny, program Europejskiego Kongresu Kultury*, Wrocław 2011, p. 56.

[49] For the sole purpose of writing this article, a survey was carried out among 200 students of the Wrocław University. The study concerned the Cultural Programme of the Polish Presidency and demonstrated that only 14 respondents were aware of the programme, not to mention the events that it was comprised of (12.10.2011).

As part of the Foreign Cultural Programme of the Polish Presidency, the motto of which was *I, CULTURE*, 400 events were organised. They were to present Poland as a modern and unique country with a rich and creative modern culture – "a creative hub of Europe". The execution of the programme in 10 selected capital cities was a successful move as it helped reach those interested efficiently and avoid activity dispersion. A wide diversification of measures and moving away from previous, rather conventional[50] means of promoting Poland and its culture abroad as well as a vast cooperation platform were noticeable. On the one hand, the Presidency cooperated with well-known European cultural institutions that have their regular audiences. On the other hand, Poland cooperated with national artists by supporting their activity with grants. The developed system of tying Polish artists and cultural institutions with their counterparts in Europe and Asia may well bring about the implementation of defined objectives of Polish public diplomacy abroad.

According to Paweł Potorczyn, AMI Director, the success of the foreign programme resulted from the action plan adopted by AMI: "First, we searched for an intellectual frame of the programme design, for an idea or value that would become the axiological and emotional core of our narration, and only afterwards we developed the programme. And this worked. The cohesiveness of the message and its artistic and intellectual codes worked. Poland finally has a face, and it is one of its culture."[51] Just under 20 million recipients of events held in the 10 capital cities is to be a proof that the goal – Poland's promotion abroad by means of its culture – was achieved. Another attempt to evaluate the foreign programme employed media monitoring. Approximately 7,500 media releases were identified.[52]

The foreign programme attracted relatively much interest among its recipients, though maybe in different political and economic circumstances the response could be higher. One might ruminate on the adjustment of the programme to the needs of recipients and to the external situation in which Poland had to implement its Foreign Cultural Programme.

Summing up the Foreign Cultural Programme of the Polish Presidency, it is worth underlining that it was usually the exhibitions that attracted greatest interest of the media and recipients, thought they had not been considered to be key components of the Programme. The following exhibitions should be mentioned: "Side

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[50] B. Ociepka points to the abandonment of the previously used symbols, "wooden storks and folk paper-cuts", B. Ociepka, *Polska – Niemcy: narzędzia miękkiej siły w polityce zagranicznej*, "Przegląd Zachodni" no. 2 (2011), p. 53.

[51] Interview with Paweł Potoroczyn, *Polska ma kulturalne oblicze*, 26.12.2011, http://kulturaonline.pl/polska,ma,kulturalne,oblicze,wywiad,z,pawlem,potoroczynem,tytul,artykul,12536.html. Accessed 28.02.2012.

[52] The order of entries adopted by AMI is somewhat surprising: "a) Adam Mickiewicz Institute, b) Paweł Potoroczyn (Director of AMI, ed.), c) Polish Presidency – cultural events, d) 2011 Polish Presidency Promesa, e) www.culture.pl, f) I, Culture, g) Selection of mottoes for particular capitals", Public Procurement IAM ZP/85/2011 Monitoring of foreign media, announcement. 26.08.2011.

by Side. Poland-Germany. 1,000 Years of History in Art"[53] held at the Martin-Gropius-Bau in Berlin, "The Power of Fantasy. Modern and contemporary Polish Art" at the Bozar in Brussels and Wilhelm Sasnal's exhibition at the Whitechapel Gallery.[54] *I, CULTURE Orchestra* was the pillar project which was an outright success. Also the works of Czesław Miłosz reached foreign recipients thanks to their original presentation in the municipal spaces of the 10 capital cities.[55] AMI entrusted particular projects to non-governmental organisations and institutions, and funds for their execution were allocated in the form of grants and subsidies. This was another achievement of the Programme.[56]

In the case of the Foreign Cultural Programme it is also impossible to provide its comprehensive and final evaluation. One reason is the lack of instruments and tools necessary for performing a qualitative evaluation of the activities that were part of Poland's public and cultural diplomacy abroad. It is also difficult to state to what extent the image of Polish culture changed abroad and in what way Poland is perceived differently by societies and political elites in the countries covered by the Programme.[57]

Undoubtedly the whole project of the Foreign Cultural Programme of the Polish Presidency was thoroughly prepared and carefully implemented. This was mainly thanks to the people involved in its coordination and delivery.

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[53] It was symptomatic that the Polish press announced the success of the Foreign Cultural Programme. These opinions should be confronted with the views of Paulina Olszewska, journalist of "Obieg": "Although the Polish press, both popular and specialist, praised the *Tür an Tür* exhibition, the German press was distanced. Positive comments focused on underlining the importance of the exhibition in the continuous strengthening of the German-Polish partnership. Critical comments concerned much subjectivism in shaping the narrative and too explicit educational features". *Polskie wątki w Berlinie w 2011 roku*, "Obieg" 12.01.2012.

[54] M. Czeszejko-Sochacka, *Podsumowanie polskiej prezydencji*, "Gazeta Wyborcza" 5.01.2012.

[55] Poems of, *inter alia*, Czesław Miłosz, were presented in the undergrounds of all selected capital, but also on the fence of the Kiev University and... the Dynamo Kiev stadium. Interview with the Director of the Polish Institute in Kiev, Jarosław Godun, 10.01.2012.

[56] Not even one event escaped criticism. Roman Pawłowski believes that the *Polish ABC* project of a theatre from Toruń staged in Madrid, London, Kiev, Minsk, Moscow, Beijing and Tokyo was a failure.

[57] Also, owing to the lack of comprehensive research on the perception of Poland, its citizens, and their image among citizens of states or just capital cities where the Programme was implemented.

ABSTRACT

One of the elements of each Presidency of the EU Council is a cultural programme. The country which holds the Presidency can influence the foreign public and political decision-makers by presenting its cultural heritage and organising artistic events. Instruments of public and cultural diplomacy are helpful in shaping positive attitudes towards the country, its citizens and sometimes even its foreign policy. The cultural programme of the Polish Presidency comprised two elements: the national and the foreign one. Its objective was to promote Poland in Europe and the world, and the European Union in Poland. It was implemented with unprecedented energy and included 1,400 events and projects both in Poland and abroad.

The article attempts to sum up the cultural programme and its goals: both the overriding ones and the particular ones. A considerable difficulty in making a final assessment is the lack of instruments that would allow for a qualitative evaluation of the programme as well as its current and possible future effects and outcomes.



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Polish-German Economic Relations 20 Years after German Reunification

Piotr Kalka, Editor

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This volume of the "The Federal Republic of Germany 20 Years after Reunification. Politics – Economy – Society" series is dedicated to economic issues in an attempt at summarising Polish-German cooperation in this field in the years 1990-2010.

As Germany is Poland's most important economic partner, there is a constant need for monitoring trends in their bilateral cooperation and assessing changes that result from both internal and external conditionalities. Authors of this publication analyse financial transfers in the balance of payments to provide deep insight into Polish-German economic relations, the progress made in selected fields of cooperation such as foreign trade, migration of labour force and relations in the border zone. The latter is particularly interesting due to the history of the Polish-German borderlands, their economic and cultural diversity, varying local awareness, and long marginalisation of those regions. These are often decisive for barriers to cross-border cooperation and specificity of cross-border relations. The authors: Ilona Romiszewska, Piotr Kalka, Tomasz Budnikowski and Zbigniew Świątkowski, analyse Polish-German economic cooperation in the light of the balance of payments, trade exchange between Poland and Germany, migration of manpower between Poland and Germany, and the Polish-German cross-border economic cooperation.

Abstracts in English are provided.

PRZEGLĄD ZACHODNI
I, 2013

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Poznań

POLAND AND GERMANY IN THE EUROPEAN UNION: COOPERATION OPPORTUNITIES AND BARRIERS

The Polish Presidency of the EU Council prompts questions about the quality of the Polish-German political partnership. This relationship undoubtedly determined the Polish Presidency to a large extent, as only through an effective collaboration with Germany can Poland successfully fulfil its European ambitions. This view is shared by a considerable part of the Polish political establishment. The coalition government of the Civic Platform and the Polish People's Party counted on Germany's support for the Polish Presidency of the EU in the second half of 2011. A success of the Polish Presidency could strengthen Poland's position among EU Member States, i.e. impel some of them to consider Polish opinions and views to a greater extent than they had before. Had this happened, Poland would probably become a more interesting European partner for the Federal Republic of Germany. Is it true then that the EU Presidency brought Poland a prestige bonus? Have Polish diplomatic actions in the European Union created favourable conditions for a more intensive partnership of Poland and Germany? The latter question refers to the role of Poland as a partner for Germany in the on-going power shift following EU enlargement. This is also a matter of importance to Germany as it is redefining its role in Europe again and trying to sustain the European impact of the French-German tandem as the tone-setting and decisive player in the EU.

BILATERAL RELATIONS IN 2011

The bilateral relations of Poland and Germany are influenced by a wider EU context. After Poland's accession to the EU, those relations simply changed because since then both partners have had different expectations. Apart from unfavourable international conditionalities, such as the Iraq Crisis, the inevitable change of old roles has become visible. The advocate-petitioner model predominant in the 1990's started to lose its relevance in the context of Poland's accession to NATO. This development became apparent in 2004 when both countries formally became equal partners in the EU.

The change of roles was apparent as various expectations of Germany and Poland diverged. Not quite understanding its neighbour, Germany perhaps underestimated Poland and its different, specific interests consequent to its geographical location to the outskirts of the EU. Disputable issues included settling relationships with Eastern Europe. Strategic differences included, in particular, shaping relations with Russia and with states that emerged from the ashes of the Soviet Union, especially Ukraine. The Polish idea of democratising Ukraine and bringing it closer to Europe as the best antidote for revisionism in Russian politics was beyond Germany's comprehension. Moreover, both partners often seemed to be deceived by the illusion that Polish-German relations could be shaped to resemble the close relations between Germany and France. It is hardly surprising then that in consequence, initiatives such as the Weimar Triangle neither could deepen the Polish-German political cooperation nor be a forum striving for agreement.[1]

Polish-German reconciliation's protagonists of the early 1990's expected that the "Polish-German community of interests" would impact Polish-German relations for ever, which was not quite realistic. This may be attributed to the gradually changing German identity apparent in the foreign policy of the SPD-Green coalition government since 1998. Chancellor Gerhard Schröder begun to emphasise the need for implementing politics of national interest within the European Union. Poland's distrust in Germany was revived, *inter alia*, in connection with the Iraq Crisis and fears that Germans might revoke their infamous *Sonderweg*, when the SPD-Green government opposed the USA's decision to invade Iraq. In Poland, a conviction grew that Poland had a mandate to voice its national interest in the EU as well. This was reflected in Poland's implacable position in negotiations on the Constitutional Treaty and, especially, in the lack of a strategic consensus among Polish political elites on the scope and depth of political cooperation with Germany when the Law and Justice party (PiS) governed in Poland. Since 2007, the coalition government of the Civic Platform and the Polish People's Party has taken a more open and cooperative attitude toward Germany. Moreover, in the last four years Donald Tusk's government has often succeeded in presenting Poland in the EU as a responsible and constructive partner, acting as an EU Member competent in financial and economic matters and as an advocate of deepening the European integration. At the same time Polish public opinion has perceived Germany as an important partner of Poland in the EU and concentrated on common challenges.[2]

The beginning of the Polish Presidency coincided with the 20th anniversary of the Polish-German Treaty of Good Neighbourship and Friendly Cooperation

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[1] *Cf.* J. Reiter (date missing), *Bilans polsko-niemieckiego Traktatu o dobrym sąsiedztwie i przyjaznej współpracy z 17.06.1991 r. 20 lat później*, "Raporty i Analizy" Center for International Relations, Warsaw, p. 16.

[2] A. Łada (2011), *Patrzymy w przyszłość. Polacy o polsko-niemieckiej współpracy i o znaczeniu historii we wzajemnych stosunkach*, „Barometr Polska – Niemcy", The Institute of Public Affairs, Warsaw.

celebrated in June 2011. This symbolized the European dimension of the bilateral relations well. The ruling elites of both Poland and Germany agreed that the bilateral relations were closer than ever before. When speaking of Prime Minister Tusk, Chancellor Merkel assured: "we are cooperating very, very willingly".[3] In June 2011 the Joint Statement for the anniversary demonstrated how great importance both sides attach to the European dimension of their partnership and to the need to enhance cooperation within the EU. What has made that easier was the Polish-German agreement on postulated by Poland improvement of the situation of Polish-born citizens of Germany and other people speaking Polish who live in Germany.

In the Joint Statement both Poland and Germany committed themselves to cooperate closely and take joint initiatives within the EU. The document reads, *inter alia*, that both partners are committed to the full implementation of the Euro-Plus Pact. Poland and Germany's close cooperation for the strengthening of the Common Foreign and Security Policy, the Common Security and Defence Policy, including strengthening the EU's military capacities, the European Neighbourhood Policy and the Eastern Partnership has been emphasised. Thus this agreement has covered, in part, main postulates of the upcoming Polish Presidency. A joint commitment to develop the European energy policy to boost the continent's energy security was also confirmed. To fulfil this declaration, Poland and Germany announced in another document – the special "Cooperation Programme" – their intention to intensify the political dialogue at all levels: of the presidents, parliaments and governments. Both countries have declared their commitment to intergovernmental consultations on a regular basis, also in the form of joint cabinet meetings on specific topics. What is peculiar in the European politics' perspective, Polish-German regular consultations are to be held ahead of the European Council's meetings in order to coordinate the positions of Germany and Poland and to formulate joint initiatives. More intense personnel exchange programmes are to help deepen cooperation between ministries.[4]

One section of the Cooperation Programme is dedicated to joint initiatives at the EU level. The decision on close cooperation and joint action and initiatives within the framework of the CFSP is reiterated there as well as acting together in areas of financial and economic issues of European significance, promotion of sustainable growth and competitiveness, and Poland's adoption of the Euro. Positions on issues of economic governance and financial stability in the EU are to be consulted and reconciled. From the Polish Presidency's perspective, the declaration of close cooperation on the 2012 EU budget and the EU Multiannual Financial Framework after

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[3] K. Schuller, *Nie waren sie so eng wie heute*, "Frankfurter Allgemeine Zeitung" 22.06.2011.

[4] The Declaration of the Republic of Poland and the Federal Republic of Germany signed on the occasion of the 20th anniversary of signing the Treaty on Good Neighbourhood and Friendly Cooperation: Neighbours and Partners http://www.warschau.diplo.de/con- tentblob/3198178/Daten/1391448/; The Cooperation Programme adopted by the governments of the Republic of Poland and the Federal Republic of Germany on the occasion of the 20th anniversary of signing the Treaty on Good Neighbourhood and Friendly Cooperation http://www.warschau.diplo.de/contentblob/3198180/Daten/1391450/Projektliste–dl.pdf.

2013 was of great importance. Moreover, a closer cooperation within the framework of the EU fiscal policy and the Common Agricultural Policy was announced. In regard to the Common Security and Defence Policy, an intention was expressed to develop the civil and military capacities for more effective crisis response in the EU. Lastly, as implied in the Cooperation Programme, both parties would want to pursue the Eastern Policy within the Weimar Triangle's framework, most importantly in dialogue with Russia with the view to implement the planned Partnership for Modernisation (which the EU planned to establish) and with countries participating in the Eastern Partnership. Moreover, Germany and Poland intend to work together toward enlargement of the Eastern Partnership.

In these documents, a co-dependency of good Polish-German relations and Poland's becoming a stronger player in the EU is clearly visible. In other words, making the partnership stronger could support Polish European policy and, consequently, Poland could gain more political leverage in the EU. To the coalition government of the Civic Platform and the Polish People's Party, that co-dependency means that Poland's aspirations can be fulfilled only through close cooperation with Germany. Of course, both partners have their own strategic interests and would not give them up. This refers to the issue of energy security in particular. The dispute over the Nord Stream pipeline, in particular its disadvantageous for Poland route that could block a further development of the Świnoujście harbour, has not ceased though it was diplomatically hushed up for the time of the anniversary meeting. Thus, in 2011 the partnership created a leverage necessary to boost the Polish-German cooperation at the EU level.

Almost concurrent events on the Polish political arena created favourable conditions for the above. The Civic Platform won parliamentary election in October 2011 and thus the continuation of the Polish foreign policy and Poland's cooperation with Germany were confirmed. German observers have underlined that though in Poland there is no consensus on the Polish-German relationship, the government of the Civic Platform can pursue its policy effectively thanks to parliamentary majority.[5] The fact that the abovementioned programme of comprehensive and very close cooperation between Poland and Germany covers EU's financial perspective for 2014-2020, energy policy and climate change issues, clearly highlights Poland's hope for Germany's decisive support in these areas. In 2011 Poland, naturally, wanted to indicate that it would treat Germany's involvement in pursuing Polish postulates as a test of its attitude to close cooperation for European integration. On the eve of the inauguration of the Polish Presidency of the EU Council, Germany officially declared its support. German Foreign Minister Guido Westerwelle said that "Poland will give the impulses to the European Union that we need today to move Europe forward. [...] Poland is known for its resolute Euro-enthusiasm and dynamic economic growth."[6].

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[5] A. Quirin, S. Bastos, *Polen auf Stabilitätskurs*, "DGAPanalyse kompakt" Oktober 2011, No. 8, p. 6.

[6] R. Romaniec, *Prezydencja Polski w UE: Berlin oczekuje i wspiera*, 1.07.2011, http:__www.dw-world.de_dw_article_0,,15203479,00.html.

SIGNIFICANCE DISPROPORTIONALITY OF POLAND AND GERMANY

Polish-German cooperation on EU issues, so enthusiastically announced in the second half of 2011 in connection with the Polish Presidency, makes one critically re-think its workability. It needs to be underlined again that increasing the cooperation within EU depends primarily on Germany's approach. Firstly, some most important conditionalities should be pointed to. They reveal that both partners have played different roles and have different potential to impact European policies and that, *inter alia*, the need to discuss and shape joint interests, especially in the area of the EU Foreign Policy, is urgent.

To start with, generally both partners define their roles in the EU somewhat differently. Germany's role is to initiate, shape and moderate changes in the area of integration (also thanks to its close cooperation with France). Poland, until now, has not been considered, and has not considered itself, to be a creator of change that feels co-responsible for its implementation. Only occasionally Poland displayed its European aspirations e.g. while postulating to retain the voting system defined in the Treaty of Nice. However, in that case Poland's actions were neither effective nor constructive as it did not find allies. The current financial crisis in the Eurozone might be contributing to a slight re-definition of the mentioned disproportionality of the roles played by Germany and Poland. Poland becomes to be perceived as a reliable partner in economic and financial matters, though it is not a member of the Eurozone. Positive official reactions of Merkel's government to the speech given by Polish Minister of Foreign Affairs Radosław Sikorski addressed to the elite audience of the German Association for Foreign Policy (Deutsche Gesellschaft für Auswärtige Politik*)* in Berlin on 28 November 2011[7] seem to confirm that in Germany's political calculation how to resolve the Eurozone crisis, the importance of Poland grows.[8]

Secondly, both states have different, to a lesser or greater extent, visions of the EU's future. Germany is shifting away from the vision of a federal Europe toward the French model of exercising international policy. This does not mean that Germany seeks independence on the international arena. The vision of a federation is waning, as the EU is increasingly heterogenic due to its enlargement, and the post-war elites who considered integration, as Chancellor Helmut Kohl put it, to be a matter of war and peace, are exiting the political scene. Poland favours the vision of an EU as a strong community and is sensitive to any ideas of tuning the EU to the music played by superpowers. Nevertheless, there is still much room for shared interests and dis-

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[7] "Poland and the future of the European Union", Radosław Sikorski, Minister of Foreign Affairs of the Republic of Poland, Berlin, 28 November 2011 r. http://www.msz.gov.pl/files/docs/komunikaty/20111128BERLIN.

[8] Opinions of this sort were formulated by German experts on Poland, when asked by PAP to evaluate the Polish Presidency. See: *Niemcy o polskiej prezydencji: Polska strażnikiem jedności w Unii Europejskiej* http://forsal.pl/artykuly/578986.

integration is not in the interest of Germany or Poland. What matters is making the functioning of the EU more efficient.

Thirdly, the crisis in the Eurozone induced Germany's partners to approve of Germany unofficially taking over the managerial role in the area of corrective actions. The question is whether in this context Germany, which is more and more of an apparent EU leader, is actually interested in tightening the partnership with Poland and to what extent Poland is an attractive EU partner for Germany. What most certainly matters here is the strategic aspect: Poland is an important ally in establishing all kinds of coalitions of Member States to carry out projects in line with Germany's interests. One might wonder whether cooperation with Poland is useful and necessary for Germany, both in the areas of its European and foreign policies. This question awaits a coherent answer. It seems that until now Berlin has primarily valued Poland's assets in the dimension external to the EU, though Poland is an increasingly interesting partner in EU affairs owing to its positive approach to Eurozone reforms and, in that respect, being a model EU Member State interested in stronger EU integration.

THE POLISH PRESIDENCY OF THE EU COUNCIL AND THREE (UNEQUIVALENT) AREAS OF TIGHTENING STRATEGIC COOPERATION

The Polish Presidency was like a converging lens focusing the Polish-German partnership's potential and limitations. It could be clearly seen that strengthening the cooperation of Poland and Germany covered corrective actions in the Eurozone, and challenges in the implementation of the EU Eastern Policy, i.e. settlement of relations between the EU and Eastern European states, i.e. with those that aspire to joining the EU – Ukraine, Belarus, Georgia, without tarnishing EU relations with Russia as the latter, to a lesser or greater extent, considers those countries to be in its zone of influence. Closer collaboration of Poland and Germany also includes the Common Security and Defence Policy.

First and foremost, Germany had great expectations for Poland and its European involvement in the EU Foreign Policy. The cabinet of Donald Tusk has a good reputation and is perceived to be capable of stimulating European integration, as Polish citizens generally support the EU.[9] Poland's relatively stable economic and financial situation was also relevant, as reflected by Poland's inclusion in the group of the so-called Northern EU Member States that take care of fiscal stabilisation of their national budgets. In the face of the crisis, the government of Chancellor Merkel hoped that Poland, as an EU Member State aspiring to join the Eurozone, would support the corrective actions undertaken by the Franco-German tandem in the area of finance without much reservation and in contrast to the UK which fears fiscalisa-

[9] P. M. Kaczyński, *Polish Council Presidency 2011. Ambitions and limitations*, "Swedish Institute for European Policy Studies" 2011:3 op, p. 47.

tion of the Economic and Monetary Union. The inclusion of Poland, a candidate to the Eurozone, in the decision-making structures would reduce the impact of the UK on ten Member States which are not in the Eurozone and could disintegrate the opposition against the euro.[10] The issue of limiting Member States' budget sovereignty raises serious doubts in Poland. A major concern is that decisions taken in the group of the 17 Eurozone members will apply to Poland to a greater extent, and that Poland will be marginalised in the EU in result of the deepening of fiscal cooperation in the Eurozone. Despite such doubts, Poland's priority is to fix the EU and continue the European project. That is why while presiding the EU Council, Poland demanded to be included in discussions and structures where decisions on the future of the euro are taken, though it is not a member of the Eurozone.[11]

Polish politicians wanted the Presidency to be conducive to tightening Polish-German cooperation. However, numerous limitations hindered the implementation of the partnership scenario. Structural disparities are still there and mainly in the area which is now the most urgent issue in the EU. Poland is not part of the Monetary Union, and the sovereign debt crisis implies the risk that the EU will be divided into groups of various speeds. It ought to be strongly underlined that for Poland, this entails the risk of being pushed out from the main stream of European integration and thus its limited role in the EU. Therefore, Poland took intense diplomatic steps, including the mentioned speech of the Polish Minister of Foreign Affairs in Berlin, to support German initiatives aimed at saving the Eurozone, and to include Poland in the discussion on the directions and scope of corrective measures and reforms. That effort was partly successful. Chancellor Merkel, at the Bundestag, and then at the EU summit crucial for the saving of the Eurozone, declared Germany's readiness to support Poland's inclusion but without the right to vote.[12] Later, on 11 January 2012, Eurozone members decided to exclude non-Eurozone members from negotiations on the "fiscal union" around a single table (Poland's negotiating proposal was called "participating-non-voting") regardless of those EU Member States' aspirations to adopt the common currency.[13] In essence, the issue was whether or not Eurozone members should hold their exclusive meetings. Moreover, during its Presidency, Poland confirmed its pro-European approach by taking concrete initiatives. Poland tried to mediate between finance ministers from the Eurozone and the remaining Member States[14] and to initiate further remedial measures in the area of finance.

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[10] *Raport Grupy Kopernika nr 21* (Dieter Bingen, Darmstadt; Kazimierz Wóycicki, Warsaw), December 2011, p. 2.

[11] *Nowy traktat euro – otwarty dla wszystkich*, 3.12.2011. http://biznes.gazetaprawna.pl/artykuly/572201; *Sikorski: nasz interes – być w grupie decydentów, zanim przyjmiemy euro*, 5.12.2011. http://www.gazetaprawna.pl/wiadomosci/artykuly/572743.

[12] *Merkel: Polska może przyłączyć się do nowego paktu stabilności euro*, 2.12.2011. http://www.gazetaprawna.pl/wiadomosci/artykuly/571890.

[13] T. Bielecki, *Kopenhaga to nie Warszawa*, "Gazeta Wyborcza" 12.01.2012.

[14] *Co zawiera "sześciopak" zatwierdzony we Wrocławiu*, 13.09.2011. http://biznes.gazetaprawna.pl/artykuly/548422.

Generally, Poland's involvement in this area was judged successful. As a result, this was to strengthen Poland's position in the EU and make Poland listened to while debating the future of Europe.[15]

Another reason inclining Germany to pursue long-term cooperation with Poland is of **geo-strategic** character and concerns Poland's location and its **political aspirations** in Eastern Europe. From Germany's perspective, these aspirations are ambivalent and generally hamper the convergence of Poland's and Germany's interests in Eastern Europe. Earlier on, Poland's specific geo-political interests were considered to be a ballast encumbering any possible cooperation and that referred to Poland's involvement both in the 2004 Orange Revolution in Ukraine and support for Georgia during the Russia-Georgia War of 2008.

Generally speaking, Poland and Germany share a common interest in developing EU relations with Eastern European states.[16] The main stake in this strategy is to stabilise varied political systems and their democratisation, and to strengthen economic relations. Of course, Poland and Germany differ in their understanding of their own involvement in Eastern Europe, and thus the involvement of the EU there. The partially divergent interests of both partners in the area of the Eastern Policy can be easily spotted. It needs to be underlined that at the same time the Eastern Policy is the area where Polish-German cooperation opportunities within the EU are most visible.

Differences stem from the geographical location of Poland and security issues in general. Poland borders on an area which has different political standards and predictability and thus is exposed to cross-border risks to say the least. Germany is surrounded by friends; its neighbours are democratic states that are predictable and do not generate risky internal situations. It is the limited predictability of Eastern Europe that is troublesome for Poland. Poland is most exposed to that low predictability and its consequences, though new threats are of concern to the entire EU. These differences constitute the basis, as well as the manifestation of different security cultures of Poland and Germany.[17] Although Poland and Germany share the belief that military threats are non-existent or declining, their opinions on the gradation of risks varies. Germany believes that internal threats are most important. This follows from its concerns over uncontrolled migration, cross-border crime, terrorism and cybercrime. In Poland, the relevance of the above is not played down, but more attention is drawn to geo-political dimensions, i.e. threats related to the internal instability of Eastern European states, tendencies to marginalise weaker states of Eastern Europe in relations between the West and Russia, and the limiting of their political role. In

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[15] P. M. Kaczyński, *op. cit.*, p. 59.

[16] *Cf.* remarks of E. Kaca, A. Łada, *Jaka polityka wobec Rosji? Perspektywa Polski i Niemiec*, "Analizy i opinie", Institute of Public Affairs, no. 111, September 2010, p. 2ff.

[17] K. Malinowski, *Kultura bezpieczeństwa narodowego: koncepcja i możliwości zastosowania*, in: K. Malinowski (ed.) (2003), *Kultura bezpieczeństwa narodowego w Polsce i Niemczech*, Poznań, pp. 15-46.

Poland, its territory defence, ensured by NATO membership, is of much greater importance than in Germany, as Germany is surrounded by stable neighbours and is not directly exposed to the risks generated in Eastern Europe.

The second and probably most important factor is the relevance and place of Russia in Poland's and Russia's policies. This is most clearly visible in the area of energy security, where different approaches to Russia and different interests are most striking.[18] Undoubtedly, the objective of the Federal Republic of Germany is to have more impact on Polish ideas on the EU's Eastern Policy and their elaboration within the EU, i.e. Germany strives to harmonise Polish geo-political aspirations with Germany's views on the EU Eastern Policy. Until now, these goals have been divergent. Germany has been prone to support the Eastern Partnership project "owing to the changes in the previous enlargement strategy and the will to develop the capacity of the European Union to act beyond the EU", while Poland "perceived this initiative as a step toward the future eastern enlargement of the European Union".[19] Germany, however, has had some concerns about the Eastern Partnership programme so strongly promoted. Germany has worried that the Eastern Partnership will be interpreted by Russia as an attempt to exclude Russia from its privileged cooperation with the EU, to hinder the signing of the exclusive Pact for Modernisation and as an interference into Russia's sphere of influence. The basic reservation has been that among the Eastern Partnership states, there is no partner that could guarantee the success of the EU initiative. To provide an example, the agreement with Ukraine has been hampered by the rule of President Yanukovych, who has been in two minds about whether he should support the European orientation in Ukraine's foreign policy or sacrifice closer cooperation with the EU to stifle democratic opposition. Also the issue of the Arab revolution, which the EU planned to support with financial aid, worked to the detriment of any possible tightening of Polish-German cooperation in Eastern Europe. The government of Chancellor Merkel lacks sufficient involvement and interest in Eastern Policy issues, which hinders both the signing of the Partnership for Modernisation with Russia and the strengthening of the Eastern Partnership.[20] Recently, in Germany, prominent persons have spoken up about Germany's passive policy toward the Eastern Partnership. They have called for the tightening of cooperation with Poland as the state that is particularly interested in the project. The combination of Polish and German interests would reinforce the effectiveness of undertaken activities and would lead to winning other EU Mem-

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[18] B. Molo, *Znaczenie Rosji dla bezpieczeństwa energetycznego Niemiec*, in: E. Cziomer (ed.) (2006), *Nowa rola międzynarodowa Niemiec*, "Krakowskie Studia Międzynarodowe" no. 4 (III), Cracow, p. 237ff.

[19] J. J. Węc, *Relacje polsko-niemieckie w Unii Europejskiej*, "Przegląd Zachodni" 2010, no. 3, s.163. See also: M. Stolarczyk (2010), *Polska i Niemcy wobec polityki wschodniej Unii Europejskiej stosunków z Rosją w pierwszej dekadzie XXI wieku*, "Rocznik Integracji Europejskiej" (UAM), no. 4, p. 56.

[20] S. Meister, *Deutsche Ostpolitik. Ist eine Partnerschaft mit Polen möglich?*, "DGAPanalyse kompakt" September 2011, No. 7, p. 5.

ber States for the cause, as well as winning the majority required to shape the EU's foreign policy.[21]

The gradual improvement of Polish-Russian relations, and especially the fact that Tusk's government searches for a more permanent *modus vivendi* with Russia, is assessed by Germany as conducive to better Polish-German cooperation in the area of the EU's Eastern Policy, and – in result – in the field of the Eastern Partnership, the project so dear to Poland. The same applies to trilateral cooperation within the German-Polish-Russian trio. As specified in the abovementioned Cooperation Programme of June 2011, Merkel and *Auswärtiges Amt* are interested in supporting this new "opening" in relations with Russia and in establishing joint trilateral cooperation platforms. In a nutshell, Germany is interested in including Poland in the dialogue with Russia, on condition that this will not interfere with the bilateral Germany-Russia agenda focused on energy and trade issues. The point is mainly to smooth out tensions and lessen Poland's mistrust in Germany's intentions and the scope of non-EU bilateral cooperation between Germany and Russia. Are Poland and Germany alone capable of delineating the EU's policy toward Russia? That is highly unlikely.[22] Germany might place less emphasis on sustaining its strategic partnership with Russia in the future once LPG technologies and prospects of shale gas extraction advance. The above developments might open Merkel's government to Poland's arguments concerning the establishment of a single energy market in the EU.[23]

Eastern Europe backslid in two dimensions: its democratisation and relations between states of the region and the EU. This lapse has had a destructive impact on the project of tightened Polish-German cooperation in the medium and long run. In consequence, this might result in the failure of Poland's Eastern Partnership initiative and, consequently, weaken Polish political assets in the EU. The issue of democratisation and drawing Eastern European states to the EU through the Eastern Partnership, as the binder and drive of Polish-German cooperation, would become obsolete. Symptoms of such an unfavourable configuration in the EU's Eastern Policy have surfaced with Ukrainian President Yanukovych despite the successful closure of negotiations. The EU's failure to sign the Association Agreement with Ukraine in December 2011, was due to the reservations of, *inter alia*, Germany[24] and ought to be interpreted as a serious weakening of the Eastern Partnership project and as a significant complication for Polish diplomacy abroad.

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[21] *Deutsche Außenpolitik und östliche Partnerschaft. Positionspapier der Expertengruppe Östliche Partnerschaft* (Markus Meckel, Georg Milbradt, Friedbert Pflüger, Christian Schwarz-Schilling, Rainder Steenblock, Rita Süssmuth, Günter Verheugen, Karsten D. Vogt), (ed.) I. Hahn, G. Schuch, "DGAPstandpunkt", Februar 2012, No.1, p. 2.

[22] M. Wojciechowski, *Polska i Niemcy ustawiają Unię wobec Rosji*, "Gazeta Wyborcza" 12.11.2001.

[23] J. Ćwiek-Karpowicz, *Nowy etap niemiecko-rosyjskiej współpracy energetycznej?*, "Biuletyn PISM" no. 79, 03.08.2011, p. 2.

[24] G. Gnauck, *Erst Freiheit, dann Geld. Wie soll die EU mit der Ukraine umgehen? Das Land wird immer autoritärer, aber es will ein Assozierungsabkommen der Union*, "Die Welt" 15.11.2011.

The third domain favourable to the deepening of cooperation within the EU is the Common Security and Defence Policy. During its Presidency, Poland intended to promote issues related to that policy by developing common projects in close cooperation with Germany and France (the Weimar Triangle).[25] Another favourable circumstance was the Polish-French agreement on cooperation for the Common Security and Defence Policy of 2010 and the joint initiative of Poland, Germany and France on streamlining the Common Security and Defence Policy. The initiative was presented to High Representative of the Union for Foreign and Security Policy Catherine Ashton in December 2010.[26] Proposals of the Weimar Triangle were included in the High Representative's special report of July 2011 addressed to foreign affairs ministers of EU Member States. The position adopted by Poland during its Presidency suited Germany's expectations perfectly. Poland, by adopting the role of an inspirer of growth plans, had a chance to foster a framework for future progress.[27] Polish postulates concerned reviving the Common Security and Defence Policy as an EU security framework. Poland pragmatically approached the need to revise this initiative in the face of decreasing military budgets in Member States and new national challenges. There were three postulates: to establish permanent planning and command structures in the EU, to reform EU Battlegroups with the view to integrate civil-military operations, and "to pool and share" the resources.[28] Poland met Germany's expectations, as it supported the need to develop the Common Security and Defence Policy also in the civilian dimension, i.e. establishment of unified civil-military planning and conduct structures and its headquarters for managing EU missions, and what follows, making the actions of Battlegroups more civilian. Proposing the above, Poland drew closer to Germany's concepts of security by putting more emphasis on unburdening the *stricte* military dimensions and seeing the need for including civil components.

In reference to the Common Security and Defence Policy, the UK's position against the establishment of EU headquarters undermined Polish proposals. Moreover, the UK prefers its bilateral military cooperation with France. That is why France has become the weak link in Poland's plans of enlivening the Common Security and Defence Policy. This was revealed during the NATO's intervention in Libya in 2011, when France prioritised its bilateral cooperation with the USA and the UK within NATO structures. Poland and Germany did not participate in the Libyan NATO operation. There are disproportions in the military potential of Poland, France, the UK and Germany as well as different preferences concerning the purpose

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[25] K.-O. Lang, D. Schwarzer, *Das Weimarer Dreieck jetzt stärken und nutzen*, SWP-Aktuell 31, Juni 2011.

[26] L.-M. Clouet, A. Marchetti, *Ungewisse Zukunft der gemeinsamen Sicherheitsund Verteidigungspolitik. Notwendige deutsch-französische Reflexionen*, DGAPanalyse, September 2011, No. 6, p. 14.

[27] C. Major, F. Wassenberg, *Polens ambitionierte GSVP-Agenda*, "SWP-Aktuell" 34, August 2011, p. 4.

[28] *Siemoniak: inicjatywa Pooling and Sharing – polityką otwartych drzwi*, "Gazeta Wyborcza" 23.09.2011.

of the Common Security and Defence Policy.[29] While France and the UK prefer to advance some areas of military cooperation and joint military operations, Poland and Germany are interested in developing military cooperation mainly in non-combat fields, such as logistics and training as yet another tool for strengthening political cooperation. Also the German-French cooperation has weakened, which became clear if compared with the intensity of Paris-London cooperation. What is more, France expressed its disappointment with Germany's declining involvement in the CSDP.[30] In those circumstances, the chances that Polish ambitions would be fulfilled were very slim. The French-British bilateral cooperation stood in Poland's way right from the outset.

Although the Polish Presidency did not produce significant effects in the area of deepening its cooperation with Germany in the CSDP, its efforts were not completely futile. What the Presidency managed to bring about was the prospect of tightening military cooperation between the Weimar Triangle countries. In July 2011 Poland, Germany and France signed a declaration that the so-called Weimar Triangle Combat Group would reach its operational capacity in 2013 and joint Polish-German-French work on deepening the military and arms/equipment cooperation started.[31]

The next conditionality unfavourable to the tightening of cooperation between Poland and Germany was the lack of agreement between EU Member States on the shape of the Common Security and Defence Policy due to the UK's opposition. The UK was in favour of maintaining the primacy of national commands in the performance of EU operations and rejected the concept of establishing an EU command headquarters. Similarly, the lack of France's support weakened the initiative. At the end of the Presidency, Poland reported a lack of progress in the area of the Common Security and Defence Policy.[32] Poland did not succeed either in advancing the *sharing and pooling* idea or in redefining Battlegroups and establishment of the EU headquarters.[33]

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[29] *Cf.* R. Kempin, *Ohne Sicherheit kein Europa – Berlin und Paris müssen bei der GSVP kooperieren*, SWP, Berlin 31.10.2011.

[30] L.-M. Clouet, A. Marchetti, *op. cit.*, p. 3.

[31] The work resulted in drafting the report titled *Weimar Defence Cooperation – Projects to Respond to the European Imperative* which was prepared jointly by the Polish Institute of International Affairs, the Stiftung Wissenschaft und Politik and the Institut de Relations Internationales et Stratégiques [Marcel Dickow, Hilmar Linnenkamp, Jean-Pierre Maulny/Marcin Terlikowski] http://www.pism. pl/publikacje/raporty/; see also: *Weimar triangle: How the defence cooperation would play out*, Defence Dataline Group 02.12.2011 http://www.defenceiq.com.

[32] J. Hale, *Poland Plays Down Pooling and Sharing Expectations*, "Defense News" 7 November 2011 http://www.defensenews.com/index.php.

[33] *Eksperci surowo oceniają prezydencję*, PAP, 28.12.2011 http://wiadomosci.onet.pl/raporty/polskie-przewodnictwo-w-ue/49834...

CONCLUSIONS

The importance of Poland as a valuable and important partner of Germany was visible in Germany's declaratory policy. Merkel's government attempted to underline the significance it ascribes to the partnership with Poland. An important factor contributing to the good climate in German-Polish relations was the pro-European attitude of the Polish public opinion and the Civic Platform and the Polish People's Party's coalition government. Poland counted on Germany and hoped that its support would facilitate closer cooperation at the EU forum and, possibly, to co-shape some EU policies. Tightening the bilateral political cooperation and supporting Germany in implementing corrective actions in the Eurozone or, in other words, a successful Polish-German collaboration and supporting the leading role of Germany, from the Polish perspective not only was an expression of Poland's general foreign policy objectives; there was a concrete expectation as well. Poland hoped that the Federal Republic of Germany would grant Poland its badly needed support during negotiations on the 2014-2020 EU financial perspective in the area of energy policy and climate issues. This support should be treated by Poland as a confirmation of Germany's intentions concerning cooperation for European integration.

However, from the perspective of Germany, Poland's significance during its EU Presidency was limited due to a few factors:

- Poland is not a member of the Eurozone;
- Germany prefers close cooperation with France at the expense of Polish postulates regarding Poland's participation in shaping remedial measures within the Eurozone;
- divisions in the EU and the emergence of two-speed economy;
- unfavourable situation in Eastern Europe, i.e. the standstill in democratisation processes in Belarus, lack of a clearly pro-Western and pro-European course in Ukrainian politics and democratisation backslide;
- tendency of France and the UK to play together in the EU to strengthen independence of their military projects and actions and their conditioned willingness to participate in the European project, i.e. that they retain the autonomy of their powers in the EU.

Should an unfavourable constellation of interests emerge or one that would underline differences and obstacles, it is likely that Germany's involvement in transforming its close political cooperation with Poland into a close multifaceted partnership would be lesser. The hopes are that it will be at least similar to the German-French partnership. An important task of Germany is to persuade France to get more involved in French-German-Polish trilateral cooperation. Although Poland belongs to a different category of EU Member States, the Presidency demonstrated that Poland feels highly responsible for the fate of the EU.

ABSTRACT

The Polish Presidency of the EU Council in the second half of 2011 was determined by the context of relations with Germany. Poland's significance to Germany as a valuable and important EU partner was perceptible in the friendly declarations of Merkel's government. One of the crucial elements of this encouraging atmosphere was the pro-European attitude of the Polish public opinion and the ruling PO-PSL coalition. Poland relied on Germany's support to engage in closer cooperation on the EU arena and possibly even create EU policy in certain areas. However, during the EU Presidency, Poland's significance for Germany was limited by the following factors: Poland stays outside the Eurozone; Germany prefers close cooperation with France at the expense of Poland's postulates on participation in shaping remedial measures within the Eurozone; divisions within the EU and the emergence of a two-speed economy; unfavourable situation in Eastern Europe viz. lack of progress in the democratisation of Belarus and of clearly pro-EU orientation of Ukraine accompanied by regress in democratisation of this country; a tendency on the part of France and the UK to individually reinforce their military role within the EU.

PRZEGLĄD ZACHODNI
I, 2013

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GERMAN PRESS COMMENTARIES ON POLAND'S PRESIDENCY OF THE COUNCIL OF THE EUROPEAN UNION

From July to December 2011, Poland for the first time assumed leadership of the Council of the European Union. This was a serious challenge for both Polish politicians and public administration, local governments and non-governmental organisations. It was difficult due to the lack of experience. It was rightly assumed that organisational solution and conduct standards would be developed in the course of the six-month Presidency. The task of Poland, and all Member States that hold the Presidency, was, *inter alia*, to organise numerous meetings in accordance with detailed EU procedures. In order to meet the requirements of the Lisbon Treaty, which entered into force in 2009, Poland (together with the other states of the Presidency Trio, i.e. Denmark and Cyprus) launched the work on the decision-making on the 2014-2020 EU budget, shaping the Cohesion Policy, the functioning of the Economic and Monetary Union and expanding the integration process.[1]

In Germany, the view that the rank of the Presidency of the EU Council is falling is currently dominant. Germans themselves made this happen, as they voted in favour of introducing new solutions to the functioning of the European Union. Apart from the mentioned lack of experience in exercising the Presidency by the trio, the establishment of the office of the Permanent President of the European Council and widened competences of the High Representative of the Union for Foreign and Security Policy additionally lessened the role of the Member State Presidency.

The priorities of the Polish Presidency (European integration as a source of growth, Secure Europe – food, energy, defence, Europe benefiting from openness) were formulated after thorough analyses of various factors. The criteria that needed to be considered while selecting the priorities followed from, *inter alia*, the evaluation of the progress in EU work in particular fields and the resulting prospects for the period of the Presidency (e.g. planned reforms and reviews of particular policies, long-term legislative and non-legislative EU initiatives). The selection of priorities also required to take into consideration the challenges and needs that were facing the EU in the internal and external dimensions (e.g. structuring the common energy

[1] J. Węc, *Nowe zasady sprawowania prezydencji w Radzie Unii Europejskiej. Bilans prezydencji belgijskiej*, "Przegląd Zachodni" no. 3, 2011, pp. 3-20.

policy, the future of EU relations with third countries and international organisations, enlargement policy), and the evaluation of the current situation on the EU international and internal political arena (events in North Africa and their impact on the Presidency, the Eurozone crisis, common interests and goals of the Presidency Trio, and the parliamentary election campaign in Poland).[2]

The Federal Republic of Germany, experienced in exercising the Presidency, pre-occupied with saving indebted Greece and developing appropriate mechanisms of financial control for Member States troubled by budget deficits, adopted an ambivalent approach to Poland's dealings. The election campaign and the victory of the Civic Platform's and the Polish People's Party's coalition in the parliamentary elections re-assured the German public that Poland would continue to act in the interest of the entire Union.

The Polish Presidency did not attract much attention of the German press as reflected in a very low number of articles on this topic. This had its advantages and disadvantages. The preceding Presidencies of new EU Member States: Slovenia, the Czech Republic and Hungary were accompanied by scandals and disputes.[3] The German press was full of negative comments. The well-prepared and quite efficiently managed Polish Presidency was not attractive to the press and, consequently, it kept vanishing from journalists' "sight".

This paper is a chronological review of German nation-wide dailies and weeklies, including the business newspaper "Handelsblatt", which owing to its profile could theoretically be an interesting source of commentaries, though also in this case the search was not very successful. All articles were written by one group of commentators which is indicative of the fact that few German journalists are well-versed in Polish affairs.

MOST IMPORTANT TASKS OF THE POLISH PRESIDENCY

The Polish Presidency was not perceived by German commentators solely as a series of successes, speeches and celebrations of various occasions. For the Polish government, this was a period of arduous work and efforts undertaken to convince European leaders to adopt Poland's vision of EU policies. One of the priorities of the Polish Presidency that attracted the attention of German journalists was the EU policy towards the Former Soviet Republics bordering on the EU, the Eastern Partnership and the drive to limit Russia's neo-imperial policies. The latter was agreed on by all Polish political parties.

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[2] Z. Czachór, *Prezydencja w Unii Europejskiej i jej priorytety. Analiza politologiczna*, in: Z. Czachór, T. Szymczyński (ed.) (2011), *Priorytety prezydencji Polski w Radzie Unii Europejskiej*, Warsaw, pp. 19-46; A. Jaskulski, *Formułowanie i realizacja priorytetów prezydencji. Mechanizmy, instrumenty, aktorzy*, *ibid.*, pp. 83-108.

[3] See: S. Bolzen, *Ungarn hat Europa getriezt – Jetzt ist Polen dran*, "Die Welt" 30.06.2011.

"Although Tusk and Sikorski make friendly gestures toward Moscow, Frank-Walter Steinmeier's rapprochement through interdependence (*Annäherung durch Verflechtung*) policy towards Russia is considered by Poles to be naive" – wrote Thomas Urban, and continued to say: "In the Polish view, the conviction which prevails is that it is necessary to create an alternative channel of energy supply that would bypass Russia. Lack of understanding of the above by European governments causes frustration".[4]

The pro-European policy of Donald Tusk was pragmatically evaluated from the perspective of the benefits it reaped for Poland. Thanks to EU funds, neglected regions have been modernised, and both the society and national patriotic politicians have seemed to appreciate those changes. Tusk was assessed through his long and good relation with Chancellor Angela Merkel, which was considered to constitute a value added to Polish-German relations. Supporting Germany's position on the adoption of tough cost cutting programmes was not in line with the efforts of the Polish Prime Minister to build a front of net beneficiaries against net contributors (Warsaw Conference of Secretaries of State), which irritated Berlin and Paris. It was generally believed that this resulted from the need to rescue the Polish national budget with EU funds. As Thomas Urban ironically stated: "This makes Tusk a European from his personal belief and due to financial shortages".[5]

Poland, upon assuming the Presidency, had to face the crisis that affected many walks of social and political life. The financial crisis that enveloped the entire Union was most palpable. The crisis in trust among Member States, toward EU institutions, the crisis in the Schengen zone, and finally the crisis of trust toward the states applying for EU membership overlapped with the financial crisis.

Most German commentators were interested in how Poland would cope with the proposals of the European Commission concerning the 2014-2020 EU budget. In the opinion of a researcher from the Centre for European Policy Studies in Brussels, this was to be "the first important confessional".[6] The presiding state holds talks and listens to arguments of other countries to work out an appropriate solution and meet expectations of the whole EU27. This time it was Poland that had to "hear out the confession" of others for the first time and thus its role was reversed.

On the first day of the Polish Presidency, the journal "Die Welt" published a five-column article by Gerhard Gnauck, where he outlined the condition of the EU Eastern Policy, the favourite project – as he put it – of many Polish politicians. Polish Minister of Foreign Affairs Radosław Sikorski, while interviewed, expressed readiness to assist and cooperate with Catherine Ashton in the area of EU foreign policy and support to Arab countries on their path to democracy. That was to last much

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[4] Th. Urban, *Der Warschauer Freund*, "Süddeutsche Zeitung" (hereinafter SZ) 01.07.2011, p. 3.

[5] Th. Urban, *Mocny człowiek nad Wisłą*, "Gazeta Wyborcza" (hereinafter GW) 28-29.01.2012, p. 34.

[6] *Jak rządzić tą Unią*, GW 01.07.2011, p. 4.

longer than Poland's transformation to a democratic state but the steps taken by the EU and the *European Endowment for Democracy* foundation were to support those efforts.[7]

It was underlined that the successful 2004 EU enlargement was the outcome of long-term support provided by "old" EU Member States in the form of exchange programmes for administration officers, training and consultancy, not the mention the issue of border protection. Warsaw would like to replicate this model in the case of its eastern neighbours, but – as Gerhard Gnauck rightly observed– this would not be an easy task since divisions among the ten "youngest" Member States already surfaced. Poland was to carter – in his opinion – for effective cooperation with Ukraine, Estonia was to overlook economic reforms in Georgia, and Lithuania was to cater for good neighbourhood relations with Belarus. To this end, the parliament in Vilnius initialled the agreement on cross-border traffic with Belarus, which will enable visa-free crossing of the border for 1.4 million citizens living on both sides of the border. All initiatives of CEE countries deserved attention, as – in Gnauck's assessment – although "they don't have any money, they have a lot of good will".[8]

Among achievements of EU Eastern Policy, Gnauck listed the opening of the House of United Belarus in Vilnius by Lithuanian Foreign Affairs Minister Andronius Azubalis, the European Humanities University headquartered in Vilnus since 2004 when Belarusian authorities expelled it from Belarus, and the *Belsat* TV channel financed by Poland. Gnauck also noted that Polish economist and former mayor of Warsaw Marcin Święcicki was an economic policy advisor in Ukraine.[9] This project, financed by the EU and the United Nations Development Programme, made it possible for Ukraine to join the WTO and revise more than 55 Ukrainian acts of law.[10]

Gnauck quoted the opinion of a journalist from Wrocław, who claimed that the events in North Africa and the Middle East pushed Eastern Europe aside. Gnauck seemed to doubt the possibility of replicating the successful model of Polish accession and applying the same approach to other Eastern European countries. The main worries of the EU were – in Gnauck's opinion – the flood of refugees from the east and the south and secure outlet markets. He also noted the lack of involvement of the other side, as – as he ironically stated – the elite of six EU partner states intend to adopt a western lifestyle, but retain the eastern style of exercising power and pursuing business.[11]

The summit of Eastern Partnership leaders, planned for 29-30 September 2011, raised many concerns in Poland. With a revolution at the southern border of the EU, it was believed that it would be a success if all invited guests showed up at the sum-

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[7] G. Gnauck, *Kein Geld, aber viel guter Wille*, "Die Welt" 1.07.2011, p. 7.
[8] *Ibid.*
[9] *Ibid.*
[10] *Ibid.*
[11] *Ibid.*

mit in Warsaw.[12] French President Nicolas Sarkozy and British Prime Minister Gordon Brown did not participate in the inauguration of the Partnership held in Prague in 2009. Once again Angela Merkel was the only "boss" of a large EU Member State that participated in the summit. France sent Prime Minister François Fillon, the UK sent Deputy Prime Minister Nick Clegg, and Italy – a Secretary of State. As "Frankfurter Allgemeine Zeitung" put it: "The EU lost its hope for enhancing relations with its eastern neighbours. Belarus, at the last minute, decided to steer clear of the Warsaw summit, and President Yanukovych's proposals concerning the trail of former Prime Minister Tymoshenko only made the European guests shake their heads".[13] "Süddeutsche Zeitung", in the article under a meaningful title *Unhandy East* stated that "the summit only made it evident that there is no sound basis for closer integration. Belarus is ruled by a dictator, the Ukrainian president "excludes" the leader of the opposition – Yulia Timoshenko disrespecting the law, Armenia and Azerbaijan don not stand a chance of making it to the list of free and democratic states".[14] The author of the article suggested that the EU should not settle for a compromise for fear of these states turning to Russia. According to German commentators, that fear has been unjustified for two reasons. First, those countries dislike the prospect of Russian hegemony. Secondly, their economic future is linked to the European market. Such resoluteness may only impress other neighbours.[15]

The Eastern Partnership summit was dominated by the imprisonment of Former Prime Minister Timoshenko and the refusal of the Belarusian Foreign Minister to participate in the discussions. The EU sustained its decision to ban Lukashenko and 192 Belarusian officials from entering the European Union. In the absence of Belarusian politicians loyal to the regime, Herman Van Rompuy, President of the European Council, and Donald Tusk, the host of the meeting, met with representatives of the Belarusian opposition. During the one-hour conversation with Chancellor Angela Merkel, the oppositionists criticised the involvement of the Deutsche Bank in Belarus and called for further sanctions to be imposed on the Belarusian regime. Merkel promised to exert influence on the Bank and, in a press statement, underlined the necessity of providing the Belarusian opposition with further support. Armenia, Azerbaijan, Georgia, Moldova, and Ukraine[16] did not consent to strongly condemn Belarus in the joint final statement. Thus EU Member States issued their statement in which they expressed deep concern over the violation of human rights, democratic principles and rule of law in Belarus, as well as the worsening situation of opposition politicians held in detention facilities. Ukraine, Georgia and Moldova awaited an explicit signal from EU Member States confirming they would be accepted to the EU

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[12] D. Pszczółkowska, *Rozkład jazdy polskiej prezydencji*, GW 01.07.2011, p. 4.

[13] *EU streitet mit der Ukraine und Weißrussland*, "Frankfurter Allgemeine Zeitung" (hereinafter FAZ),01.10.2011, p. 6.

[14] *Sperriger Osten*, SZ 01.10.2011, p. 4.

[15] *Ibid.*

[16] *EU streitet...*, p. 6.

group but had to make do with the enigmatic statement: "the European aspirations of some of our partners have been acknowledged".[17]

In the first month of the Polish Presidency, the Munich newspaper "Süddeutsche Zeitung" criticised Poland and the Czech Republic for using the Polish Presidency to cater for their own interests and for jointly counterbalancing Germany and Austria's criticism of nuclear power plants. The latter was declared by Czech Prime Minister Petr Nečas. Donal Tusk underlined that at the time it was impossible to concurrently eliminate coal energy and ban shale gas extraction. Eurosceptic Czech President Vaclav Klaus described Chancellor Merkel's decision as totally unreasonable and populist. These critical about Germany voices were soon joined by other members of the Visegrad Group, which despite the Fukushima tragedy, opted for further acquisition of energy resources and development of the energy sector. To the journalist's satisfaction, the Czech CEZ energy group, 50% of which is owned by the state, took Germany's position as a challenge and declared its intent to invest in renewable energy, wind energy included, also in Germany.[18]

The spreading crisis made many players on the European political arena adopt an opinion on this issue. "Frankfurter Allgemeine Zeitung" quoted Donald Tusk's words: "jokes aside now".[19] The amendments to the EU Treaty planned by France and Germany received strong support from Poland – wrote the journal, and the statement of the Polish Prime Minister that he would support all solutions strengthening European integration were underlined. Poland's expectations concerning the participation of non-Eurozone members in discussions and debates within the Eurogroup met with understanding, but it was noted that Tusk promoted strengthening of the role of the European Central Bank in lowering debt levels, contrary to the position of Angela Merkel.[20]

Poland's involvement in counteracting the crisis was also noticed by "Süddeutsche Zeitung". The news titled "Poland and Denmark help save the euro" made the front page news.[21] It was underlined that non-Eurozone members that support the Eurogroup in its struggle against the crisis undertook to transfer 6-7 billion euro to the International Monetary Fund.

LEADERS OF THE PRESIDENCY

Just like a state is perceived through its political leaders, the Presidency also has its leaders that become the face of the EU for six months. The words they say shape the language of international communication. The process of building under-

[17] *Ibid.*

[18] K. Brill, *Bündnis gegen Atomausstieg*, SZ 19.07.2011, p. 7.

[19] *Tusk: Polen wird Deutschland und Frankreich unterstützen*, FAZ,03.12.2011, p. 2.

[20] *Ibid.*

[21] C. Gammelin, C. Hulverscheidt, *Polen und Dänemark helfen bei der Euro-Rettung*, SZ 20.1.2011, p. 1.

standing, without which no dialogue is possible, depends on the transparency and trustworthiness of that language. During the Polish Presidency, Prime Minister Donald Tusk bore the palm on the European political arena. He was the one who was interviewed, quoted and whose speeches were published.

Already on the eve of the Polish Presidency, "Frankfurter Allgemeine Zeitung" published an interview with Prime Minister Tusk. In that interview, the Prime Minister outlined European policy priorities that were to be implemented in the second half of 2011. The most important tasks included re-winning trust in the idea of Europe without internal borders. Tusk referred to historical values that could serve as model values for the entire world. Tusk believed that it was necessary to support the efforts of Prime Minister George Papandreou who tried saving bankrupting Greece. Referring to Polish experiences, he underlined that although Poland's situation was far worse twenty years ago, Poland never doubted that Europe would provide it with effective support. This conviction gave Poland the strength to repair its economy and reform fossilised public institutions. The third task of the Polish Presidency, in the opinion of the Prime Minister, was to support the Eastern Partnership and finalise Croatia's accession to the EU. Both EU projects, wisely managed, would contribute to advancements in Eastern Europe. Tusk illustrated the developments in Ukraine with a graph of a sine wave with its last interval increasing as Ukraine drew notably closer to European standards in the last 10 years. When discussing Belarus, Tusk adopted an outright realistic approach and, although he was aware that Lukashenko considered him to be his personal enemy, he said that one could not ignore the violation of human rights. The Prime Minister asked by a journalist about the Polish veto against reducing the transfer of assistance measures in the new budget, responded that Poland supports the EU Cohesion Policy which takes interests of the entire European community into account, not only national interests. Tusk also underlined that funds were the most important instrument supporting real integration for countries with weaker economies.[22]

On the day following Prime Minister Tusk's speech opening the Polish Presidency of the Council of the European Union which was given in Strasbourg, Thomas Urban – the long-time correspondent of the Munich newspaper "Süddeutsche Zeitung", titled his commentary *Friend from Warsaw*, and referred to Donald Tusk as " a European leader and thinker".[23] Although the title of the article and photo of the Polish Prime Minister with the EU flag in the background was highly optimistic, the concern about the result of the Polish parliamentary election scheduled for autumn 2011, pervaded the article. Polls indicating that the conservative and pro-European Civic Platform was ahead of the leftist and nationalist Law and Justice party (*sic!*) were no guarantee of victory. As Urban rightly noted, the previous election showed that former Prime Minister Jarosław Kaczyński was capable of closing that gap in

[22] K. Schuller, *Wir dürfen in der EU nicht nur an nationale Interessen denken*, FAZ 30.06.2011, p. 5.

[23] Th. Urban, *Der Warschauer Freund*, SZ 01.07.2011, p. 3.

the last phase of the campaign. Urban reminded his readers of the years 2005-2007, when Poland was perceived as a "trouble-maker" (*Störenfried*) in Brussels and other European capitals, and recalled that Tusk would probably like to forget about the Civic Platform's initiative to block EU reforms.

Urban did not forget to mention Radosław Sikorski who initially deemed the USA to be Poland's greatest ally. As the author of the commentary observed, Sikorski became a fervent advocate of European integration only after his disillusionment with neo-conservative officers in President George Bush's administration who failed to provide Poles with visa-free entry to the USA. What both Sikorski and Tusk jointly pursued – according to Urban – was the struggle for sustaining subsidies from the Cohesion Fund as the EUR 67 billion allocated to Poland for 2008-2013 made Poland their largest net recipient in the EU.[24]

German commentators underlined that Donald Tusk in his speech on the programme of the Presidency given on 6 July 2011 to the European Parliament, resolutely declared that the European integration process would be continued. The speech confirmed that the Polish Prime Minister believed that solidarity between nations is part of Europe's history and that the support provided to Greece was not an act of charity. Attention was also drawn to the warnings voiced by the Prime Minister that Europe always brought disasters onto itself by yielding to nationalism and protectionism.[25] The very tone used by the Polish Prime Minister when referring to the financial crisis was underlined.

"[…] I would like to get straight to the point by setting out what, in my opinion, are the most important areas, not only for the next six months of the Polish Presidency, but what are also permanent areas of responsibility and permanent challenges for the whole of Europe. This is the simplest of questions; there is nothing complicated about it. Is the answer to the crisis – both to the immediate one related to the financial crisis and the situation of some countries in Europe, particularly in the south of Europe, and the answer to the deeper crisis, the crisis of confidence in Europe, the global crisis – is the answer to be a departure from Europe, a reduction of what is European and held in common, or is it to be what we have proved over many years and what has worked well? Both the experience of Europe as a community, as well as the personal experience of every one of us, tell us that the best response of Europeans – the best answer Europeans have come up with – is a united Europe. There is something I would like to stress as strongly as possible […] a united Europe, its institutions, its budget and its goals are not the cause of the crisis. We know very well, after all, where the sources of the current financial crisis are, and it would be a wrong answer and the worst possible answer if we were to believe those who are saying: let us cut back on Europe and this will be our answer to the crisis".[26]

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[24] *Ibid.*

[25] *Tusk: Mehr Europa, weniger Krise*, FAZ 07.07.2011, p. 4.

[26] *Text of Donald Tusk's Speech given to the European Parliament*, "Rzeczpospolita", 7.06.2011, and http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20110706+ITEM-002+DOC+XML+V0//EN

The head of the Polish government was often interviewed by German journalists. He did not avoid thorny issues and provided clear answers even to most difficult questions. Tusk took every opportunity to underline Poland's economic achievements and efforts to save the foundations of the EU. At conferences he tried to convinced his audience that it was the Polish, not the Greek, Spanish or Portuguese market that was flexible and more open to rapid changes. If quoted, his pro-European approach and the conciliatory language were approvingly commented upon in German press. From the German perspective, Tusk deserves praise for the good PR he did for Poland.

The Polish President assumed a similar tone in his speeches. Bronisław Komorowski used the opportunity provided by the 20th anniversary of the signing of the Treaty on Good Neighbourhood and Friendly Cooperation by the Republic of Poland and the Federal Republic of Germany, celebrated shortly before the Polish Presidency, to demonstrate Poland's will to continue the European unification process and underline the significance of Polish-German relations. As "Frankfurter Allgemeine Zeitung" noted, most of the President's speech was about Europe. Komorowski compared Poland's and Germany's "investment in reconciliation" which bears fruit now, with the situation in the EU. The President expressed the opinion that what Germany and Poland had succeeded in doing was also possible for the good of all of Europe.[27] "Bronek", as President Christian Wulff nicknamed the Polish President, "took personal risks and contributed to the fall of the Iron Wall and reunification of Germany, for which Germany is very grateful to Poland".[28] The Polish President reminded that Europe is not only a geographical area. Its definition is based on European identity and common cultural values, that is why he wished the Polish Presidency to strengthen European integration arm in arm with its western partner.

MINISTER RADOSŁAW SIKORSKI'S SPEECH OF 28 NOVEMBER 2011

As the German Chancellor undertook determined action and attempted to push forward her own ideas on solving the financial crisis, she had to search for external allies. Chancellor Merkel received much support from Polish Minister of Foreign Affairs Radosław Sikorski. On 28 November, in his speech consulted beforehand with Germany and delivered at the quarters of the German Council of Foreign Relations (DGAP) in Berlin, Sikorski called for new European solidarity and the courage to take difficult decisions that might yield full European integration (federation). Sikorski urged Germany to help the Eurozone "survive and prosper" and do that for "the common good" as no other EU Member State was capable of doing that. When encouraging Germany to take action, the Polish Minister stated that he feared Ger-

[27] *Komorowskis Geschichte und die Zukunft*, FAZ 18.06.2011, p. 2.
[28] C. Nohn, *Glücklich in der Gemeinschaft*, FAZ 18/19/06.2011, p. 6.

man power less than he was beginning to fear German inactivity. Sikorski went on to say: "you may not fail to lead. You cannot dominate, but should lead the reforms".[29]

The support of the Polish politician, who *de facto* advocated Germany's ideas about saving the Eurozone, was badly needed by the Chancellor but had its price which Germany was ready to pay. Counter to the intentions of France to create a homogeneous Eurogroup with its own principles and rules, which would be synonymous to building a two-speed Europe, Poland was to be included in the decision-making process concerning the future of the Monetary Union and thus on European integration. In her speech of 2 December 2011 to the Bundestag, the Chancellor emphasised that the Eurozone must be open to all states that wish to cooperate with it. Merkel lauded Warsaw for its willingness to take on greater obligations and pursue the path toward the EU stability, although Poland has not adopted the euro yet.[30]

"Die Welt" daily and "Die Zeit" weekly reprinted almost the entire speech of the Polish Minister of Foreign Affairs. The *Welt-Gruppe*, which was a media partner of the DGAP meeting, titled its article "Germany Must Lead More Strongly"[31] and "Die Zeit" quoted the following words of the Minister: "I fear German inactivity".[32] The front page news of the day in "Die Welt" was the Law and Justice party's attack on Sikorski. Jarosław Kaczyński, the party leader, accused Sikorski of violating the Polish Constitution and announced that Sikorski would have to face the Polish Constitutional Tribunal, which seemed highly unlikely. In the editorial, it was underlined that Sikorski was very involved in EU affairs and concerned with overcoming the crisis. His personal comments on the future of the EU were presented. His speech, brimming with ironic remarks, was received as an arduous defence speech persuading EU Member States to unlimited deepening of European integration. The determination of the Minister was admired, especially when he spoke of fearing not Germany's power, but German inactivity. His courage surpassed standard levels, since – as "Die Welt" noted – he gave his speech "a stone's throw away from the Brandenburg Gate".[33]

One day later, "Die Welt" published Gerhard Gnauck's commentary. He reported that in Poland, Sikorski's words triggered a heated debate on Europe. It was Sikorski who led the debate having joined the Berlin "choir of euroenthusiasts".[34] Ideas of Kaczyński and Ziobro of Solidarna Polska (United Poland) to submit a motion of no

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[29] "Poland and the future of the European Union", Radosław Sikorski, Minister of Foreign Affairs of the Republic of Poland, Berlin, 28 November 2011 r. http://www.msz.gov.pl/files/docs/-komunikaty/20111128BERLIN/ radoslaw–sikorski–polska–a–przyszlosc–ue.pdf; *Europakrise: "Ich fürchte die deutsche Untätigkeit"*, "Die Zeit" 30. 11. 2011; T. Bielecki, *Europa mówi Sikorskim*, GW of 30.11.2011; *Vorschläge des polnischen Außenministers. Merkel sieht Schwung für EU-Vertragsreform*, FAZ 29.11.2011.

[30] [bart], *Merkel mówi o przyszłości Europy i chwali Polskę*, GW 2.12.2011.

[31] *Deutschland muss stärker führen*, "Die Welt" 30.11.2011, p. 2.

[32] *Ich fürchte die deutsche Untätigkeit*, "Die Zeit" 01.12.2011, p. 15.

[33] *Mehr Europa wagen*, "Die Welt" 30.11.2011, p. 1.

[34] G. Gnauck, *Polens Opposition warnt vor 'Viertem Reich'*, "Die Welt" 01.12.2011, p. 3.

confidence against Sikorski was supported by "Rzeczpospolita" conservative daily, which criticised the "defence of the euro" claiming that it would not solve the problem but prolong the dying of the euro. Gnauck referred to commentaries published in the liberal "Gazeta Wyborcza" daily, which recalled that the French Finance Minister asked Polish Finance Minister Rostowski to leave the room when the Polish Minister demanded Poland's participation in Eurogroup debates. "Gazeta" underlined Poland's positive economic balance, its stable political situation, and added that at the time it was not technocrat Mario Monti but full-blooded politicians such as Tusk and Sikorski who led Europe having learnt it in practice. Gnauck quoted after "Gazeta": "German discipline is necessary, but without citizens' and markets' trust, the European Union cannot move forward". Gnauck also noticed that in the debate some ghosts from the past returned like the looming threat of the "fourth Reich", the buy-out of Polish enterprises, and the two-speed Europe. What Gnauck appreciated in Sikorski's approach, which consisted in supporting the establishment of the joint foundation – *European Endowment for Democracy*, stabilising Polish-German neighbourhood further and solidifying EU successes, was Sikorski's self-confidence and sense of responsibility.[35]

ECONOMY

Poland, upon taking over the Presidency from Hungary, seemed satisfied with its not belonging to the Monetary Union – wrote "Frankfurter Allgemeine Zeitung" three days after the opening celebrations of the Polish Presidency. At a conference held in Warsaw for Brussels journalists, all members of the Polish government, led by Minister of Economy Waldemar Pawlak, made it clear that the attitude of Eurozone members toward applicant countries changed markedly. Journalists did not find any scepticism toward the Eurozone but the statement of the Prime Minister made it clear that Poland was in favour of adopting the common currency as soon as possible and not necessarily upon meeting the Maastricht criteria, as the Eurozone countries did not meet them at the time. Minister Rostowski announced that the principles laid down by the International Monetary Fund would be promoted during the Polish Presidency, as the IMF was better suited to adjusting aid programmes to the needs of particular states. The critical condition of the Eurozone, according to "Frankfurter Allgemeine Zeitung", forced the Polish government, as the representative of Member States outside the Eurozone, to actively participate in discussions on further economic reforms.

"Frankfurter Allgemeine Zeitung" also noticed that Donald Tusk openly stated that Poland had good experience in economic reforms, and as the only country not hit by the recession had the right to share its expertise with other states in times of crisis. It underlined that as much as 80% of the Polish society had an approving

[35] *Ibid.*

attitude to the EU which was the highest percentage in EU Member States. Quoting Donald Tusk, it was noted that in the 2007 elections Polish voters were capable to "control nationalism".[36]

"Der Spiegel" ascribed Poland's economic success to its stable political situation, its ambitious people and EU funds thanks to which Poland, unlike any other state, enjoyed its "an unending boom".[37] Poland's achievements, from the German perspective, seemed valuable but incomprehensible. To start with, in Poland its GPD grew by 1.7% while the rest of Europe was immersed in crisis. After Poland joined the EU, unemployment rates in Poland decreased from 20% to 8% and in Warsaw and Poznań unemployment rates were next to none. From a European point of view, the above data and Poles' satisfaction were sufficient reasons for adopting a truly optimistic outlook. In pronouncements on Poland in all German media one could sense a relief and contentment, to quote "Der Spiegel": "that provincial, backward, deeply Catholic, mainly rural area between the Oder and the Bug, Europe's ball and chain, does no longer irritate Brussels with its unpredictability [...] and the 38 million nation has become the recognised regional power".[38]

After the summit of EU leaders in Brussels (17-18 October 2011), where the decision to lower Greece's debt was taken, "Der Spiegel" wondered whether the Eurozone was still attractive for Poles. Marek Belka, "the currency defender", as read the caption under the photograph of the head of the National Bank of Poland, ensured the weekly of Poland's involvement in the EU and interest in sustaining a strong and stable euro. The collapse of the single currency would be a disaster for Poland. Professor Belka was interviewed by Jan Puhl who noted that Poland's eastern neighbours, i.e. Estonia, Lithuania, Latvia, the Czech Republic and Slovakia, had already introduced painful cost reduction programmes which did not caused strong protests like in Spain and Greece. This phenomenon of patience was explained by Belka to result from a different approach to the crisis. States of the former Eastern Bloc had not been "pampered with prosperity", they were not afraid of painful, but reasonable reforms. Belka quoted the words of a citizen of Latvia: "Crisis? The real crisis was when the Soviets deported our people to Siberia".[39]

"Frankfurter Allgemeine Zeitung" publishes, on its tenth page, biographies of prominent personalities of the world of politics and culture. One of such articles was on the head of the Polish Presidency, Donald Tusk. Its author, Konrad Schuller, titled it meaningfully *One for All,* and described Tusk's life as a model biography of a European born in European Gdańsk in the year when the Treaties of Rome came into force. A member of the underground Solidarity opposition, Tusk like millions of Poles fought against the communist regime, shouting "all for one and one for all", which later on became the motto of the EU. It was underlined that Tusk's European career

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[36] *Polen sieht den Euro noch nicht reif für einen Beitritt*, FAZ 04.07.2011, p. 13.
[37] J. Puhl, *Die ehrgeizige Nation*, "Der Spiegel" 21.02.2011, p. 102.
[38] *Ibidem*, p. 103.
[39] *Die Tabus fallen*, "Der Spiegel" 31.10.2011, p. 95.

was not an easy one. Konrad Schuller recalled that when the nationalist-conservative group of the Kaczyński brothers blocked the process of European integration, Tusk was not always against it and commented coldly on the Lisbon Treaty. Upon assuming the office of Prime Minister in 2007, Tusk rejected the euroscepticism of the Polish political right, as – according to Schuller – he "understood that backed by Europe, Poland can become an equal partner to its feared neighbour, Russia, and that Brussels is not only the source of the stream of euros flowing into the Polish budget".[40] For Tusk, Europe was the best place on earth, an example for other countries and the dream of many. Tusk promised that Poland would be an example of solidarity throughout its Presidency. The article ended with an ironic remark: "were it not for the protection of Polish coal and the only European veto against the climate goals of the European Commission, one could even believe him".[41]

While commenting on Tusk's speech to the European Parliament that inaugurated the Polish Presidency, the most stunning phrase cited was: "the more Europe, the less crisis". It was written that the Prime Minister would not allow for doubting the European project that was the dream of millions of people living beyond the EU borders. "This is the best place on earth, nobody has come up with anything better yet" and "the wave of illegal migration is indicative of this, everyone heads for Europe, not the other way round" – these words of the Prime Minister were quoted by the press. In response to the reintroduction of internal control in the Schengen Area by Denmark, Donald Tusk advocated the strengthening of the Frontex Agency. "Frankfurter Allgemeine Zeitung" in a short two-column article listed the "wishes" of the Polish Prime Minister for the Presidency: sustaining "a secure Europe" thanks to its defence policy, energy security policies, food and natural resources safety, building "an open Europe", cooperating with eastern and southern neighbours and signing the Association Agreement with Ukraine. The newspaper also drew attention to the fact that one of the priorities of the Polish Presidency was to develop the single market and eliminate barriers to e-trade.[42]

The word "crisis", which overshadowed the Polish Presidency, was omnipresent at all European forums where European future and unity were debated and decided upon. From the German perspective, Polish economic successes and Poles' satisfaction were important *vis-à-vis* the frustration of euro-Europeans. Poland's twenty-year-long path to modernisation of communist public structures was discussed, and its optimism and self-confidence were admired. "Poland, like never before, has a good hand in Europe"[43] and the capacity to lead the European Union – underlined "Die Zeit" weekly. By publishing an article written by a Polish journalist, "Die Zeit" called for abandoning stereotypes, as "Poland is the most stable state in crisis-ridden Europe", and the times of *polnische Wirtschaft* are long gone by.[44]

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[40] K. Schuller, *Einer für alle*, FAZ 04.07.2011, p. 10.

[41] *Ibid.*

[42] *Tusk: Mehr Europa, weniger Krise*, FAZ 07.07.2011, p. 4.

[43] P. Buras, *Nichts ohne uns*, "Die Zeit" 08.12.2011, p. 9.

[44] P. Buras, *Polen, so cool*, "Die Zeit" 28.07.2011, p. 11.

On 16 September 2011, at an informal meeting of EU finance ministers in Wrocław, it was agreed that a decision to disburse another tranche of financial aid to Greece would be taken in October 2011. Athens was to receive EUR 8 billion. "Nothing new, the uncertainty and nervousness of financial markets will persist" – read the commentary in "Süddeutsche Zeitung".[45] American Secretary of the Treasury Timothy Geithner pressed for more efficient cooperation between the governments of European countries and the European Central Bank. His remarks were explicitly addressed to Berlin. In his opinion, Europeans should follow the example of the American bail-out programme that in 2008, after the bankruptcy of Lehman Brothers, resorted to the Federal Reserve. He expressed the view that the European Financial Stability Facility (EFSF) might not be enough to support financial institutions, enterprises and countries at the same time. That statement irritated the Eurogroup. Austrian Finance Minister Maria Fekter underlined that it would be not right to put the entire burden on the shoulders of taxpayers. She considered it to be odd that "the USA, despite their high debts, teach us what to do, and do not listen to any explanations".[46]

The adoption of the so-called legislative six-pack was a success of the Polish Presidency and the Wrocław meeting. The initiative would allow for more effective discipline in those EU Member States that exceed the 3% deficit threshold and whose public debt is higher than 60%. Strengthening the criterion of debt was of particular importance. Until then, the public debt criterion played a much less significant role than the deficit criterion. The change allowed to introduce a correction to the Pact for Stability and Growth and extended the possibilities of imposing sanctions on Eurozone members for failure to adhere to the rules and principles of budget policy. The process of imposing sanctions was to be simplified and become more effective, and the role of the European Commission was to be strengthened in the area of surveillance. The European Commission was to check once a year whether Member States display any symptoms of growing imbalance, and the states that fail to adhere to the rules would automatically be punished with sanctions.

ASSESSMENT OF THE PRESIDENCY

It is hard to find a review of the Polish Presidency in the German press. Commentaries by experts and politicians from various countries might shed some light on the evaluation of the Presidency. Cornelius Ochmann, analyst from the Bertelsmann Foundation, observed that Berlin and Brussels think higher of the Polish Presidency than Warsaw itself. According to Ochmann, it was quite an achievement of Poland to adopt the six-pack and end negotiations with Croatia. It was highly important that Poland managed to maintain the unity of the EU and took actions that protected the

[45] N. Piper, *Einmischen erlaubt*, SZ 17/18.09.2011, p. 4.
[46] C. Gammelin, *Forderungen der USA verärgern Euro-Staaten*, SZ 17/18.09.2011, p. 1.

EU from splitting into the Eurozone and the remaining Member States. Finnish Prime Minister Jyrki Katainen underlined Polish efforts at ECOFIN meetings and emphasised that Poland pursued European policies through hard work and did not focus on its own agenda only. In the opinion of Professor Alan Mayhew from the Sussex European Institute, during its Presidency Poland strengthened its position as a key decision maker in the EU, and its skill of establishing alliances with other Member States was impressive. All journalists tried to comprehensively explain the fiasco of the Eastern Partnership summit held in September and Ukraine's drifting away from the European Union (that problem was encountered by all Presidencies).[47]

German commentators underlined Poland's position on energy security, where Poland was in favour of the EU's close cooperation with Ukraine. The reason why previous attempts of the EU to promote reforms in Ukraine failed, was sought in the lack of a comprehensive "lighthouse project" aimed at the whole post-Soviet area that would help convince other states that democratisation of the society provides better conditions for economic growth.[48]

Can one say, after Polish rightist commentators, that the Polish Presidency was not visible? Taking into account that the Presidency time was a difficult period for the EU, Poland decided to pursue a policy of supporting, winning trust and delineating new necessary trends for the good and the future of the brave European community project. The Polish administration coped well with the logistics and organisation of expert and ministerial meetings. The fact that Polish Presidency was not widely and vividly commented upon, that there were no scandals and unexpected turns or changes (also in the Polish government) proves that Polish political elites and Poles themselves are mature Europeans. As a journalist of "Gazeta Wyborcza" aptly noted, one should appreciate that "now Poland's greatest asset in the EU is its normality".[49]

CONCLUSIONS

One might have expected that the Polish Presidency of the EU Council would attract the interest of German press, especially newspapers with experienced correspondents and specialists in Polish affairs, who would diligently follow not only politicians' speeches and conferences but also informal meetings of ministers of Member States and cultural events accompanying the Presidency. This, however, was not the case. The few articles on the Polish Presidency first surprised readers, then evoked disbelief, and finally became food for thought. This resulted from a couple of reasons. Poland is no longer an unruly child that causes trouble and requires special care. It is not a country of political uncertainty any more. Polish affairs do

[47] *Co zostanie z polskiej prezydencji*, GW 29.12.2011, p. 19.
[48] G. Gnauck, *op. cit.*, p. 7.
[49] J. Pawlicki, *Prezydencja cicha, ale skuteczna*, GW 29.11.2011, p. 22.

not attract as much attention as they did during the political transformation time. In the press, issues related to the Far East, the rising economic giants of South America and the transforming Arab states prevailed. In line with the principle that lack of comments is also a comment, one can assume that Poland is perceived now as a normal, predictable, economically and politically stable country located in the centre of Europe. It is also worth recalling that the Lisbon Treaty limited the competencies of the Presidency in the scope of the EU external policy and therefore its role is not as significant as it used to be.

During the Presidency, Poland presented its culture, customs and cuisine to the European Union. One must hope that the exhibition on 15th-18th century Poland held at the Royal Palace in Madrid and the world première of *Planet Lem* under the Royal National Theatre in London outdoor series were attractive to Europeans interested in culture. German society had many opportunities to meet with Polish culture and art, and those events were far more numerous than the media reported.

ABSTRACT

The article presents commentaries of German press on the Polish Presidency of the Council of the European Union. The analysis spans German national daily newspapers and weeklies examined in chronological order with focus on the crucial thematic content and political events. Poland held the Presidency of the EU in the second half of 2011 at a time of crisis, growing Euro-scepticism, the threat of a division of Europe into two speeds, and the coming parliamentary elections in Poland. The course of the Presidency, achievement of pre-set goals, a pro-European tone of the statements of Polish politicians and unsuccessful attempts to deepen the idea of Eastern Partnership became the object of a critical yet factual assessment of German journalists. Eastern policy priorities oriented at increasing its effectiveness had to be modified, but they can still be achieved in the future.

PRZEGLĄD ZACHODNI
I, 2013

BOGDAN KOSZEL
Poznań

FRENCH-GERMAN LEADERSHIP IN THE EUROPEAN UNION UNDER THE RULE OF CHANCELLOR ANGELA MERKEL

THE CONSTITUTION FOR EUROPE AND THE LISBON TREATY

The Bundestag election campaign in the second half of 2005 overlapped with a serious crisis in the European Union that resulted from the failure to implement Germany's coveted project of the Constitution for Europe. The Treaty, pushed by the SPD-Greens coalition government, and especially by Chancellor Gerhard Schröder and Foreign Affairs Minister Joschka Fischer, was signed on 29 October 2004 at the Roman Capitoline Hill and needed to be ratified by the European Parliament and parliaments of EU Member States. After its ratification by the German Bundestag and Bundesrat (12 and 27 May 2005), the finale of the referendum campaign in France was monitored by Germany with great concern as the number of opponents of the European constitution was on the rise in France. The pessimistic scenario came true, and on 29 May 2005 the French (54.87%) rejected the Constitutional Treaty which led to a political upheaval in the European Union.[1] The explicit, though expected, French vote of no confidence for this project disappointed Brussels and puzzled Berlin. After the French referendum, the position of President Jacques Chirac notably weakened in French politics. His political instinct clearly failed him, as his decision on holding the referendum and the assumed victory of supporters of the European Constitution was intended to strengthen his position on the French political arena, which did not happen.[2]

The direct consequence of the unsuccessful referendum was the dismissal of the government of Jean Pierre Raffarin and the appointment of the cabinet of Dominique de Villepin (31 May 2005). In the *exposé* of the new Prime Minister, delivered to the National Assembly (8 June), Chirac's closest collaborator proposed a union between Paris and Berlin to act jointly in selected areas. In the face of the failure, that meant taking "the hard core" approach and creating "a union within the union". In the opin-

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[1] *Francuski kłopot*, "Gazeta Wyborcza" 31. 05.2005.

[2] Ph. Gouillaud, *Le président, qui s'exprime ce soir, est la première victime du sévère échec du référendum. Le chef de l'Etat dans le temps des incertitudes*, "Le Figaro" 31. 05. 2005.

ion of de Villepin, German-French cooperation should have concentrated on the EU Foreign and Security Policy, education and research and social issues. In the French government statement, however, the French Prime Minister did not provide details of the proposal. "Frankfurter Allgemeine Zeitung" newspaper criticised his speech, and stated that after the failure of the constitutional referendum, France intended to slide into protectionism and build "a European fortress" which was not in line with German interests.[3]

As expected, Berlin's reception of de Villepin's proposal was very cold. Chancellor's spokesperson Bela Anda stated that the French ideas were not up-to-date. Gerhard Schröder, who arrived in Paris on 10 June, also expressed his negative opinion without providing much explanation. In that situation, the Minister of Internal Affairs and potential successor of Chirac in the 2007 presidential elections, Nicolas Sarkozy, suggested that French-German cooperation could be an obsolete idea. On 27 June 2005 he told the French press that "enlarged Europe cannot be propelled solely by a two-stroke engine".[4]

In the second half of 2005 and in the first half of 2006, the key issue for both states was to find a solution to the constitutional deadlock after the negative results of the French and Dutch referenda and to outline the limits on the EU expansion. German politicians, occupied with the election campaign, were relieved to hear the European Commission's suggestions to give EU Member States one year to consider the future of the Constitutional Treaty and prepare concrete proposals on that issue.

Chirac, devastated with the unsuccessful constitutional referendum and accused of fraud committed when he was Mayor of Paris, gradually withdrew from public life. At the same time, Germany, after the parliamentary elections of 18 September 2005, experienced a political crisis. After many weeks of arduous negotiations, Christian and Social Democrats reached an agreement on establishing a government of CDU-CSU-SPD wide coalition with Angela Merkel as Chancellor. Gerhard Schröder gave up and announced that his intent to withdrew from politics. Minister of Foreign Affairs Joschka Fischer decided to do the same.

The German election results disappointed France, as Social Democrats and the Greens were considered better partners in dealings with both the USA and Russia. It was also taken into account that the new cabinet of Angela Merkel would attempt to rebuild the strained by Chancellor Schröder relations with Washington and would not be susceptible to French suggestions, in terms of both keeping its distance from the USA and the future of the French-German "twin engine" on the EU arena. It

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[3] K.-D. Frankenberger, *Deutsch-französische Feste. Die Idee des neuen Premierministers de Villepin verdient das Mißtrauen der Europäer*, "Frankfurter Allgemeine Zeitung" 12-13. 06. 2005. For a positive assessment of the French proposal see: S. Schwarz, *Die französische Eigenwille in der europäischen Politik*, in: J. Franzke (Hrsg.), *Europa in der Denkpause. Wege aus der Verfassungskrise*, Potsdam 2005, p. 74.

[4] *Frankreichs Innenminister Sarkozy attackiert Chirac. Politiker wirft dem Präsidenten Zaudern vor*, "Die Welt" 13.01. 2006.

should be underlined that in the CDU, CSU and SPD coalition agreement signed on 11 November 2005, there was no mention of any French-German "union" and not much space was devoted to Franco-German bilateral relations. In the document, it was underlined that Franco-German cooperation "cannot be questioned as it creates an important impulse and will respect the interests of our EU partners". Generally, it was announced that Germany's European policy will be continued and more active in selected areas.[5]

On 23 November 2005, right after her appointment as Chancellor, Angela Merkel paid her first official visit to Paris, putting an end to speculations about any cooling trend in French-German relations. The French hosts took all efforts to reassure their guest that France, despite the unsuccessful referendum on the European Constitution, would diligently build a unified Europe, and that close cooperation between France and Germany would give Europe a new impact. At a joint press conference, when speaking about Franco-German relations, Chirac declared that the German-French friendship "that has its source in the heart and mind, is truly at the core of French foreign policy". Such a statement was not delivered by Germany. Unlike Gerhard Schröder who preferred the company of EU *big boys*, especially Tony Blair, Angela Merkel displayed more reservation and made it clear that in the area of shaping EU policies, she would be more independent and open to dialogue and to interests voiced by other, especially smaller, EU Member States.[6]

It was beyond doubt that from Angela Merkel's perspective, from May 2005 to May 2007 President Chirac was a shamed and insignificant politician but Berlin refrained from critical comments. In the Chancellor's speech on European politics, given on 8 November 2006 to the German Council of Foreign Relations (DGAP) in Berlin, France was not mentioned at all. Her speech resounded heavily in the whole European Union. [7]

German leadership of the Council of the European Union in the first half of 2007 was subjected to the reanimation of the Constitutional Treaty and the celebration of the 50th anniversary of the Treaty of Rome. On 14 December 2006, Chancellor Merkel presented the goals and key points of German EU leadership in the first half of 2007 to the German Bundestag. On 17 January 2007, the Chancellor presented Germany's proposals to the European Parliament in a notably modified form and a more emotional tone. Angela Merkel acknowledged that the old continent needed a constitutional treaty since the world and Europe kept changing rapidly and the

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[5] *Gemeinsam für Deutschland – mit Mut und Menschlichkeit. Koalitionsvertrag zwischen CDU,CSU und SPD, Berlin 11.11. 2005* (reprint); H. Marhold, *Deutsche Europapolitik nach dem Regierungswechsel 2005*, "Integration" no. 1/2006, pp. 3-22; *Paris-Berlin. La grande inconnue*, "Le Figaro" 15.10. 2005, p. 28.

[6] M. Wiegel, *Lange Zeit falsch eingeschätzt*, "Frankfurter Allgemeine Zeitung" 24.11.2005.

[7] G. Müller-Brandeck-Bocquet, *Deutsche Politik unter Angela Merkel*, in: G. Müller-Brandeck-Bocquet (2010), *Deutsche Europapolitik von Konrad Adenauer bis Angela Merkel*, Wiesbaden, p. 326; *cf.* U. Guérot, *Alors viens, Marianne!: Ohne Frankreich geht nichts in Europa; kann Berlin Paris aus der Schmollecke holen?*, "Internationale Politik" no. 1/2007, pp. 39-45.

treaties in force did not provide for further enlargement. While she spoke, it could easily be seen that the head of the German government put Germany's and her own authority at stake to achieve notable progress in the work on the European Constitution during Germany's six-month Presidency, and – most importantly – without having to start the whole debate from point zero.[8]

The Chancellor's Office assigned the outmost priority to the European Constitution and undertook actions to probe and persuade EU Member States to adopt the project, so far strongly supported by Germany. This took place in the shadow of the French election campaign and attempts to win Poland's support for German proposals.

The French presidential elections were held at the time of difficult German negotiations with Warsaw and other EU Member States. Like his predecessors, Nicolas Sarkozy, who was then Minister of the Interior, often expressed anti-German views in the presidential campaign. At his meetings on the 30th of March in Nice, and especially on the 17the of April in Metz, Sarkozy recalled that France was never lured by totalitarianism, did not terminate any nation, did not invent the *Endlösung* and did not commit genocide.[9]

On the 22nd of April, and later on the 16th of May in the second presidential round, Nicolas Sarkozy won the presidential elections, and Germany was forced to revise its ideas about Franco-German collaboration. One should admit that Chancellor Merkel cooperated quite well with Chirac until the end, although he was already a disgraced politician then. In Merkel's relation with Chirac's successor, the so-called "political chemistry" was missing. The cool and reserved Merkel kept her distance from the impulsive and emotional *hyperpresident, speedy Sarko* or *Monsieur 1000 Volt*, as the press called Sarkozy. Sarkozy did pay a short and hasty visit to Berlin at the beginning of his presidential term but on numerous occasions he implied that his meetings with German officials of various levels were a tedious obligation. Sarkozy reportedly told famous French playwright Yasmina Reza that every journey to Berlin was "hell" for him, and that he felt "terrorised" by his hosts in Berlin and Frankfurt am Main. His milieu could hardly be classed as German-friendly. That refers to Jean-David Lévitte, his political advisor and Henri Guaino, the author of the French President's speeches. Charles Pasqua Philippe Séguin and Claude Guéant were his other old collaborators.[10]

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[8] *Rede der Bundeskanzlerin vor dem Europäischen Parlament. 17.01.2007*. Presse und Informationsamt der Bundesregierung. Pressemitteilung No. 20 http://www.auswaertiges-amt.de/diplo/de/EU-P/EU-P.html.

[9] *La France n'a jamais cédé à la tentation totalitaire. Elle n'a jamais exterminé un peuple. Elle n'a pas inventé la solution finale, elle n'a pas commis de crime contre l'humanité, ni de génocide", Quand le candidat Sarkozy était accusé de "germanophobie" en 2007*, "Le Monde" 5.12.2011; J. Altwegg, *Antideutsche Klischees in Frankreich. Euro statt Wehrmacht*, "Frankfurter Allgemeine Zeitung" 06.12.201.

[10] S. Lehnartz, *Keine Freundschaft: Merkel und Sarkozy – Szenen der arrangierten Ehe*, "Die Welt" 14.03.2009; A. Grosser, *Sarkozys Außenpolitik: über Widersprüche und Irritationen*, "Die politische Meinung" no. 52/2007, p. 28-32.

The strained prestige of Paris as a half of the European decision-making duo obliged President Sarkozy to present a plan of overcoming the constitutional failure and a new, feasible and serious offer for the other EU Member States. Prior to his successful election, Sarkozy promoted the project of a Mini-Treaty or simplified treaty (*traité simplifié*) which boiled down to his proposal to adopt those fragments of the Constitutional Treaty that could be saved.

Undoubtedly, Chancellor Merkel appreciated Sarkozy's efforts to break the deadlock and adopt the *traité simplifié*, but the French President's attempt to dominate the European Council's meeting of June 2007 crowning the German Presidency, caused embarrassment. Though President Sarkozy recognised Germany's success, he underlined that it was also the success of France and his personal conciliatory efforts, just like he did in his Strasbourg speech of 2 July 2007. Merkel was not impressed by Sarkozy's praise of the "holy" Franco-German friendship, nor by him speaking about his everlasting friendship with Merkel on the occasion of awarding the Charlemagne Prize to the German Chancellor in Aachen in May 2008.[11]

Solutions adopted at the Brussels summit on 21-22 June 2007 and the congruent French-German cooperation on overcoming Poland's veto against the EU Council decision-making system (the Treaty of Nice system until 2014 and later the introduction of the so-called double majority) soothed tensions between Paris and Berlin.[12] Both France and Germany unanimously supported the Portuguese Presidency of the European Union that resulted in the signing of the Lisbon Treaty on 13 December 2007.

UNION FOR THE MEDITERRANEAN

At the beginning of Sarkozy's presidency, France made an attempt to reshuffle its foreign policy priorities and strengthen its position in relation to Germany. This policy was to be based on two pillars: France's activity in Europe and Africa, and the tightening of relations with the USA and NATO. The need for strengthening France's presence in the Mediterranean Basin, strongly underlined already during the presidential campaign, was a bold and risky idea. The future of the "Barcelona Process" launched in 1995 was still doubtful. (The Barcelona Process was to constitute an institutionalised form of cooperation between Mediterranean countries and the European Union.) Sarkozy decided to develop France's sphere of interests that would be beyond Germany's control, in a way recalling the historical colonial presence of France in North Africa.

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[11] B. Gorawantschy, *Frankreich unter Staatspräsident Sarkozy*, "Einsichten und Perspektiven" no. 3/2007, p. 144-165; J. Schild, *Sarkozys Europapolitik. Das zunehmende Gewicht der Innenpolitik*, "Integration" no. 3/2007, pp. 238-250.

[12] *European Council in Brussels 21-22 June 2007. Conclusions of the Presidency*, http://www.consilium. europa. eu/ueDocs/cms–Data/docs/pressData/PL/ec/94942.pdf. Cf. B. Koszel, *Der bittere Sieg in Brüssel*, "WeltTrends" no. 56, Herbst 2007, pp. 190-191.

On 23 October 2007 in Tangier, President Sarkozy invited leaders of all Mediterranean countries to join a summit of the leaders in France in July 2008. A union for the Mediterranean was to comprise only the countries of that region, but the project was to be financed by the whole European Union. Already at that point the President openly stated that this was a political project aimed at creating a French zone of influence in the Mediterranean Basin. It was supposed to counterbalance the privileged position of Germany in Central and Eastern Europe.[13]

From the very outset, Merkel did not conceal her scepticism as she believed that the French union would only replicate the Barcelona Process that had been launched earlier on and criticised by the German government. Merkel argued that the Mediterranean union might divide the European Union into "interest zones" with Germany's sole interest in eastern Europe, and France's in the South of Europe. Merkel also criticised the limitation of the list of possible participants in the new initiative to those from the Mediterranean Basin.[14]

Since the beginning of 2008, the German government, with the support of the mass media, had attempted to torpedo the French initiative, as it considered the Union for the Mediterranean to be unfavourable for the European Union. German opposition in the European Council and the European Parliament brought about the desired effects. The tough stance of the German government, backed, *inter alia*, by Prime Minister Donald Tusk, forced Sarkozy to revise his plans. At the French-German summit in Hannover, held at the beginning of March 2008, the French President consented to include all 27 EU Member States in the French initiative. Poland undoubtedly benefited from that conflict as it won the support of Berlin for the Eastern Partnership which Poland promoted.[15]

Officially, the French initiative was adopted on 12-13 March 2008 at the European Council meeting in Brussels and was formally named "The Barcelona Process: Union for the Mediterranean".[16] On 13 July 2008, at the summit in Paris, attended by representatives of 43 countries, the launch of the new project, whose name was shortened already in November to the "Union for the Mediterranean", took place.[17]

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[13] C. Demesmay, *L'Allemagne face à l'Europe de Nicolas Sarkozy*, "Politique étrangère" no. 2/2008, pp. 373-384.

[14] *Merkel und Sarkozy in Hannover. Abendessen mit Krisenstimmung*, "Süddeutsche Zeitung" 3.03.2008; S. Martens, *Le couple franco-allemand: nécessaire mais pas suffisant*, «Questions internationales" mai-juin 2008, pp. 74-79; *cf*. A. Jünemann, *Zehn Jahre Barcelona-Prozess. Eine gemischte Bilanz*, "Aus Politik und Zeitgeschichte" 45/2005, pp. 7-13.

[15] D. Schwarzer, I. Werenfels, *Formelkompromiss ums Mittelmeer*, "SWP-Aktuell" no. 24/2008, p. 1-8; H. Stark, *Die französische EU-Ratspräsidentschaft 2008 – zwischen aktuellem Krisenmenagement und strategischen Weichenstellung*, "Integration" no. 3/2008, p. 235-240.

[16] *European Commission. Communication from the Commission to the European Parliament and Council*, Brussels, 20.05.2008. http://translate.google.pl/translate?hl=pl&langpair=en%7Cpl&u=http://www.cremo.edu.gr/Union%2520 for%2520the%2520Mediterranean%2520Barcelona%2520Process.pdf.

[17] M. Delgado, *France and the Union for the Mediterranean: individualism versus co-operation*, "Mediterranean Politics" no. 1/2011, p. 39-57.

The European Union's priorities were listed in the declaration adopted at the summit. They included de-pollution of the Mediterranean, improvement of maritime and land highways, civil protection, alternative energies: Mediterranean solar plan, higher education and research, and the Mediterranean Business Initiative. The German Ann Lindh Foundation involved in this project was interested in cultural exchange and cooperation between institutions supporting the development of civil society. The German government expressed its interest only in the construction of solar energy plants and wind farms in North Africa. In July 2009, in Munich, twelve German companies and concerns signed an agreement on their joint construction of solar energy plants in the Sahara that would supply electricity to German households. The *Desertec* project is to cost EUR 400 million, and its implementation might take 10 years.[18]

"MERKOZY"

The energy and climate policies led to a divergence of opinion between Berlin and Paris. At the 2007 EU summit in Brussels, held during the German Presidency, the EU adopted a challenging plan to reduce GHG emissions by 20% by 2020 (against the 1990 baseline), increase the share of EU energy consumption produced from renewable resources to 20%, and improve the EU's energy efficiency by 20%.[19]

In his first speech as a state leader delivered at the June G-8 summit in Heiligendamn, Nicolas Sarkozy spoke favourably of the climate and energy policy plans and supported the German Chancellor promising joining her attempts to exert pressure on Russia and the USA in this area. Controversies arose when the discussion moved on to the details. The French opted for new nuclear plants and increasing the share of nuclear power in the EU, with a view to free the EU from raw material supplies from Russia and the Middle East. In Germany, the society increasingly approved of the "green" opposition's demands to shut down all German nuclear power plants by 2023. The French were particularly vexed by Siemens' decision to leave its nuclear plant construction partner Areva, the French national nuclear group, and launch cooperation with the Russian nuclear giant Rosatom to construct a nuclear plant in Bulgaria among others.[20]

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[18] *Niemcy planują budowę elektrowni słonecznych na pustyniach Afryki*, "Gazeta Wyborcza" 9.06.2009; For more on the functioning of the Union for the Mediterranean between 2008-2011 see: *Union pour la Méditteranée. Union for Mediterranean*, http://www.ufmsecretariat.org/en/; http://www. auswaertiges-amt. de/DE/Europa/Aussenpolitik/Regionalabkommen/EuroMedPartnerschaft–node.html.//

[19] *European Council in Brussels, 8-9 March 2007. Presidency Conclusions*, http://www.consilium.europa.eu/uedocs/cms–data/docs/pressdata/PL/ec/93142.pdf.

[20] *Siemens steigt bei Atomkonzern Areva aus*, "Die Welt" 26.01.2009; *Siemens bleibt Atom treu – nur Areva nicht*, "Handelsblatt" 23.01.2009; *Rosja kusi Niemców atomowym sojuszem*, "Gazeta Wyborcza" 3.02.2009.

During the French EU Presidency in the second half of 2008, Germany agreeably cooperated with France on climate change, migration and asylum issues, which helped the French Presidency. After Ireland rejected the Lisbon Treaty in its referendum, both France and Germany forced Dublin to repeat the Irish vote. They threatened Ireland that they would block EU's further enlargement. Chancellor Merkel loyally supported Sarkozy's preparation of a peace plan to end the Russia-Georgia war of August 2008. She did not begrudge the French leader basking in glory of the success of his peace plan. Neither was she jealous when he attempted to transform the French Presidency into what the press called a "one-man show".[21]

In 2009, the cooperation on European safety and security was gradually tightened. On 11 March 2009, France officially announced its return to NATO's Integrated Military Command Structure, which was warmly welcomed by Germany. The appointment of Bruno La Maire, highly regarded in Berlin and well acquainted with German political realities, as Secretary of State for European Affairs was also welcome in Germany. However, as early as in June 2009, he was replaced with Pierre Lellouche, a tougher politician and supporter of transatlantic relations, strongly involved in the development of the EU Common Security and Defence Policy (CSDP).[22]

France wanted to make the CSDP more active and to establish efficient, well-equipped and high readiness military forces. The Germans expressed their support for that position. In November 2010, together with the Swedes, they endorsed a project for intensifying the EU Member States' military cooperation. In December 2010, the Foreign and Defence Ministers of the Weimar Triangle states addressed the High Representative of the EU for Foreign Affairs and Security Policy, Catherine Ashton, postulating, in writing, to take concrete decisions aimed at improving the functioning of CSDP mechanisms during the Polish Presidency in the second half of 2011. The main issues were: training, logistics, division of competences, and the command structure. For France, which demanded establishment of highly effective forces with immediate deployment capacity, that was definitely not enough.[23]

It was hardly surprising that France begun pushing the UK for cooperation then. The UK shared France's views on the development of the European defence capability. On 2 November 2010, the two states signed two treaties, one on security and defence cooperation, the other on joint defence nuclear facilities.

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[21] *Sarkozy verabschiedet sich mit großem Eigenlob*, "Die Welt", 16.12.2008; J. Schild, M. Koopmann, *Der Sarkozy Moment politische Führung in der EU am Beispiel der französischen Ratspräsidentschaft*, "Integration" no. 3 2009, pp. 266-281.

[22] G. Müller-Brandeck-Bocquet, *Deutsche Europapolitik unter Angela Merkel*..., p. 330; *cf.* M. Stürmer*, Zurück in der Nato: Frankreich verfolgt nur sein nationales Interesse*, "Die Welt" 18.03.2009.

[23] R. Kempin, N. von Ondarza, *Die GSVP vor der Erosion? Die Notwendigkeit einer Wiedereinbindung Frankreichs und Grossbritanniens*, "SWP-Aktuell" no. 25, Mai 2011; *cf.* E. Brok, *Chancen und Perspektiven einer gemeinsamen europäischen Außen- und Sicherheitspolitik: Empfehlungen an die deutsch-französische Zusammenarbeit*, in: L. Albertin (Hrsg.) (2010), *Deutschland und Frankreich in der Europäischen Union: Partner auf dem Prüfstand*, Tübingen, pp. 114-132.

The Arab Uprisings in Tunisia, Egypt, Libya and Syria between 2010 and 2011 additionally deepened the split between the allies and exposed the lack of efficacy of the Common Foreign and Security Policy and the European Security and Defence Policy. Diverse positions of major EU Member States quickly became visible. While France, the UK and the US, within and beyond NATO structures, actively supported (with arms and food) rebel forces fighting dictatorial regimes, Germany showed restraint limiting its actions to moral support and a group of German officers who worked as NATO logisticians. The events of 2011 in Libya, where France was actively engaged in the overthrowing of Muammar Gaddafi, boosted further misunderstandings between Germany and France, as Berlin remained neutral. In March 2011, the Representative of Germany to the UN Security Council abstained from voting on the resolution supporting NATO operations in Libya. This sparked critical response all over France, as well as within the Federal Republic.[24]

On 27 September 2009, after German parliamentary elections, the second cabinet of Angela Merkel was formed in coalition with the liberals (FDP). In the coalition agreement signed by the CDU, CSU, and FDP on 26 October 2009, relations with France were given roughly the same amount of space as relations with Poland. They were confirmed to be exceptional in their scope (*in seiner Breite und Tiefe einzigartig*) and promoting further European unity. Readiness to intensify cooperation in education and space research, as well as on climate protection and security and defence policy was confirmed.[25]

Care was taken to make Merkel-Sarkozy relation appear close. It followed that Sarkozy and Merkel started to be perceived as inseparable and teasingly called "the Merkozys". The French President participated in the celebrations of the 20th Anniversary of the Fall of the Berlin Wall and the German Chancellor came to Paris on 11 November to celebrate the anniversary of the end of World War I.[26]

The French intended to cooperate with the new German government more intensely. It was the abovementioned French Secretary of State and Government Plenipotentiary for German Relations, Pierre Lellouche, who headed a special ministerial team working on that project since September 2009.[27]

In fact, on 4 February 2010 in Paris, the 12th joint meeting of both cabinets took place – the first one since the emergence of the CDU/CSU-FDP Government and

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[24] R. Herzinger, *Libyen: Die deutsche Außenpolitik hat sich gründlich blamiert*, "Die Welt" 22.08.2011; J. Varwick, *Unzuverlässiger Bündnispartner. Ist Deutschland aussenpolitisch isoliert?*, "Internationale Politik on line", 23.08.2011, http://www.internationalepolitik. de/2011/08/23/unzuverlassiger-bundnispartner-2/. Polls carried by ARD-DeutschlandTrend, September 2011, showed that 54% of respondents evaluated the government's stance positively, and 42% were in favour of NATO's participation in the operations in Libya. See "Die Welt" 2.09.2011.

[25] *Wachstum. Bildung. Zusammenhalt. Der Koalitionsvertrag zwischen CDU, CSU, FDP. 17. Legislaturperiode* http://www.cdu.de/doc/pdfc/091026-koalitionsvertrag-cducsu-fdp.pdf.

[26] M. Wiegel, *Gedenken in Paris. Deutsche Fahnen am Triumphbogen*, "Frankfurter Allgemeine Zeitung" 18.11.2009.

[27] S. Lehnartz, *Sarkozy will Frankreich jetzt zur Weltmacht machen*, "Die Welt" 24.09.2009.

after EU's ratification of the Lisbon Treaty. Paris wanted to underscore the symbolic meaning of the French-German engine for the EU. The Franco-German 2020 Agenda adopted at the meeting read that "the closest possible cooperation bears significant value for both countries" and emphasised that France and Germany shared the same vision of Europe's future until 2020. The ten-page-long document with proposals advancing French-German cooperation encompassed six large areas: economy, energy and climate, research, foreign policy and defence, tighter cooperation between the two nations, more contacts between citizens and tighter institutional cooperation.[28]

The number of joint undertakings (80) was indicative of France's willingness to deepen the cooperation, but the German response did not meet French expectations. The Germans concurred with the opinion that French-German relations were exceptional but decided to stick to the current formula of collaboration with France, which they found satisfying. Chancellor Merkel did not seek to boost the symbolism of the Berlin-Paris relations, as she believed it could be perceived negatively, i.e. as an attempt to dominate the whole of the European construct. It could also lead to limiting Germany's room for manoeuvre to form alliances with other EU Member States, especially with Poland whose importance in the German policy kept growing constantly.

EUROPEAN SOVEREIGN-DEBT CRISIS

What turned out to be a real challenge for *le couple franco-allemand* was the global economic crisis. In 2008, Europe experienced the first symptoms of the economic breakdown triggered by the bankruptcy of US banks and credit institutions of a scale unprecedented in the 20th century. That took place under the French leadership of the EU and, somewhat automatically, Nicolas Sarkozy took initiative. On 4 October 2008, the summit of European G8 leaders was held in Paris. It was joined by President of the European Central Bank Jean-Claude Trichet and President of the Eurogroup Jean-Claude Juncker. France spoke in favour of the Dutch proposal to follow the example of the USA and design an umbrella fund (EUR 300 billion) for EU Member States threatened with bankruptcy. Germany instantly rejected the proposal as it considered common actions to be superfluous and proposed that each case would be considered on an individual basis, and solely in the case of emergency. German Minister of Finance Peer Steinbrück argued that the establishment of a European aid fund would force Germany to contribute the lion's share without having much control over its actual expenditure.

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[28] *Deutsch-französische Agenda 2020*, http://www.bundesregierung.de/Content/DE/Artikel/2010/02/2010-02-04-deutsch-franzoesische-agenda-2020.html; *cf.* J. Kumoch, *Posiedzenie Francusko-Niemieckiej Rady Ministrów*, "Biuletyn PISM" no. 19/2010, http://www.pism.pl/files/?id_plik=805.

The German veto sparked many critical remarks but the summit ended with the adoption of some arrangements. Among others, it was agreed to coordinate joint rescue activities of EU Member States, strengthen banking supervision and organise an international meeting to design a new global fiscal strategy.[29]

The first meeting showed that Germany and France were of notably divergent opinions on the methods of solving the crisis. Germany suggested that state intervention should be the last resort solution and should be employed only in concrete individual cases. State intervention should focus on savings, budget discipline and reducing national debt. France, driven by its Republican traditions, favoured the primacy of politics over economics and a strong role of the state in the area of economy. France, however, consented to coordinated and joint international actions as, in its opinion, those would significantly increase the effectiveness of any emergency undertakings.[30]

Germany's position changed somewhat after the next emergency summit held in Paris on 12 October 2008. It was attended by the Eurozone members and the UK. Shocked with the news coming in from the USA, summit participants agreed to undertake focused action aimed at saving European banking systems. Banks were to receive state warranties that debts would be repaid, the state was to ensure capital influx while the ECB was to strictly supervise the banking system.

Soon after, on 17 October, the Bundestag adopted a special act on the "stabilisation of financial markets", under which it agreed on the EUR-500-billion bailout package. The example of the Federal German Republic was followed by France, which assigned EUR 360 billion to this end. The Brussels EU summit of 15-16 October 2008 approved the agreed solutions. However, Germany made it clear that it considered the situation to be exceptional and not to happen again.[31]

French ideas how to rescue fiscal systems of EU Member States were followed by another proposal of the French leader, which had not been consulted with Germany. On 21 October 2008, in his speech to the European Parliament, Sarkozy proposed to establish a European economic government. Sarkozy also suggested that industries of Member States should be nationalised in part. His other idea was to establish national investment funds in EU Member States. Those funds would acquire shares of financially-challenged companies. Federal Minister of Economy Michael Glos

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[29] J. Claaßen, *op. cit.*, p. 87; D. Schwarzer, *La présidence française de l'Union européenne: quels objectifs, quels partenaires?*, "Politique étrangère" no. 2/2008, pp. 361-371.

[30] *Cf.* J. Mistral, H. Unterwedde, *Wirtschafts- und Finanzpolitik: Herausforderungen und Perspektiven einer deutsch-französischer Initiative*, in: *Deutschland-Frankreich: Fünf Visionen für Europa*, "KAS Publikation. Deutsch-französischer Dialog" H. 2/2010, p 31; Ch. Deubner, *Der deutsche und französische Weg aus der Finanzkrise*, "DGAP Analyse" April 2011; P. Kauffmann, H. Unterwedde, *Verlorene Konvergenz? Deutschland, Frankreich und die Euro-Krise*, "Aus Politik und Zeitgeschichte" Bd.43/2010, pp. 13-14.

[31] D. Bohnenkamp, *Deutsch-französischer Dissens. Die EU sucht Wege aus der Wirtschafts- und Finanzkrise*, "Dokumente. Zeitschrift für den deutsch-französischen Dialog" no. 1/2009, p. 508.

(CSU) recognised Sarkozy's ideas as incompatible with the German economic philosophy and rejected the French proposals.[32]

After the G-20 Summit held on 15 November 2008 in Washington, where an agreement on strict supervision of banking systems was reached, another German-French summit was held (24 November) which deepened the divide between Germany and France. When President Sarkozy announced a series of anti-crisis actions that were to enliven the economy, Germany hesitantly informed that it would undertake actions to stimulate the economy but not before January 2009. The French leader snappily commented: "while France works, Germany thinks".[33]

The last meeting of the European Council under the French leadership was held in Brussels on 11-12 December 2008 and ended with a partial success of France. EU Member States approved the economic bail-out plan amounting to about 1.5% of EU GDP, that is EUR 200 billion. Due to Germany's resistance, this amount was lower than Sarkozy expected. In the conclusions of the summit, it was underlined that in the face of the financial crisis and looming recession, "in these exceptional circumstances, Europe will act in a united, strong, rapid and decisive manner to avoid a recessionary spiral and sustain economic activity and employment".[34]

It was only natural that the French Presidency of the EU Council drew Europe's attention to Paris and President Sarkozy. Sarkozy certainly made many efforts to minimise the consequences of the global financial crisis that hit the European Union. He put forward numerous proposals of enlivening European economy, and his hyperactivity in that area won respect of German experts and political commentators. The problem was that Sarkozy repeatedly did not consult his plans and endeavours with his German partner, or informed of his intentions too late or too vaguely. Making the Federal Republic of Germany appear to be of secondary importance in the EU resulted in another cooling down of the Franco-German relations, which resembled the situation after the 2000 Nice summit.[35]

During the following Czech Presidency of the Council of the European Union, relations between Paris and Berlin gradually improved. As the next European Council summit drew near, leaders of both France and Germany wrote a letter to the leader of the Czech Presidency, Prime Minister Miroslav Topolanek, postulating that the Czech Republic adopts a tough stance on the need to regulate financial markets and to prepare a global financial strategy. That joint position demonstrated agreement between France and Germany on the need to restore financial markets and was presented at the summit of 19-20 March 2009 and impacted the course of the G-20

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[32] S. Stroß, *Das deutsch-französische Duo im Spiegel der Zeit – aktueller Impulsgeber oder überholte Allianz?* "Integration" no. 2/2011, pp. 172-177.

[33] J. Claaßen, *op. cit.*, p. 90.

[34] *European Council in Brussels on 11-12 December 2008. Conclusions of the Presidency*, http://www.eu2008.fr/webdav/site/PFUE/shared/import/1211–Conseil–europeen/Rada–Europejska–12-12-2008–Konkluzje–PL.pdf. For an assessment of Germany's position see: H. Crolly, C. Schiltz, *Merkel setzt "Non"-Politik gegen Sarkozy durch*, "Die Welt", 12.12.2008.

[35] G. Müller-Brandeck-Bocquet, *Deutsche Politik unter Angela Merkel...*, p. 329.

meeting in London. In accordance with the expectations of France and Germany, the *Global Plan for Recovery and Reform* was adopted. It foresaw strict supervision of financial markets and rating agencies, strengthening international monetary institutions, gradual elimination of tax havens, increase in the World Bank and IMF funds assigned to supporting the economy, especially in developing countries, and rejection of protectionism.[36]

In April 2009, the International Monetary Fund (IMF) warned that the crisis might also affect developed European countries and trigger very deep economic recession and huge unemployment. The Economic and Monetary Union of the European Union (EMU) faced enormous challenges, and it soon became apparent that its weakest Member States might upset its whole structure.[37] Greece, which in 2001 slipped into the Monetary Union through the "back door" having forged some convergence statistics, was heavily criticised. Its lack of fiscal discipline combined with immense spending on social benefits and "living beyond one's means", soon broke down the Greek economy. In October 2009, Greek Finance Minister Giorgos Papakonstantinou informed that Greece's national debt increased, which deepened the financial markets' mistrust in Greek and hence unwillingness to purchase Greek bonds. The purchase of Greek bonds, despite their high interest, was so risky that few ventured to acquire them. Greece's creditworthiness was lowered to the level of "trash".[38]

Germany, the largest contributor to the EU budget, was allegedly aware of the misuse of statistics that enabled Greece's joining the Monetary Union.[39] At first Germany refused to throw Greece a lifeline. Chancellor Merkel feared that if Greece received financial support, other EU Member States, e.g. Ireland, Portugal and Spain, would line up for similar aid. Merkel vetoed the proposal to provide support for indebted Greece in the form of coordinated loans from Member States belonging to the single currency area. The upcoming 2010 local elections in North Rhine-Westphalia made Angela Merkel even more reserved and her stance tougher.

Before the crucial meeting in Brussels, speculations concerning the Chancellor's position revived. The press published speculations that the largest EU Member State would cater for the interests of its own taxpayers in the first place, and would not make any successions that would undermine the principles of the Monetary Union. Merkel allegedly suggested that those who violate those principles should be expelled from the euro area. German Finance Minister Wolfgang Schäuble suggested

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[36] For details see: *The Global Plan for Recovery and Reform. 2 April 2009*, http://www.g20.org/Documents /final-communique.pdf.

[37] A. Schmidt, *Die Wirtschafts- und Finanzkrise 2008/09 – Die erste Bewährungsprobe für die Wirtschafts- und Währungsunion*, "Integration" no. 4/2009, pp. 3888-397; H. Enderlein, *Die Krise im Euro-Raum: Auslöser, Antworten, Ausblick*, "Aus Politik und Zeitgeschichte" Bd.43/2010, pp. 7-12.

[38] J. Krakowski, *Kryzys finansowy świata zachodniego i kryzys euro*, "Sprawy Międzynarodowe" no. 2/2011, p. 31.

[39] Disclosed documents point to Finance Minister Hans Eichel, see: *Griechenland-Krise: Neue Dokumente setzen Hans Eichel unter Druck*, "Die Welt" 2.11.2010.

that Member States that do not adhere to the principles should not have the same voting power as those that comply to the rules. Greek politicians openly spoke about Germany revealing its true colours and that the moment had come to learn if Angela Merkel deserved to be called *Lady Europe* or rather *Frau Germania*.[40]

The meeting of the European Council held on 25-26 March 2010 was to a large extent dictated by Germany. Conclusions of the summit included an appeal for a new strategy of coordinating economic policies and underlined the need for "ensuring the quality, reliability and timeliness of statistical data" very explicitly alluding to Greece. A task group to develop measures helping to overcome the crisis faster and increase budget discipline was established. Chancellor Merkel, called *madame non* at the time, consented to help Athens but on tough conditions. The experienced International Monetary Fund was to participate in that operation and financial support was to be granted only as *ultima ratio* while the regulations of the Stability and Growth Pact were to be stricter.[41]

After the meeting in Brussels, European press offered back-handed compliments to the Chancellor. Journalists compared Merkel to Margaret Thatcher and the "Iron Chancellor" Otto von Bismarck, i.e. to politicians who were capable of imposing their opinion on other states. In the opinion of many German politicians, Merkel followed the example of Gerhard Schröder and his *Realpolitik* which gave priority to German interests. Merkel was also accused of lowly motives and attempting to win votes before elections in North Rhine-Westphalia that were to be held on 9 May 2010.[42] The above, however, was a gross simplification. Merkel had strong arguments not to succumb to the pressure of markets and European public opinion. Making financial aid for Greece dependent on its fulfilment of strict conditions and involving the IMF in this process were time-consuming but necessary. Also accusations of *Alleingang* were not completely justified, as many Member States supported the Chancellor's actions hiding behind her back. Financial aid for Greece was never questioned in Berlin – not only for fear of the crumbling stability of the euro but also because of Germany's national interests. The bankruptcy of Greece would first affect German banks that acquired Greek bonds for approximately EUR 40 billion.

On 23 April 2010, Greece submitted its official request for financial aid to the European Union and the IMF. On the 2nd of May, finance ministers of the Eurozone agreed on a rescue package for Greece of EUR 110 billion for the period of the next three years on condition that Greece introduces harsh budget cuts. The IMF was to contribute EUR 30 billion to the financial package.

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[40] T. Bielecki, L. Baj, *Merkel zablokuje pomoc dla Grecji?*, "Gazeta Wyborcza" 25.03.2010.

[41] C. Volkery, *Merkel beim EU-Gipfel. Madame Nons riskanter Poker*, "Der Spiegel" 26.03. 2010; G. Bannas, *Das deutsche Dilemma*, "Frankfurter Allgemeine Zeitung" 26.03.2010; *European Council, 25-26 March 2010. Conclusions*, http://www.consilium.europa.eu/uedocs/cms–data/docs/ pressdata / PL/ec/113605.pdf.

[42] J. Fischer, *Frau Germania. Merkel und Europa*, "Süddeutsche Zeitung" 29.03.2010.

On 27 April 2010, the Ministry of Finance of the Federal Republic of Germany presented a special legislative proposal to the German parliament. On 7 May 2010, Chancellor Merkel speaking to the Bundestag presented a draft rescue plan for Greece and informed that Germany would contribute EUR 22.4 billion in the form of loans and credit warranties. Right after the first reading, the Bundestag adopted a draft act which enabled the government to participate in the rescue plan. On 19 May, under accelerated procedure, another legislative proposal was submitted to the Bundestag. This draft act concerned governmental financial warranties as part of the European financial mechanism. The Bundesrat adopted it on the 22nd of May. This document was signed by incumbent President of the Federal Republic of Germany Horst Köhler whose term of office was to end soon. A few days earlier, a similar draft was presented to the French National Assembly. Also without much ado, the deputies adopted the rescue package for Greece amounting to EUR 18.6 billion.[43]

In response to the rigid principles conditioning the granting of financial aid, the citizens of Greece took to the streets in protest. In this situation, the Governing Council of the European Central Bank and representatives of the IMF (the so-called *troika*) agreed to establish a special rescue package amounting to EUR 750 billion in case other economically weak Eurozone members would follow in the footsteps of Greece. One day later, the finance ministers (ECOFIN), acting under Article 122 of the Treaty on the Functioning of the European Union, established the European Financial Stability Mechanism (EFSM) and created an institutional support facility for Eurozone members called the European Financial Stability Facility (EFSF). The EFSF foresaw the launch of loans and credit lines and authorised the European Commission to take out loans on capital markets and from financial institutions. Headed by German specialist Klaus Regling, the Facility was to be a temporary solution to be replaced in 2013 with a special long-term financial mechanism.[44]

After receiving the consent of the German parliament, a coordinated operation of Eurozone states and the IMF was launched. In result, successive tranches of financial aid for Greece were disbursed from the mentioned enormous financial package of EUR 110 billion. In the first place, funds were allocated to assist national banks, stabilise the budget and to halt the economic breakdown of Greece.

It was beyond doubt that there were still discrepancies between Germany and France on further EU actions concerning economy and finance. Nicolas Sarkozy rightly argued that the Economic and Monetary Union and the ECB's leadership would definitely not suffice as the EU lacked a common macroeconomic policy. Sarkozy maintained his previous offer of establishing "an economic government" (*gouvernement économique*) of Eurozone states and granting it broad powers. Chancellor Merkel rejected those proposals. She favoured *gouvernance économique*, i.e.

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[43] *Merkel obiecuje pomoc dla Grecji i straszy*, "Gazeta Wyborcza", 20.052010; *cf.* G. Nonnenmacher, *Stunde der Wahrheit*, "Frankfurter Allgemeine Zeitung" 6.05.2010.

[44] *Regulation of the Council of 11 May 2010 establishing a European financial stabilisation mechanism*, 9606/10 http://register.consilium.europa.eu/pdf/pl/10/st09/st09606.pl10.pdf.

strict coordination and cooperation encompassing all 27 Member States. Merkel did not want to divide the European Union into two groups and she was concerned that "the economic government" would have a negative impact on the German economic model and violate the autonomy of the European Central Bank.[45]

The European Council summit of 17 June 2010 was a compromise between expectations of the two politicians. Its Conclusions read: "we reaffirmed our collective determination to ensure fiscal sustainability, including by accelerating plans for fiscal consolidation where warranted; we confirm our commitment to ensuring financial stability by addressing the gaps in regulation and supervision of financial markets, both at the level of the EU and at the G20. […] we fully agree on the urgent need to reinforce the coordination of our economic policies". First regulations on the Stability and Growth Pact, budget supervision and broader macroeconomic supervision were adopted. In fact, it was promised to reinforce the Stability and Growth Pact by taking into account the postulate of the European Commission to ensure that financial sanctions would be imposed not only on states exceeding the 3% budget deficit threshold but also on those with public debt higher that 60%. It was foreseen that appropriate amendments to the Lisbon Treaty would be made and that the right to vote at EU institutions would be taken away from states that repeatedly violate fiscal restrictions. Merkel made her reservation that in case the "economic government" idea was adopted, that project should embrace all 27 Member States.[46]

During the German-French consultations in Deuaville in October 2010, it was decided that the current crisis management mechanism should be replaced with a new, much stricter one and that the new mechanism should be included in the Treaty provisions. The witty Secretary-General of the French President Nicolas Sarkozy's Office, Xavier Musca, and EU Affairs Adviser to the German Chancellor, Uwe Corsepius, led the expert debate and reached an agreement on the methods of punishing EU Member States for failing to comply with EU fiscal requirements. In order to reach the compromise, Chancellor Merkel abandoned the previously defended postulate to impose sanctions automatically without the consent of the Council of the European Union. In return, Nicolas Sarkozy supported Germany's requests concerning amending the Treaty. The issue of Eurobonds, postulated by some EU Member States, was rejected. New regulations were to enter into force by the end of 2013.[47]

Although the proposal to amend the Lisbon Treaty surprised other EU Member States, Germany and France unrelentingly pushed their arrangements forward. The Chancellor had the support of Prime Minister Donald Tusk, who attended the Polish-German intergovernmental consultations in Berlin on the 6th of December.

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[45] C. Gammelin, M. Kläsgen, *Ein Brief, zwei Welten*, "Süddeutsche Zeitung" 10.06.2010

[46] *European Council. 17 June 2010. Conclusions*, http://www.consilium.europa.eu/uedocs/cms data /docs/pressdata/PL/ec/115354.pdf.

[47] P. Ehrlich, J. Zepelin, L. Meier, *Als Merkel Stabilitätspakt aufweichte*, "Financial Times Deutschland" 21.10.2010; C. Gammelin, S. Ulrich, *Merkel gibt bei Stabilitätspakt nach*, "Süddeutsche Zeitung" 19.10.2010.

In those circumstances, on 16-17 December 2010, the Brussels summit of the European Council approved the previously agreed French-German terms and conditions. Under the pressure exerted by Germany, the amendment of the Lisbon Treaty was approved and the provision that Member States whose currency is the euro "may establish a stability mechanism to be activated if indispensable to safeguard the stability of the euro area as a whole. The granting of any required financial assistance under the mechanism will be made subject to strict conditionality". The amendment of the Treaty was necessary for Chancellor Merkel. Merkel was concerned that the generously disbursed German financial aid for troubled EU Member States would be challenged and brought to the Federal Constitutional Court. The fact that such a possibility was foreseen in the Treaty protected Merkel's government against such actions.[48]

The draft amendment approved by the December EU summit was to allow the Euroland to establish a permanent crisis management mechanism for Eurozone states (European Stability Mechanism, ESM) on 1 July 2013. The ESM, with its capital of EUR 700 billion, would replace the EFSF and would be based on loans and credit warranties granted to countries with financial problems. Future aid for the euro area would involve "controlled bankruptcy", i.e. the bad debts of Eurozone members would be repaid not only by Eurozone taxpayers, but also by private creditors (mainly banks) that unreasonably lent money to countries with poor financial perspectives. Germany was to contribute 27.1% (i.e. EUR 190 billion of share capital and warranties) and France was to transfer 20.3% (EUR 142.7 billion) to this end.

At the beginning of 2011, one could observe a shift in the German government's strategy concerning combating the financial crisis in the euro area. Chancellor Merkel adopted the French point of view that it was necessary to establish the economic government of the Eurozone, and that anti-crisis meetings should be held first among representatives of 17 Member States. Undoubtedly this change was brought about by the necessity to rescue another Member State, i.e. Ireland where the entire banking system staggered and its rescuing upset state structures. On 21 November 2010, the Irish government requested financial support and quickly received a rescue package of EUR 85 billion. The situation repeated itself a few months later, as on 16 May 2011 Portugal received EUR 78 billion of financial aid.[49]

At the next meeting of EU leaders held in February 2011, the so-called Competitiveness Pact drafted jointly by Germany and France was presented. This Pact extended the scope of economic governance. It announced that the economic standing of Member States would be supervised by means of indexes that measure the

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[48] N. Busse, *Ein Brüsssel Gipfel für die Karlsruher Richter*, "Frankfurter Allgemeine Zeitung" 17.12.2010; *Merkel Auflagen für Pleiteländer durch*, "Die Welt" 17.12.2010; *European Council of 16-17 December 2010. Conclusions. Annex no. I*, http:// www. consilium. europa. eu/uedocs /cms–data/ docs/ pressdata/PL/ec/118607.pdf.

[49] R. Alexander, J. Hildebrand, *Euro-Krise: Europa brennt – und Deutsche sind an allen Fronten*, "Die Welt" 16.10.2010.

stability of public finance and competitiveness. In order to ensure competitiveness of EU Member States, strict obligations were to be imposed: adoption of the admissible budget deficit in the constitutions of Member States, cancelling the indexation of retirement pensions, salaries and disability allowances, adjustment and, in practice, extension of retirement age, agreeing on a common corporate income tax base, establishment of national principles of crisis management for the banking sector, as well as mutual recognition of diplomas and professional qualifications.[50]

Chancellor Merkel explicitly stated that the approval of new solutions would expand the possibilities of the current financial mechanism and be conducive to the establishment of the long-term European Stabilisation Mechanism. Merkel made it clear that the consent to those terms would condition Germany's joining the extended financial aid warranty for Eurozone states threatened with insolvency.

Germany and France demanded that the Competitiveness Pact be adopted by Eurogroup representatives on the 11th of March, before the planned regular meeting of the European Council. Poland and Sweden voiced their reservations as two separate meetings were to be held. In that situation, President of the European Council Herman Van Rompuy and José Manuel Barroso started consulting a new version of the Pact that would be acceptable to all Eurozone members. Details of the talks and the agreement reached were disclosed at the Eurogroup summit of the 11th of March. The new pact was adopted and called the "Pact for the Euro". Under the agreed common policy for sustainability of competitiveness and financial stability, Eurozone members received the right to take independent decisions and individually shape their national policies. Increasing EFSF effective funds to the volume of EUR 440 billion and the establishment of the permanent European financial stability mechanism with EUR 500 billion were approved. The interest on loans granted to Greece was lowered to 4.2% and the repayment deadline was prolonged to 7.5 years.[51]

Thus the Federal Republic of Germany managed to push through its proposal to enhance economic cooperation in the Eurozone under the "Pact for the Euro" and that solution was adopted by the European Council at the meeting of 24-25 March 2011. The Council also consented to the introduction of the extended formula of the Pact called the "Euro Plus Pact", as other non-Eurozone Member States decided to enter into the agreement (Poland, Denmark, Lithuania, Latvia, Bulgaria and Romania). Under the "Euro Plus Pact", the participating states agreed to the reduce their public debts to less than 60% of their GDP, and streamline sanction imposition on excessively indebted countries. Member States would not be punished only if two thirds of Member States voted against the implementation of sanctions.[52]

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[50] J. Krakowski, *op. cit*., p. 39.

[51] C. Gammelin, *Der Pakt für den Euro*, "Süddeutsche Zeitung" 11.03.2011.

[52] For more details see: *European Council of 24-25 March 2011. Conclusions*, http://www.consilium.europa.eu/uedocs/cms–data/docs/pressdata/PL/ec/120311.pdf; *Pakt für den Euro*, Die Bundesregierung, http://www.bundesregierung.de/nn–987416/ Content/ DE / Artikel/2011/ 03/2011-03-25-pakt-fuer-den-euro.html; A. Słojewska, *Rusza pakt na rzecz euro*, "Rzeczpospolita" 23.03.2011.

In April 2011, the Greek government, under the pressure exerted by the European Commission, announced adoption of radical cuts in its public spending, and on 10 June 2011 the German Bundestag adopted a new bailout package for Greece, also granted under strict conditions. Greece was to execute a far reaching privatisation of its public sector and continue cutting down its expenditure. Finance Minister Wolfgang Schäuble demanded that private creditors participate in the rescue operation. Schäuble wanted to involve commercial banks that generously granted loans to Greece and acquired Greek bonds while being aware of the appalling condition of the Greek financial situation.[53]

According to the calculations of the Bank for International Settlements (BIS), European lenders held USD 52.3 billion in Greek sovereign debt, with German banks owning the biggest share, i.e. 43%, and 27% was owned by French financial institutions. Taking into account the debts of the private sector, French banks were the greatest creditor of Greece. At the end of 2010, Greece owed foreign entities almost USD 150 billion. Liabilities to French banks amounted to USD 56.7 billion, and USD 34 billion to German financial institutions.[54]

New developments in Greece led to a spontaneous meeting of Chancellor Merkel and President Sarkozy in Berlin on the 17th of June. Both politicians agreed that it was necessary to ensure support for the private sector in Greece. They considered it to be necessary to prepare the second bailout package for Greece in active cooperation with the European Central Bank. Support was to be provided on condition that the Greek government continued to implement expenditure cutting reforms and that the most potent political powers of Greece reached an agreement on that issue, especially the conservative opposition and the socialists.[55]

In the situation where Greece was threatened with insolvency, the summit of the European Union in Brussels held on 23-24 June 2011 adopted new solutions taking into account that Greece's Prime Minister George Papandreou received the vote of confidence from the Greek parliament and swore to continue strict savings reforms. It was agreed that additional funds for Greece "will be financed through both official and private sources". This meant a new financial package provided by Eurozone members and the IMF the value of which was EUR 109 billion. Commercial banks, pension funds and insurance institutions were to participate in that project providing EUR 37 billion. The European Council appealed to Greece for "national unity" and support of all political powers "to ensure a rigorous and expeditious implementation" of reforms.[56]

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[53] J. Hildebrand, *Merkel und Schäuble werben für weiteres Hilfspaket*, "Die Welt" 8.06.2011.

[54] *Politycy chcą, aby banki dołączyły do pomocy dla Grecji*, "Gazeta Wyborcza" 30.06.2011.

[55] *Griechenland-Hilfe: Merkel und Sarkozy wollen Privatsektor beteiligen*, "Die Welt" 17.06.2011.

[56] *Council of Europe, 23-24 June 2011*. Conclusions, http://www.consilium.europa.eu/uedocs/cms–data/docs/pressdata/PL/ec/123087.pdf; Ch. B. Schiltz, *EU-Gipfel: Viele Regierungschefs sind von Griechenland genervt*, "Die Welt" 23.06.2011.

After the adoption of savings reforms by the Greek government on the 29th of June, finance ministers of Eurozone Member States launched the transfer of EUR 12 billion to Greece. That was part of the first bailout package that was to meet Greece's most urgent needs. Christoph B. Schiltz, a well-known commentator of "Die Welt" newspaper wrote: "Europeans treated themselves to this scenario. But they did not have a choice. If Greece is to avoid bankruptcy in July, they have to pay, irrespective of whether Greece introduces savings or not. Cash in return for savings. A beautiful motto, but it is no means of exerting pressure".[57]

On the eve of the Brussels summit, the capital of Germany hosted difficult 7-hour Franco-German talks that were to prepare the scenario for the European Council meeting. The results of the Brussels summit of the 21st of July were assessed as a partial success. Chancellor Merkel's success was the participation of private creditors in the project of saving Greece as she argued for that solution for months. Greece was to receive a new influx of funds from the EFSF in the form of low-interest credit (3.5%) and the repayment period extended from 7.5 to 15 years. The anti-crisis action instruments were expanded within the EFSF. The European Financial Stabilisation Mechanism would be able to acquire newly-issued bonds of Eurozone Member States and purchase them on the secondary market (in exceptional cases also in exchange trading). The possibility of launching prevention credit lines that would not have to be used but could serve the purpose of calming capital markets, was also an option.[58]

Endeavours toward closer economic integration in the Eurozone were met by the next proposal of Chancellor Merkel and President Sarkozy announced on the 16th of August after the talks held at the Élysée Palace. Returning to previous proposals, both politicians proposed the establishment of an economic government of the euro area. That government was to convene twice a year. It was to be headed by Herman Van Rompuy. It was intended to introduce debt thresholds and a tax on financial transactions to Eurozone members' national constitutions. It was postulated to introduce a Common Consolidated Corporate Tax Base at the beginning of 2013 as that would lower competitiveness of enterprises from states with low CIT rates. To set an example, Merkel and Sarkozy announced that that tax would be harmonised in the Federal Republic of Germany and in France.[59]

In Germany, the postulates presented at the summit met with criticism of opposition parties (SPD, the Greens and the Left Party). Chancellor Merkel, attacked even by her own party, managed the new arrangements on Germany's involvement

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[57] Ch. B. Schiltz, *Viele Regierungschefs*...

[58] *Umschuldungspläne: Gewinner und Verlierer der Griechenland-Einigung*, "Financial Times Deutschland" 22.07.2011; *Gipfeltreffen der Euroländer: Banken wollen sich an Griechenland-Hilfe beteiligen*, "Frankfurter Allgemeine Zeitung" 21.07.2011.

[59] Ch. Roche, Ch. von Boetticher, *Krise: Europa sollte Deutschland einen hohen Preis wert sein*, "Die Welt" 16.08.2011; *Sarkozy et Merkel favorables é des sanctions contre les mauvais élèves de la zone euro*, "Le Monde",17.08 2011; *Sarkozy et Merkel cherchent le remède pour rassurer les marchés*, "Le Monde" 16.08.2011; *Der Gipfel der Erwartungen*, "Handelsblatt" 16.08.2011.

in the EFSF to be adopted by her cabinet on the 31st of August. The final decision, however, was to be taken by the German parliament. A good thing was that at the beginning of September the Federal Constitutional Court issued its awaited statement. A group of so-called euro rebels, headed by Bavarian politician Peter Gauweiler, well-known for similar actions, filed a constitutional complaint in the accelerated procedure. In the opinion of Gauweiler's group, the decision of the government to participate in the EFSF would increase the record high debt of Germany and would step up inflation. The complaint was rejected but the Federal Constitutional Court in Karlsruhe ruled that the government, before it lends money to another country, must obtain the consent of the parliamentary budget committee.[60]

On the 4th of September in elections to the Landtag in Mecklenburg-Vorpommern, the CDU suffered painful defeat. Nevertheless three days later at the Bundestag, Chancellor Merkel warned the deputies that "if the euro falls, so shall Europe". Merkel also underlined that "the euro cannot fall, it cannot and it will not fall on condition that we decide to follow a long and difficult path. But that is the right path", the Chancellor argued. In response, social democrats accused Merkel of pursuing a chaotic foreign policy and delaying the "green light" for the Greek bailout package, because she did not want to irritate voters before important elections to Landtags.[61]

Before the vote at the Bundestag at the end of September 2011, the voting so important for Merkel's cabinet, Germany pressured Greece to continue the process of reforming its finances as their standing would condition the influx of funds to the Greek economy in the form of tranches disbursed by the EFSF. At the same time, acting in a tense and nervous atmosphere, Chancellor Merkel was forced to pacify resistant politicians and deputies belonging to her own CDU party and its coalition partner FDP whose leader and Germany's Deputy Chancellor and Federal Minister of Economics and Technology Philipp Rösler openly spoke of the necessity to allow for the bankruptcy of Greece. "This has never happened before – wrote the commentator of the opinion-forming 'Frankfurter Allgemeine Zeitung', Günter Bannas – that the Deputy Chancellor and head of the coalition party was scolded so much by the leaders of the CDU".[62]

On 16 September 2011, at an informal meeting of EU finance ministers in Wrocław (that meeting was a success of the Polish Presidency of the EU Council), the so-called legislative six-pack was agreed. That set of legislative acts would allow for enforcing fiscal discipline in EU Member States which exceed the 3% GDP of budget deficit and 60% of public debt threshold. Every year it would be checked whether the Member States displayed symptoms of increasing imbalance, and the

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[60] *Beschwerde zurückgewiesen: Bundesverfassungsgericht billigt EU-Rettungsschirm*, "Frankfurter Allgemeine Zeitung" 7.09.2011; *Euro-Urteil: Richter retten Euro-Retter*, "Financial Times Deutschland" 7.09.2011.

[61] *Generaldebatte im Bundestag: "Scheitert der Euro, scheitert Europa"*, "Frankfurter Allgemeine Zeitung" of 7.09.2011; W. Kumm, *Merkel verteidigt die Euro-Rettung*, "Die Zeit" 7.09.2011.

[62] G. Bannas, *Die Kanzlerin und der Sündenbock*, "Frankfurter Allgemeine Zeitung" 15.09.2011.

countries that would not adhere to those principles would automatically be punished with sanctions.[63]

Despite an open mutiny within the CDU and CSU, the Chancellor knew that loyalty limits of the coalition would not be trespassed as the only alternative was the fall of her government and by-elections. She also knew that, in the case of the six-pack, she could count on the opposition, i.e. the pro-European SPD which supported the plans of saving Greece from the financial breakdown. In this situation, the results of the vote held at the Bundestag on 29 September 2011 were a foregone conclusion. The project of expanding and extending competences of the EFSF was supported by a vast majority of deputies to the Bundestag.[64]

In October 2011, France and Germany jointly and with great determination strived to include private banks and financial institutions in the programme of bailing out threatened countries under the EFSF. After obtaining the consent and mandate of the Bundestag, Chancellor Merkel, supported by Nicolas Sarkozy and Herman Van Rompuy as well as by the newly-appointed head of the IMF, Christine Lagarde, managed to secure the "voluntary" consent of Greece's bank creditors to waive 50% of Greek bonds at the Eurozone summit of the 27th of October. Some blackmailing was indispensable. The EU leaders made it clear that if banks did not consent to the 50% reduction, they would allow for the uncontrolled bankruptcy of Greece, which would translate into the loss of 100% of the value of the banks' receivables. French Minister of Economy, Finance and Industry François Baroin and President Nicolas Sarkozy judged the above to be a huge success as the reduction amounted to about EUR 100 billion, which prevented the immediate verdict on Greece's bankruptcy by rating agencies. Moreover, the leaders of the Eurozone consented to the strengthening of the EFSF bailout fund. The EFSF was to assume part of the risk taken by the investors that acquire bonds of threatened Eurozone members and attract new capital, mainly from China.[65]

In Germany's approach, the strengthening of the EFSF was to be accompanied by actions disciplining those Eurozone members that would delay the introduction of drastic savings and expenditure reforms. In her speech to the Bundestag before the Eurogroup summit, the Chancellor did not conceal that she would like to subject Athens to regular EU and IMF supervision and "the stability culture" to be written into revised EU Treaties. The Chancellor also signalled that if that did not happened,

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[63] *Parlament Europejski przyjął tzw. sześciopak*, "Gazeta Wyborcza" 28.09.2011.

[64] G. Bannas, *Mehr als eine Mehrheit*, "Frankfurter Allgemeine Zeitung" 30.09.2011; *Bundestag: Ein Etappensieg für die Kanzlerin. Aber nicht mehr*, 29.09.2011; *Finanzkrise: Bundesrat billigt Rettungsschirm*, "Frankfurter Rundschau" 30.09.2011.

[65] *Pour la droite, l'accord de Bruxelles «a sauvé l'euro»*, "Le Figaro" 27.10. 2011; G. Bohsem, *Befreiungsschlag in der Euro-Krise*, "Süddeutsche Zeitung" 27.102011; *Deutsche Finanzhilfen: Der Preis der Euro-Rettung*, "Der Spiegel", 27.10.2011; *Sommet européen: les principales décisions*, "Libération" 27.10.2011; Ch. Jaigu, *Le rendez-vous européen de Sarkozy avant 2012*, "Le Figaro" 25.10 2011.

interested Eurozone members would sign appropriate agreements.[66] That seemed to convince President Sarkozy, who in a television interview right after the summit, praised the pro-savings and disciplined economic policy of the Merkel and Schröder government and fought off accusations of the French media that he was too prone to German influence.[67]

In mid-November, preparations for the December summit of the European Council started. At the summit, final decisions about methods of further combating the sovereign-debt crisis were to be taken. Chancellor Merkel continued to prefer blocking the incurring of internal debt by Member States, budget discipline and supervision of public spending. She received a strong support of the CDU. At the convention in Leipzig held on the 15th of November, the CDU supported the political direction chosen by the Chancellor but, contrary to the CSU, in its special resolution it excluded the possibility of removing any highly-indebted state from the Monetary Union. The President of the CDU/CSU group in the Bundestag, Volker Kauder, when praising the tough stance of Chancellor Merkel and the German model of economy, expressed the hope that at least once "Europe will speak German".[68]

On the 24th of November, at the Merkel-Sarkozy meeting in Strasbourg, it turned out that under the rapidly changing circumstances both leaders had little room for manoeuvre and were forced to cooperate closely and seek compromises. Merkel's position was weakened by the information that reached Strasbourg one day earlier. Berlin had to admit that, for the first time in decades, it found it hard to sell all its bonds (EUR 6 billion), which was indicative of the fact that financial markets had growing concerns whether the strategy adopted by the Chancellor was beneficial not only for the Eurozone, but also for Germany itself.[69] Finally, an agreement on amendments to the EU Treaties was reached that was to force the Euroland to strengthen budgetary discipline. This initiative was supported by Italian Prime Minister Mario Monti, who was also present in the capital of Alsace at the time. The President of France, who wanted to convince Merkel to take decisive and fast action, even at the expense of budget sovereignty, so valued by France, had to give up on persuading the ECB to be elastic and acquire the bonds of indebted countries.

The unyielding resistance of the German Chancellor and her attempts to push through her own ideas were publically criticised in France, which until then supported Germany in the struggle against the crisis. Jacques Attali, former head of the European Bank for Reconstruction and Development and adviser to François Mitterrand, ignoring political correctness recalled that in the 20th century, Europe had already committed suicide twice by unleashing armed conflicts and presently it

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[66] *Bundestag und Krisengipfel: Merkels Großkampftag für die Euro-Rettung*, "Die Welt" 26.10.2011.

[67] S. Lehnartz, *Sarkozy will Frankreich ein bißchen deutscher machen*, "Die Welt" 28.10.2011.

[68] *Kauder-Rede: "Auf einmal wird in Europa Deutsch gesprochen"*, "Die Welt" 15.11.2011.

[69] H. Kozieł, *Kryzys puka do bram Berlina*, "Rzeczpospolita" 23.11.2011; J. Bielecki, *Niemiec wobec kryzysu euro*, "Biuletyn Niemiecki" no. 21, 30.11.2011, csm.org.pl/pl/nocache. html? cid= 2507 &did = 2393&sechash.

was Germany again that held the weapon of Europe's mass suicide. Influential deputy of the French Socialist Party Arnoud Montebourg compared Merkel's policy to actions of Chancellor Bismarck. Another SP deputy Jean-Marie Le Guen compared Sarkozy's position with that of Prime Minister Édouard Daladier toward the Third Reich at the 1938 Munich conference. Other prominent politicians also joined in and chastised the dogmatic position of Germany: President of the European Commission Jacques Delors, former Minister of European Affairs in Mitterrand's government and spokesperson to the presidential candidate François Hollande, Dominique Moscovici, and, traditionally, former Minister of External Affairs Jean-Pierre Chevènement.[70]

In that difficult situation, Merkel received much support from Polish Minister of Foreign Affairs Radosław Sikorski. On the 28th of November, in his speech consulted beforehand with Germany and given to the German Society for Foreign Affairs in Berlin, Sikorski called for a new European solidarity and courage in taking difficult decisions that might enhance full European integration (federation).[71] The support of the Polish politician, so needed by the Chancellor, had its price. However, Germany was willing to pay for the support of the *de facto* German concept of saving the Euroland. Contrary to the intentions of France to create a homogenous Eurogroup driven by its own rules and principles which would inevitably lead to the establishment of a two-speed Europe, Poland was to be included in the decision-making process concerning the future of the Monetary Union and European integration. In her speech of the 2nd of December to the Bundestag, the Chancellor emphasised that the Eurozone must be open to all states that wish to cooperate with it. Merkel praised the Warsaw government as Poland, which did yet not adopt the euro, wanted to assume greater obligations and take the path toward the EU stability.[72]

Though France and Germany agreed on the general line of action on the sovereign-debt crisis, they defended their divergent stances on details till the very end. At the meeting with his supporters held in Toulon on the 1st of November, the President of France addressed 5 thousand strong audience. Sarkozy said that he was in favour of the independence of the ECB and its fulfilment of solely Treaty-related functions

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[70] J. Quatremer, *Arnaud Montebourg, la germanophobie et le populisme de gauche*, "Libéracion" 30.11.2011; G. Perrault, *Le retour du discours anti-allemand*, "Le Figaro" 2.11.2011; Ph. Goulliaud, A. Rovan, *Juppé: Non aux vieux démons de la germanophobie*, *ibidem*; M. de Boni, *Montebourg: La politique à la Bismarck de Mme Merkel*, *ibid.*; S. Lehnartz, *Die französische Angst vor einem "deutschen Europa"* "Die Welt", 28.11.2011; G. Lachmann, *Europa hat sich gegen Angela Merkel verschworen*, "Die Welt" 24.11.2011.

[71] "*Poland and the future of the European Union*" Radosław Sikorski, Foreign Minister of Poland, Berlin, 28 November 2011. http://www.msz.gov.pl/files/docs/komunikaty/20111128BERLIN/ radoslaw–sikorski–polska–a–przyszlosc–ue.pdf; *Europakrise: "Ich fürchte die deutsche Untätigkeit"*, "Die Zeit" 30.11.2011; T. Bielecki, *Europa mówi Sikorskim*, "Gazeta Wyborcza" 30.11.2011; *Vorschläge des polnischen Außenministers. Merkel sieht Schwung für EU-Vertragsreform*, "Frankfurter Allgemeine Zeitung" 29.11.201.

[72] Bart, *Merkel mówi o przyszłości Europy i chwali Polskę*, "Gazeta Wyborcza" 2.12.2011.

(maintenance of price stability in the EU) but in the case of a threat, the ECB should "act for Europe". In the President's opinion, European integration had to be deepened through international cooperation, and the last say on imposing sanctions on insubordinate Eurozone members should belong to a council of heads of state and government of Eurogroup members, not to the Court of Justice of the European Union, as the Germans demanded. On the other hand, the President explained that strengthening the role of EU institutions and closer supervision over the finances of Member States was not a threat to the sovereignty of France.[73]

In her speech to the Bundestag on 2 December 2011, Angela Merkel fought off accusations of the French press that she intended to dominate the European Union. She commented quite bluntly that such suggestions were "nonsense and absurd". Merkel declared that she wished to undertake actions in the same manner as former Chancellors – Konrad Adenauer and Helmut Kohl, and that her intention was solely to introduce the "culture of stability and growth" to the EU. Without going into detail, Merkel recalled that Paris and Berlin jointly promoted amendments to European Treaties, introduction of rigid rules and principles, and automatic sanctions on Member States that exceed the 3% budget deficit limit and the 60% internal debt threshold. Merkel made it clear that the mission of the ECB was to ensure price and inflation rate stability and not to buy out the bonds of excessively indebted states.[74]

On 5 December 2011, at their summit in Paris, France and Germany reached an agreement on their joint position right before the upcoming meeting of the heads of EU Member States. That agreement, in the form of a letter, was sent to the President of the European Council, Herman Van Rompuy. Regarding the most important issue, i.e. financial sanctions on the states that violate the internal debt and budget deficit levels, it was foreseen that sanctions would be automatically approved by the Court of Justice of the EU which would also have the right to veto badly designed proposals of national budgetary legislation. As the latter would be an unprecedented intrusion into state sovereignty and due to objections voiced in Paris, a compromise was reached. 85% of the Member States of the Eurozone could overrule the implementation of such restrictions. The same majority, and not unanimity, was to decide about the disbursement of funds from the new stability fund (ESM) to crisis threatened countries. The fund was to be launched in 2012, one year earlier than originally planned. The principles of budget regime were to be introduced by Eurozone Members to their national constitutions. President Sarkozy and Chancellor Merkel postulated that the reform of the Eurozone be implemented by amending EU Treaties

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[73] Ch. Jaigu, *Politique Sarkozy, l'Europe au coeur de la campagne*, "Le Figaro" 2.12.2011; S. Lehnartz, *Sarkozy will Europa mal eben neu erfinden*, "Die Welt" 01.12.2011.

[74] *Merkel bekräftigt Ziel einer Änderung der EU-Verträge. Regierungserklärung*. Deutscher Bundestag. http://www.bundestag.de/dokumente/textarchiv/2011/36876770–kw48–de–regierungserklaerung/index.html; *Regierungserklärung: Merkel fordert "neue europäische Schuldenbremse*", "Frankfurter Allgemeine Zeitung" 2.12.2011; *Angela Merkel: Niemcy chcą zdominować Europę? To bzdura i absurd*, "Rzeczpospolita" 3.12.2011.

binding at the time, and if that were impossible, under an intergovernmental agreement signed by and between EU 17 Member States. It was the wish of both Merkel and Sarkozy that the Eurogroup Member States ratify the new agreement by March 2012, i.e. before the upcoming April and May presidential elections in France.[75]

As predicted, the solution devised under the pressure exerted by the German government at the European Council meeting held in Brussels on 8-9 December 2011 was supported by majority of Member States. The "fiscal union" and its strict enforcement by EU institutions did not evoke reservations, however, concerns arose in the area of its implementation by amending the Treaties. Some states, e.g. Poland, feared that the ratification procedure of the new order by all Member States would take so long that the "two speed" European Union would be created in the meantime. After nine hours of talks, the "fiscal union" was adopted. David Cameron, the British Prime Minister, opposed that solution and demanded that in return for the UK's consent to amend UE Treaties, the UK should be granted "immunity" of its financial services. The dispute ended in a decision to introduce tighter regime in the Eurozone and to adopt a long-discussed alternative intergovernmental agreement of the Eurogroup members only.

Apart from the UK, all Member States declared they would work jointly on the new intergovernmental agreement. Three Member States: Sweden, Hungary and the Czech Republic, announced that their decision on joining the negotiations was dependent on the consent of their parliaments. The agreement was to be signed by March 2012 and subject to ratification by national parliaments or referenda.

Another important issue discussed in Brussels at the time was the lack of funds necessary for saving the threatened states. The funds available melted down to EUR 250 billion. The decision to increase the capital of the EFSF by EUR 200 billion, of which EUR 150 billion was to be transferred to the IMF in the form of loan guarantees by central banks of Eurogroup members, and the remaining EUR 50 billion was to be, possibly, provided by non-Eurozone members, including Poland.[76]

In France and Germany, the results of the summit were received with moderate optimism. Both countries considered the partial calming of the situation on financial markets to be a success in itself. At that stage, nothing more could have been achieved. Criticism was directed mainly at the UK which shattered European solidarity at the time of trial. The most vehement critics demanded that the UK be expelled from the European Union as it hindered the integration process and the pro-

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[75] *Deutsch-französisches Treffen: Merkel und Sarkozy wollen automatische Strafen für Schuldensünder*, "Der Tagesspiegel" 6.12.2011. *Cf. Angela Merkel souhaite une "union budgétaire" de l'Europe*, "Le Journal du dimanche" 2.12.2011; *Zone euro: Paris et Berlin divergent, ibid.*

[76] *Kampf gegen Staatsschuldenkrise: Euro-Rettung mit schwerem Kollateralschaden*, "Financial Times Deutschland", 9.12.2011; M. Visot, *Euro: 9 heures de négociations pour un accord*, "Le Figaro" 9.12.2011; *Schuldenkrise: Merkel zufrieden, Großbritannien im Abseits*, "Frankfurter Rundschau" 9.12.2011.

cess of building a united Europe.[77] The British press did not remain silent, and – in Cameron's defence – alarmed that Germany displayed tendencies to dominate EU leadership and attempted to dominate all of Europe, which had long been its dream. "The Guardian" daily worryingly concluded that "as the dust settles, a cold new Europe with Germany in charge will emerge".[78]

It is unquestionable that the cooperation between France and reunified Germany in the European Union passed a difficult test in the turbulent time at the beginning of the 21st century. The Franco-German "integration engine" experienced successes and failures, but it did not break down as it was based on the solid foundations laid by Chancellor Adenauer and President de Gaulle. Germany, under Merkel's government, proved to be a loyal and predictable partner, and France, during Sarkozy's term, kept clear of trespassing any lines that could threaten the French-German collaboration. After a breakdown following the French EU constitutional referendum, the Franco-German couple experienced some tensions and rifts but worked together relatively smoothly.

The Franco-German leadership of the European Union was truly put to the test when the sovereign-debt crisis settled in. Both Member States favoured different approaches to overcoming the crisis. It seemed that President Sarkozy had a better picture of the situation and was capable of responding more quickly to the growing threats, while Germany, owing to its internal situation, delayed taking large-scale bailout actions.

On the other hand, Germany was perfectly aware that healing the euro and the European economy was in the interest of the Federal Republic. Germany benefits from the single currency more than any other Member State as a huge part of its enormous industrial production is exported to the single market. Germany increased its trade surplus threefold in the years 2000-2008, i.e. from EUR 61 billion to EUR 182 billion. More than half of that surplus was generated by trading with Eurozone members. The economic breakdown in southern EU Member States would automatically decrease imports of goods from the Federal Republic of Germany, a slump in orders and a rise in unemployment in Germany. Many economists quite rightly argued that some of the blame should be put on Germany itself since for many years it tolerated the fact that weaker states incurred debts to buy German products. German economy was stimulated by strong growth in exports and pulled back by the simultaneous standstill of national demand. The high quality and competitiveness of

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[77] *Brüsseler Beschlüsse: "Anfang vom Ende der britischen EU-Mitgliedschaft"*; "Die Welt" 11.12.2011; F. Eder, *Beschlüsse: Camerons Nein ist falsch und gefährlich für Europa*, *ibid.*: *EU-Gipfel: Camerons Blockade spaltet Großbritannien*, "Frankfurter Allgemeine Zeitung" 9.12.2011; *EU-Gipfel zur Euro-Schuldenkrise: Briten bleibt Extrawurst im Hals stecken*, "Financial Times Deutschland" 9.12.2011; F. Collomp, *Londres s'éloigne de l'Union européenne*, "Le Figaro" 9.12.2011.

[78] I. Traynor, *As the dust settles, a cold new Europe with Germany in charge will emerge*, "The Guardian" 9.12.2011. *Europe speaks German now! Controversial claim from Merkel ally that EU countries all follow Berlin's lead – and Britain should fall into line*, "Daily Mail" 23.12.2011. *Cf. Euro-Krise: Briten wütend über deutsche Dominanz in Europa*, "Die Welt" 17.11.2011.

German machinery, cars and chemicals appeared to affect the economic growth of states whose products did not stand a chance to compete with German products. This led to a situation where, *inter alia*, Germany with its surplus became the creditor of weaker states with deficits, and that could eventually threaten the stability of German banks and financial institutions.[79]

France saw the sovereign-debt crisis as an opportunity to create the European "core of integration". Paris strongly opted for this solution since the failure of the European Constitution. Experience shows that each and every more serious failure in the broadly understood integration process always tempted Member States to engage in the establishment of a "pioneer group" and speed up integration within the group of most developed and oldest members of the European Community. The creation of a "variable-geometry" Europe would undoubtedly be unfavourable for countries that joined the EU in the years 2004-2007. Germany, when taking the decision to gradually tighten cooperation with France in numerous additional areas, did not intend to allow for the disintegration of the Eurozone and the emergence of a two-speed Europe. This could be the beginning of the end of "the European project", which consumed so much efforts and funds of Bonn/Berlin.

Until December 2011, Germany vigorously opposed the issue of "eurobonds", as it believed that their issuance would lead to the emergence of "an inflation community". Germany managed to persuade France to support its position. Chancellor Angela Merkel called this proposal "debt collectivisation" and presumed that it would lead to the further worsening of the situation in the Euroland. However, under the pressure of growing difficulties, the European Commission did not withdraw its announcement of preparing a report on the feasibility of this project and in November 2011 it presented its initial proposals concerning the issue of "stabilisation bonds". Their introduction would require an amendment of EU Treaties and the constitutions of Eurogroup members. The project was supported by many influential EU politicians. At the SPD convention held at the beginning of December 2011 in Berlin, former Chancellor Helmut Schmidt feared that the manner in which Merkel managed the sovereign-debt crisis would lead to "the marginalisation of Europe and isolation of Germany".[80] In German and French finance circles, it has been argued that the Eurobonds would be founded on the mutual debt warranties granted by European states. Consequently, investors would consider the bonds to be very safe and that would translate into low interest rates. At the same time, it was underlined that Eurobonds would be a spectacular step toward the economic integration of the European Union.

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[79] *Angela Merkel und die Euro-Krise: Die eiserne Kanzlerin laviert*, "Frankfurter Allgemeine Zeitung" 20.07.2011; J. Krakowski, *op. cit.*, p. 28.

[80] *Schuldenkrise: Helmut Schmidt macht "Wahn" der Deutschen Sorgen*, "Die Welt" 2.12.2011; *Helmut Helmut Schmidts Rede: Deutschland muss sich auf mehr Europa einlassen*, "Der Tagesspiegel" 4.12.2011

In order to provide the necessary stimuli to further European integration, France and Germany are doomed to cooperate. The EU certainly needs a strong leader. However, the "special" layout of the French-German relations and the attempt to create "a union within the union" constitute a threat for the future of European integration as it would force the EU to develop at "two speeds". The Federal Republic of Germany decided to tighten bilateral relations with the Fifth Republic, though Germany has been aware that it might not necessarily be beneficial in a long-term. Both countries differ in their approaches to liberalisation of the energy, transport, ecology (nuclear power plants) market policies, the asylum, immigration, agricultural and fishery policies, as well as in some areas of the defence policy. The interests of Paris are still concentrated in the Mediterranean and France is reluctant to Germany's involvement in CEE countries.

ABSTRACT

The author discusses the thesis that in the arduous circumstances of the 21st century France passed the test of cooperation with the united Germany. The French-German "integration engine" scored both successes and failures, but did not break down. Germany governed by Chancellor Merkel proved to be a loyal and predictable partner, while France during Sarkozy's presidency did not venture any steps that would strain this cooperation. A real test of the German-French leadership of the EU came with the financial crisis of the Eurozone. President Sarkozy understood the situation better and reacted faster to the growing threats, whereas Germany, for internal reasons, delayed launching large-scale rescue actions. Nevertheless, the signing of the fiscal union pact was the effect of a compromise between the two partners and yet another proof of the stability of the German-French cooperation.

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THE EUROPEAN UNION IN THE FACE OF THE SOVEREIGN-DEBT CRISIS

COMMUNITY INSTRUMENTS AIMED AT COUNTERING THE SOVEREIGN-DEBT CRISIS

To the end of the 2010s, the European Union developed several anti-crisis instruments. They comprised the mechanism for the coordination of national macroeconomic policies, the procedure launched in the case of excessive budget deficit and the bail-out ban. All three instruments were created under the Maastricht Treaty signed at the beginning of 1992, and the procedure for excessive budget deficit was additionally regulated by the Stability and Growth Pact.

The Maastricht Treaty introduced Article 103 to the Treaty establishing the European Community (TEC), under which the Council of the European Union adopts (by qualified majority of votes) recommendations specifying general guidelines for macroeconomic policies of Member States and the European Union.[1] At the same time, the Council is authorised to formulate recommendations for Member States whose policies are incompliant with the approved guidelines or constitute a threat to the effective functioning of the Economic and Monetary Union.

Under the Maastricht Treaty, Article 104c was also added to the TEC. The provisions of that article regulated the procedure launched in the case of excessive budget deficit.[2] The objective of this revision was to counteract the emergence of such deficits in EU Member States, and especially in Eurogroup members. Article 104c specified the operation procedure for community bodies (the European Council and European Commission). Moreover, Article 104c also outlined regulations on possible sanctions on Member States that were incapable of bringing the deficit situation to an end.

The Treaty of Maastricht also contained the protocol that specified, among others, the reference values that, if exceeded, would constitute the basis for measuring excessive deficit volume. These reference values were as follows:

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[1] After the consolidation of TEC, i.e. after the implementation of all the amendments introduced by the Lisbon Treaty, this is Article 121 of the Treaty on the functioning of the European Union (TFEU).

[2] Currently, this is Article 126 of TFEU.

- a deficit-to-GDP ratio of 3% (calculated in market prices),
- a debt-to-GDP ratio of 60% (calculated in market prices).

In the Stability and Growth Pact, the excessive budget deficit procedure was extended. The Pact was introduced under the pressure of the Federal Republic of Germany, which feared that some states (especially Belgium and Italy) would not adhere to convergence criteria in the area of finance, and would not implement the fiscal policy based on solid and sustainable foundations. The Pact encompassed five acts of law: resolution of the European Council adopted at the meeting held in Amsterdam on 16 June 1997, and four regulations of the Council of the European Union. In the resolution, the EU Member States undertook to obtain budget balance or surplus in the mid-term, and to apply measures directed at the fulfilment of this objective. On the basis of these regulations, the preventive and corrective arms of the Pact were specified.

The cornerstone of the preventive arm is to ensure that the budgets of EU Member States are regularly monitored by the Commission and the Council of the European Union. This supervision is to be carried out by evaluating the stabilisation programmes of Eurogroup members and the convergence programmes submitted by the remaining EU Member States. In the case of a negative evaluation of a programme of a given Member State, the Council is authorised to issue (in compliance with the recommendations of the Commission) "an early warning" to this Member State.

The corrective arm obliges Member States to comply with the obligation to undertake immediate actions aimed at improving their budget situations upon exceeding the 3% budget deficit. If an Eurogroup member does not implement appropriate corrections to the specified deadline, sanctions may be imposed.[3]

According to the no-bailout rule (Article 104b of TEC, currently Article 125 of TFEU), Member States bear responsibility for financing their national liabilities. This responsibility is not borne by the Community or other Member States. This individual liability has been to persuade EU Member States to pursue "healthy" budget management and avoid excessive budget deficits.

THE EU'S REACTION TO THE BUDGET CRISIS IN GREECE

In the second half of 2009, the Greek government disclosed data confirming the appalling condition of Greece's public finances. In 2009, the Greek budget deficit reached (according to initial calculations) 12.7% of Gross Domestic Product (GDP), and public debt went up to 120%. In the first half of 2010, Greece would have to take

[3] The preventive and repressive arms of the Pact were discussed on the basis of: B. Mucha-Leszko (2007), *Strefa euro. Wprowadzenie, funkcjonowanie, międzynarodowa rola euro*, Lublin, pp. 178--179; E. Kawecka-Wyrzykowska, K. Michałowska-Gorywoda, *Unia Gospodarcza i Walutowa*, in: J. Barcz, E. Kawecka-Wyrzykowska, K. Michałowska-Gorywoda (2007), *Integracja europejska*, Warsaw, pp. 294-295.

out loans worth EUR 40 billion to service its debts. That would be a very difficult task as Greek securities had very low ratings.[4]

Greece struggled with the public finance crisis for many years already. The crisis was due to three factors. Greece developed a most costly pension system in Europe, which resulted from the relatively low retirement age (61.4 years) and a relatively long life expectancy (82.6 years for women, and 77.4 years for men). The second factor was the numerous privileges for employees (especially in the public sector, which employed ¼ of the Greek labour force), e.g. premiums for punctual arrival at work, reimbursement of transport costs and additional free days. In fact, it was impossible to lay an employee off. Premiums were given to employees and pensioners on Christmas and Easter.[5] The third factor consisted in the low interest on credits and loans that was not corrected for many years.

The European Union became aware of the emergence of the public finance crisis in Greece for the first time in 2004, when it discovered that the statistical data it received from Greek authorities had been regularly forged. For that forgery Greece should have been heavily fined. However, the European Union resigned to do so as it assumed that imposing a fine would only increase the already high budget expenditure. EU politicians assumed that Greece's membership in the Eurogroup would reduce debt repayment by 2% to 3% of GDP and, consequently, decrease Greek public expenditure and deficit. Greeks, however, allocated their savings to consumption and thus the debt did not decrease. It was in 2004 when the European Commission launched proceedings against the violation of the TEC by Greece which forged its statistical data.[6] After some time, those proceedings were halted and thus the Commission proved it did not act rigorously. Forgeries of the statistical data did not cease after 2004. The instruments foreseen in the Maastricht Treaty and the Stability and Growth Pact turned out to be ineffective.

In response to the serious budget crisis in Greece, the European Union decided to take some harsh steps towards this Member State at the beginning of 2010. It obliged the Greek government to submit reports on its savings policy to the European Commission at least every three months. The anti-crisis plans of the Greek government were analysed. The first plan, whose objective was to bring the budget deficit to the level of 8.7% of GDP in 2010, and 2.8% in 2012, was approved by Eurogroup finance ministers in February 2010. It foresaw an increase in taxes, cuts in budget expenditure, freezing of public servants' salaries and the introduction of salary caps for those with highest income.[7]

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[4] *Cf. Banken halfen bei Verschleierung von Schulden*. http://www.faz..net; *Pięć krajów, które mogą pogrążyć Europę*, "Dziennik. Gazeta Prawna" 12-14.02.2010, p. A9.

[5] *Cf. Grecy znowu strajkują, bo rząd zmusza ich do dłuższej pracy*, "Gazeta Wyborcza" 16.07.2010, p. 26; *Chocholi taniec Greka Zorby*, "Dziennik. Gazeta Prawna" 2-4.07.2010, p. A19.

[6] *Cf. Banken halfen...*, http:://www.faz..net; *Grecka tragedia, europejscy widzowie*, "Gazeta Wyborcza" 6-7.03.2010, p. 18; H.-J. Axt, *Odyssee einer Eigendynamik – Wie aus dem Griechenland-Schock eine Euro-Krise wurde*. "Südeuropa-Mitteilungen" no. 3/2010, p. 15.

[7] *Cf. EU kontrolliert Griechenlands Finanzen*, "Kieler Nachrichten" 4.02.2010, p. 1. *Banken halfen....*; *Greece faces EU grilling over catastrophic deficit*. htttp://www.dw-world.de; *Greek financial crisis causes euro to hit five-year low*. http://www.dw--world.de

In February 2010, the European Commission, as well as some other Member States, e.g. France, worked on reaching an agreement in the European Council on the financial aid for Greece.[8] A consensus was not reached because of Germany's position. Germany also tried to prevent the debate on the financial support at the European Council's meeting in March 2010. That position of the Federal Republic resulted from several reasons. Chancellor Merkel feared that if the decision reached was favourable to Greece, then other Member States would also demand financial aid. Merkel also wanted to check whether Greece would actually implement the savings plan. Another reason was the great concern over the economic situation of Greece expressed by the German public opinion. The international financial crisis was to affect Germany's economy; the economic growth was to fall to -5% in 2009, and the budget deficit and public debt were to amount to -3% and 72.7% of GDP respectively. The majority of the German public opinion believed that Germany could not provide Greece with financial support. Another important reason were the upcoming May elections in one of the largest lands of the Federal Republic of Germany, namely North Rhine-Westphalia.[9]

France and Spain insisted and Germany resigned from opposing the debate on financial aid for Greece at the March meeting of the European Council. At the time both France and Spain had financial difficulties themselves. In 2009, their budget deficits amounted to -7.5% and -11.2% of GDP, respectively. The plan presented by Germany had a decisive impact on the resolutions adopted by the Council. According to that plan, the International Monetary Fund (IMF) was to participate in the Greek bail-out programme and the credits would be granted not by the European Union, but by Eurogroup members. Moreover, that solution would only be used as the last resort and at the consent of all Member States.[10]

It should be noticed that the European Council departed somewhat from principles of the economic policy given in the Treaty on the functioning of the European Union, i.e. from the no-bailout principle. Germany probably intended to minimise the divergence from Treaty provisions. That is why they postulated that Greece receive credits from other Eurogroup members only as the last resort.

The decisions of the European Council crystallised during the video conference of Eurogroup finance ministers on 11 April 2010. It was decided that in 2010 Greece could receive credits worth EUR 30 billion from Eurogroup members. Germany was to provide EUR 8.4 billion and France was to ensure EUR 6.3 billion. Interest on the loans would amount to 5%, i.e. it was to be much lower than market interest

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[8] *Cf.* H.-J. Axt, *op. cit.*, p. 15.

[9] *Cf. Od Frau Europa do Madame Non*, "Gazeta Wyborcza" 27-28.03.2010, p. 2; *Weltkonjunktur und deutsche Konjunktur im Winter 2009*, "Kieler Diskussionsbeiträge" no. 470/471, Institut für Weltwirtschaft an der Universität Kiel, 2010, p. 62.

[10] *Cf. Rettungsplan für Athen steht*. http://www.faz,net; *Mistrzów w płaceniu zalewa*, "Dziennik Gazeta Prawna" 2-5.04.2010, p. M8.

rates. The International Monetary Fund intended to make an additional contribution of EUR 15 billion.[11]

The public finance crisis in Greece worsened since the end of April 2010. The Greek government admitted that if it did not receive international credits in the coming weeks, it would not be capable of repaying its debt. Greek bonds became trash bonds.[12] In this situation, in May 2010, Eurogroup finance ministers decided (in agreement with the International Monetary Fund and the European Central Bank) that Greece would receive EUR 110 billion in loans in the years 2010-2012. Eurogroup members would contribute EUR 80 billion, and the International Monetary Fund EUR 30 billion.[13]

Taking such a decision was possible thanks to a long-term reform and savings plan negotiated with Greece by representatives of the European Commission, the ECB, and IMF specialists. The main objective was to consolidate Greece's public finances which would consist in decreasing the budget deficit from -13.6% of GDP in 2009 to less than -3% in 2014. The programme stipulated that benefits for public sector employees would be lowered, pension bonuses lifted, structural reforms (e.g. of the labour market) implemented, and consumption taxes would be increased further.[14]

In May 2010, the European Central Bank decided to acquire loans (especially on the secondary market) issued by Eurogroup members hit by the sovereign-debt crisis.[15] The activities undertaken by the ECB contradicted the EU legislation, chiefly Articles 123 and 127 of the Treaty on the functioning of the European Union. The former article would not allow for the European Central Bank or national central banks to acquire debt securities directly from Member States as that could affect the process of reducing national budget deficits. Therefore, it follows from Article 123 (by implication) that it is prohibited to purchase such securities on the secondary market. Article 127 specifies, *inter alia*, the objectives and basic tasks of the European System of Central Banks. The main goal of that institution is to maintain price stability while acquisition of debt securities encourages inflation, especially if issuing securities is connected with money printing.[16] The European Central Bank, however, perceived its actions to be exceptional.

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[11] Cf. *Pakiet unijnej pomocy uskrzydlił rynki*, "Dziennik Gazeta Prawna" 13.04.2010, p. A15; *Za długi Grecji zapłacą Niemcy i Francja*, "Dziennik Gazeta Prawna" 13.04.2010, p. A15; *Griechische Finanzkrise*, http: //de.wikipedia.org/wiki, p. 4.

[12] *Cf. Grecja nad przepaścią*, "Gazeta Wyborcza" 28.04.2010, p. 26 (Purchase of trash bonds is a high risk endeavour.)

[13] *Cf.* http://www.welt.de/wirtschaft/article; H.-J. Axt, *op. cit.*, p. 17; *Griechische Finanzkrise*..., p. 4.

[14] *Cf. Internationaler Rettungsplan für Griechenland beschlossen*, "Frankfurter Allgemeine Zeitug" 3.05.2010, p. 1; *Nach Einbindung der Finanzwirtschaft ist Paket für Athen so gut wie geschnürt*, "Frankfurter Allgemeine Zeitung" 3.05.2010, p. 11.

[15] *Cf. Die EZB wird zum Problemfall*, http://www.wiwo.de, p. 2.

[16] *Cf. Notenbanker in Not*. http://www.spiegel.de, p. 1.

ESTABLISHMENT OF THE EUROPEAN STABILISATION MECHANISM AND THE EUROPEAN FINANCIAL STABILITY FACILITY

Despite the adoption of the decision to provide Greece with financial aid, interest rates on loans granted to other Eurozone states with very high budget deficit levels, i.e. Spain, Portugal and Ireland (Table 1), were on the rise. Investors withdrew from those countries and their credit markets like they retreated from Greece. Banks started to limit co-funding, and the inflow of US dollars to European banks decreased. The exchange rate of the euro went down (e.g. in relation to the US dollar).[17]

At first glance it might seem paradoxical that Ireland entered the group of Member States suffering the budget crisis, as it is a highly developed economy. In 2009, its GDP per capita amounted to EUR 35,700 and was 31.3% higher than the Eurozone average.[18] The high budget deficit in Ireland resulted the Irish government's decisions to allocated notable funds to support Irish banks. Irish banks experienced a difficult situation due to the international financial crisis. In that situation, Chancellor Angela Merkel put forward two important proposals. She postulated that Eurozone member states with high debts be excluded from the Monetary Union and demanded that regulations on bankruptcy of Member States be drafted.[19] Those postulates were not supported by other Eurogroup members since many had high debts (see Table 1).

Nevertheless, the heads of state and government of the Eurogroup Member States reached an agreement on the establishment of the European Stability Mechanism (ESM) at their meeting on 9-10 May 2010. They found legal justification in Article 122 of the Treaty on the functioning of the European Union as Paragraph 2 of Article 122 reads: "Where a Member State is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control, the Council, on a proposal from the Commission, may grant, under certain conditions, Union financial assistance to the Member State concerned".

The ESM involved credits amounting to EUR 750 billion and coming from three sources. The first source was the EU budget and its contribution was to amount to EUR 60 billion. The second were bonds worth EUR 440 billion issued in the capital markets by a special purpose vehicle – the European Financial Stability Facility (EFSF). All Eurogroup members bear joint responsibility for EFSF credits. The third source consisted of IMF loans with value up to EUR 250 billion. Obtaining a loan was dependent on the result of negotiations between the Member State in difficulties and the EU-IMF duo on the implementation of reform programmes, and the interest rate was to be lower than on capital markets.[20]

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[17] *Cf.* H.-J. Axt, *op. cit.*, p. 21; *Europäischer Stabilisierungsmechanismus*, http://de.wikipedia.org.

[18] *Cf.* Eurostat, *Europe in figures. Eurostat yearbook 2011*, p. 46.

[19] *Cf. Europäischer Stabilisierungsmechanismus...*

[20] *Ibid.*

Table 1

Share of budget deficit in national GDPs of Eurogroup members in 2009 and 2010

Country	Year	
	2009	2010
Austria	-3.5	-4.4
Belgium	-6.0	-4.8
Cyprus	-6.0	-6.0
Estonia	-1.7	-1.0
Finland	-2.5	-4.0
France	-7.5	-7.6
Germany	-3.0	-3.3
Greece	-15.4	-9.6
Italy	-5.3	-8.4
Luxembourg	-0.7	-4.2
Malta	-3.8	-3.7
The Netherlands	-5.4	-5.6
Portugal	-9.3	-7.9
Slovakia	-7.9	-5.8
Slovenia	-5.8	-6.8
Spain	-11.1	-9.4

Source: J. Boysen-Hogrefe, D. Groll, B. Van Roye, J. Scheide, *Konjunktur im Euroraum kommt nur schwer in Fahrt*, in: *Weltkonjunktur im Frühjahr 2011*, "Kieler Diskussionsbeiträge" no. 488/489, p.44.

The EFSF was established on 7 June 2010. On the same day, the EFSF entered into a framework agreement with the Eurogroup members regarding the conditions under which it would finance and grant loans. The ratification of the agreement by all Eurogroup members was finalised at the beginning of December 2010. Some difficulties were encountered only by Slovakia. They were overcome after centrist and rightist parties won parliamentary elections there and the government headed by Iveta Radičová was appointed.[21]

[21] *Cf. EFSF Rahmenvertrag zwischen Königreich Belgien, Bundesrepublik Deutschland, Irland, Königreich Spanien, Französische Republik, Italienische Republik, Republik Zypern, Grossherzogtum Luxemburg, Republik Malta, Königreich der Niederlande, Republik Österreich, Portugiesische Republik, Republik Slowenien, Slowakische Republik, Republik Finnland, Hellenische Republik und European Financial Stability Facility. 7 Juni 2010,* p. 2; *Europäischer Stabilitätsmechanismus,* http://de.wikipedia.org.; *Staatsschuldenkrise im Euroraum*, http://de.wikipedia.de; *Parlamentwahl in der Slowakei*. http://de.wikipedia.de

FINANCIAL ASSISTANCE TO MEMBER STATES AFFECTED BY THE PUBLIC FINANCE CRISIS

At the end of November 2010, Ireland was the first Eurogroup member to request financial assistance from the EFSF. It was not capable of repaying its debts as the profitability of the bonds it issued was too high. The European Union and the IMF granted Ireland a credit line of EUR 85 billion of which EUR 35 billion was to be allocated to the banking sector and the remaining EUR 50 billion to meeting the needs of the Irish government. Credit interest amounted to 5.8%. Ireland obtained financial aid on condition that it would undertake actions aimed at facilitating economic growth, introduce budget cuts and increase taxes which would enable reducing its budget deficit from approximately 32% of GDP in 2010 to 3% of GDP in 2015.[22] Portugal filed a request for financial support from the EFSF in April 2011. Portugal's decision resulted from the same reasons that made Ireland seek financial aid. Portugal's negotiations with the EU and the IMF ended in an agreement on the financial aid programme reached at the beginning of May 2011. The agreement foresaw, *inter alia*, that Portugal would get a credit line of EUR 78 billion. The interest on the loans was relatively low. In the case of IMF loans, the interest was to amount to 3.25% in the years 2011-2013 and in the four following years to 4.25%. The cost of the loans obtained from the EU was similar. Portugal undertook to lower its budget deficit from 9.1% of GDP in 2010 to 5.9% in 2011 and 3.0% in 2013. To this end, Portugal was to take numerous actions: raise selected taxes, shorten the period of entitlement to unemployment allowances, reduce public subsidies to private companies and CIT discounts, and privatise selected enterprises.[23]In addition, both Ireland and Portugal were assisted by the European Central Bank which acquired their bonds on the secondary market.[24]

It is worth noting that of the two Member States, only Ireland improved its public finances, which was largely the result of the measures adopted by the European Union. The Irish government intended to become independent of international aid as soon as possible.[25] The improvement of the condition of Irish public finance was brought about not only by the implementation of the agreement with the European Union and the International Monetary Fund, but also resulted from the level of development of the Irish economy. Ireland has a modern economy where services prevail, but at the same time it has a well-developed industrial production sector that generated 23.9% of the country's gross added value in 2009.[26]

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[22] *Cf. EU-Minister beschließen Irland-Hilfe*. Http:://www.manager-magazin.de/politik/weltwirtschaft, p. 1; *Irland bekommt 85 Milliarden von der EU*. http://www.welt.de, pp. 1-2; *Bruksela łagodzi zasady bailoutu*, "Dziennik. Gazeta Prawna" 7.03.2011, p. A8.

[23] *Cf. 78 Milliarden Euro Notkredite für Portugal*, "Frankfurter Allgemeine Zeitung" 5.05.2011, p. 9; *Lizbona pożycza na niski procent*, "Dziennik. Gazeta Prawna" 6-8.05.2011, p. A9.

[24] *Cf. Bundespräsident Wulff kritisiert EZB wegen Kauf von Staatsanleihen*, http://www.derwesten.de, p. 1.

[25] *Cf. Ihr Krisenländer, schaut auf Irland*, http://www.sueddeutsche.de/wirtschaft, p. 2.

[26] *Cf.* Eurostat, *Europe in figures. Eurostat yearbook 2011*, p. 48.

In Greece, the situation of public finances did not improve in the least. The financial support programme did not help, nor did the assistance given by the European Central Bank. It is worth noting that Greece obtained successive tranches of funds disbursed under the assistance programme after long talks with the so-called troika, i.e. with the representatives of the IMF, the European Commission and the ECB. The Bank mainly purchased Greek bonds.[27]

In Greece, the public finance crisis deepened in the first quarter of 2011. Budget inflows decreased in relation to the first quarter of 2010 by 5.1% (from EUR 12.362 billion to EUR 11.732 billion). At the same time budget expenditure increased by 23.79% (from 16.687 to 20.657 billion). The budget deficit went up by 106.4% in this period (from EUR 4.325 to 8.925 billion). Even if the salaries, benefits and pensions of public servants were reduced to zero, Greece would still suffer budget deficit in the first quarter of 2011. Greece could repay its debts only until July 2011.[28]

That appalling condition of Greek public finances was also a consequence of the acute economic crisis. The pace of economic growth fell by 5.5% in the first quarter of 2011 in comparison to the first quarter of 2010. None of the EU Member States experienced such a low economic growth rate.[29] The economic crisis was caused by reduced national demand and the outdated structure of the Greek economy. National demand decreased due to the implementation of the savings and reforms. The economy structure had a serious disadvantage: the share of industrial production was too low and the food industry had the biggest share. In 2009, Greek industry generated only 13.3% of the national gross added value.[30] Had Greece had a strong industry sector, it would have a positive impact on national demand (by stimulating investment demand) and exports.

As the Greek public finance crisis worsened, in March 2011 the heads of state and government of Eurogroup members decided to lenify the conditions of the support programme. The repayment period was extended from 3.5 to 7.5 years, and interest was reduced from 5.2 to 4.2. At the same time, Greece undertook to take some actions to lower its budget deficit, i.e. to widen its privatisation programme and introduce a debt brake.[31]

The financial standing of Greece was the topic of the Eurogroup finance ministers' meetings held in April and May 2011. Although the ministers were prone to provide Greece with further aid, the meetings did not produce any effects. Most ministers, especially French Minister Christine Lagarde, opposed the mild debt conversion postulated by representatives of Luxembourg and Germany (J.-C. Juncker

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[27] *Cf. Die EZB wird zum Problemfall*, http://www.wiwo.de, p. 2.

[28] *Cf. Fakten zur Griechenland-Debatte*, http:://www.querschuesse.de, p. 2; *Streit über griechische Sparbemühungen wird schärfer*, "Frankfurter Allgemeine Zeitung" 30.05.2011, p. 11.

[29] *Cf.* Eurostat. *Newsrelease, euroindicators nr 127/2011*, http://epp.eurostat.ec.europa.eu

[30] *Cf.* Eurostat, *Europe in figures. Eurostat yearbook 2011*, p. 48.

[31] *Cf. Euro-Rettungsfonds wird ausgeweitet*, http://www.wiwo.de, p. 1 and p. 2; *Pakt dla euro w wersji light*, "Gazeta Wyborcza" 14.03.2011, p. 25.

and W. Schäuble). That solution was also criticised by the representative of the European Central Bank. The French government and the ECB believed that rating agencies would consider the shifts in maturity dates to be a sign of bankruptcy with consequences difficult to predict. Wolfgang Schäuble proposed that Greek debts should be reduced and costs borne by private creditors. That suggestion was also criticised by most ministers. It was debated whether it was reasonable to adopt a new bailout programme that would provide Greece with further credits.[32]

Those differences in opinions had an impact on the Eurogroup finance ministers' meeting of 14 June 2011 in Brussels. An important step toward overcoming disagreements was the compromise reached by Chancellor Merkel and President Sarkozy in Berlin. They arrived at a conclusion that the participation of private creditors in saving Greece should be voluntary.[33] At the next Eurogroup meeting held on 20 June 2011 in Luxembourg, Eurogroup finance ministers reached some agreement on the next bailout programme for Greece. They decided that it would be financed from public and private sources. Creditors would (voluntarily) invest the income on expiring bonds in new Greek debt securities.[34]

The new (second) bailout programme for Greece was agreed on 21 July 2011 at the meeting of heads of state and government of the Eurogroup members in Brussels. It covered the years 2011-2014 and amounted to EUR 109 billion in total. That amount was to be disbursed by the EFSF and the IMF. EUR 34 billion was to meet the need to refinance the Greek debt, EUR 20 billion to increase the capital of Greek banks, EUR 35 billion to pay risk insurance as private creditors were to join the programme, and EUR 20 billion to buy Greek loans from private creditors.[35]

The participation of private creditors in this programme was to be voluntary. They could sell Greek loans or accept extension of the maturity date of securities. The loans would be purchased by EFSF at market price decreased by a specified sum. According to calculations of summit participants, private creditors would incur losses of EUR 12.6 billion in total. The banks announced that they would trade matured Greek loans for new loans with very distant maturity dates and a high degree of safety.[36]

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[32] *Cf. Sanfte Umschuldung für Griechenland rückt näher*, "Frankfurter Allgemeine Zeitung" 18.05.2011, p. 9; *EU zörgert mit weiteren Hilfen für Griechenland*, "Frankfurter Allgemeine Zeitung" 17.05.2011; *EU plant sanfte Umschuldung für Griechenland*, "Frankfurter Allgemeine Zeitung" 18.05.2011, p. 1; *Grecja się pali. Czy także zatonie?*, "Dziennik. Gazeta Prawna" 16.060.2011, p. A7.

[33] *Cf. Euro-Staaten ringen um Hilfen für Griechenland*, "Frankfurter Allgemeine Zeitung" 15.06.2011, p. 1; *Private Gläubiger sollen freiwillig Griechenland retten helfen müssen*, "Frankfurter Allgemeine Zeitung" 18.06.2011, p. 1.

[34] *Cf. Griechenland kann auf Abwendung des Staatsbankrotts hoffen*, "Frankfurter Allgemeine Zeitung" 21.06.2011, p. 1; *UE mówi jednym głosem. Będzie pomoc dla Grecji*, http://wiadomości.onet.pl, p. 1.

[35] *Cf.* A. Belke, Ch. Dreger, *Das zweite Rettungspaket für Griechenland und Perspektiven für die Europäische Zentralbank*, "Integration" no. 3/2011.

[36] *Cf.* A. Belke, Ch. Dreger, *op. cit.*, p. 215 and p. 216.

The programme also contained a series of provisions that were to streamline the servicing of the debt by Greece. Those provisions also applied to Ireland and Portugal. In result, the maturity date of future EFSF loans was extended from 7.5 to at least 15 years and at most 30 years, with a 10-year grace period. Interest on the loans was to be 3.5%. The credits were to be granted on very friendly terms.[37]

At the summit held in Brussels on 26-27 October 2011, the heads of state and government of Member States belonging to the euro area revised the second Greek bailout adopted in July 2011. The funds were not to exceed EUR 100 billion in total. It was decided that Greece's debt would be reduced by 50%, which was a (potentially) significant factor allowing Greece to overcome its public finance crisis in the future. That was why the arrangements were praised by Prime Minister George Papandreou.[38] They enabled the simultaneous launch of negotiations between the Greek government and the Institute of International Finance (IIF) that represented private creditors. The talks were not easy. The issue of the percentage by which the Greek debt should be reduced was disputed as well as the interest rate on loans granted by private creditors. According to the Greek government, the interest rate should amount to about 4% while the private creditors demanded 5%.[39] The agreement reached specified that the Greek debt held by private creditors would be reduced by 53.5%, and the interest rate would not exceed 3.65%.

The EU, the ECB and the IMF announced that the final adoption of the new bailout programme was dependant on whether the Greek parliament would pass the reform and savings package. The package was adopted by Greeks on 13 February 2012. Finance ministers of the Eurogroup member states could thus decide in favour of the second bailout programme for Greece at their meeting on 20-21 February 2012. The financial aid was to amount to EUR 165 billion of which 35 billion was the money transferred in the first bailout programme for Greece. It was decided that the second programme would be financed by the EFSF first and from mid-2012 by the ESM. Some funds were to be provided by the IMF. However, the amount of the IMF's contribution was not specified. In the statement by Eurogroup finance ministers the contribution of the IMF to the implementation of the programme was mentioned as notable.[40]

It was decided to allocate EUR 85 billion, of the EUR 165 billion fund, to strengthening the capital of Greek banks, EUR 50 billion to the service of the debt, and the remaining EUR 30 billion to insure loan exchange.[41] Eurogroup finance ministers reg-

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[37] *Ibid.*, p. 215.

[38] *Cf.* C. Colombier, *Zu wenig Europa im Reformpaket des Europäischen Stabilitäts- und Wachstumspakts*. "Die Volkswirtschaft. Das Magazin für Wirtschaftspolitik" no. 11/2011, p. 5; *Schuldenschnitt: Geschenk von den oder für die Banken*, http://www.abendblatt.de, p. 1.

[39] Cf. *Ateny bliżej bankructwa. Przerwa w negocjacjach z bankami*, "Gazeta Wyborcza" 14-15.01.2012, p. 8.

[40] Cf. *Parlament billigt Sparprogramm*, www.faz.net; *Die Griechenland-Hilfe im Überblick*, http://www.faz.net, pp. 1, 3 and 4.

[41] Cf. *Die Griechenland-Hilfe im Überblick...*, pp. 3 and 4.

ulated the decrease of the Greek debt in accordance with the agreement reached between the Greek government and the IIF. Private creditors were to renounce 53.5% of their receivables from Greece. That meant that Greece's debt would decrease by EUR 107 billion (from EUR 350 billion to EUR 243 billion). In return for the remaining receivables, private creditors would receive short-term loans of EUR 93 billion payable by the EFSF, as well as new Greek bonds of EUR 63 billion. The maturity of the latter was to amount to 30 years.[42]

Eurogroup finance ministers obliged Greece to adopt several parliamentary acts by the end of February 2012. Those acts were to come into force in the same year. They were to cover cuts in healthcare expenditure, the minimum wage cut, cuts in state spending and employment in public services, as well as a pension reform and cuts in various subsidies.[43]

ESTABLISHMENT OF FURTHER FACILITIES AIMED AT COUNTERACTING THE SOVEREIGN-DEBT CRISIS

Solutions adopted at the beginning of May 2010 were but temporary measures aimed at reducing the already apparent public debt in Eurozone member states. That is why it proved necessary to extend the range of tools for combating the debt and to establish permanent facilities. Thus the European Council, at its meeting held on 28-29 November 2010, pointed to the need for the introduction of a permanent anti-crisis mechanism that would guarantee financial stability of the entire euro area and to the need to introduce restriction to the Stability and Growth Pact. At the same time, Eurogroup ministers, in their statement of 28 November 2010, specified general principles of the functioning of such a mechanism. That statement was approved by the European Council.[44]

The mechanism would be based on the EFSF and would provide financial support to Eurozone member states that meet strict requirements compliant with the regulations on the Instrument. The task of the mechanism would be to prevent and significantly reduce the likelihood of (financial) crisis in the future. The loans granted would be favourable and second to IMF loans in terms of their status. The Member State would receive financial aid if it implemented the strict programme for the improvement of its economic and fiscal situation, and the Commission and the IMF, in cooperation with the European Central Bank, performed a thorough analysis of its capacity to service its debt. Eurogroup ministers were to take the decision on granting the financial aid unanimously.[45]

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[42] Cf. *Die Griechenland-Hilfe im Überblick...*, pp. 1 and 2; *Banken müssen für Griechenland stärker bluten*, http://www.faz.net, p. 2.

[43] Cf. *Die Griechenland-Hilfe im Überblick...*, p. 4.

[44] *Cf.* European Council, 16-17 December 2010, *Conclusions*, pp. 2 and 8; *So soll der Euro gerettet*, Http://www.ftd.de/politik/europa

[45] *Cf.* European Council, 16-17 December 2010, pp. 8 and 9 (The Eurogroup is a group within which Eurozone members coordinate their economic policies).

On 15 December 2010 at the Bundestag, Chancellor Merkel outlined conditions that the new mechanism would have to meet. The number of those conditions was higher than that the number of conditions in the statement of the Eurogroup ministers. It would be an (anti-) crisis mechanism for the Eurozone states so their sovereignty rights would not be transferred to the European Union. Financial aid would be granted if the entire Eurozone was jeopardised. The IMF would participate in supporting Member States experiencing financial difficulties. Private creditors would participate (on a case-by-case basis) in counteracting crisis situations and if any Member State was threatened by insolvency, they would be obliged to make a financial contribution. Starting from 2013, clauses concerning creditors' participation were to be included in agreements on all new loans taken by Member States in trouble.[46]

Once Member States agreed on the need to establish a permanent anti-crisis mechanism, the European Council (16-17 December 2010) could call on the Eurogroup ministers and Commission to complete their work on an international agreement by March 2011. The agreement was to be the basis for the new mechanism. It was agreed that its introduction would require an amendment to the Treaty on the functioning of the European Union and that the mechanism would replace the EFSF by mid-2013.[47]

To the end of 2010, methods of combating the financial crisis started to be disputed by some Member States. Belgium spoke in favour of increasing the volume of EFSF credit lines. In fact, the volume already amounted to EUR 250 billion as it was necessary to provide credit insurance. Most Member States were, however, against any increase in the EFSF volume, which was still apparent at the summit held on 16-17 December 2010.[48] Luxembourg and Italy were for the employment of Eurobonds, i.e. bonds jointly issued by a European debt agency that would allow for covering in full or in part the demand of Eurozone members for funds. Eurobonds would be beneficial especially for countries with low ratings, as the interest rate would be based on the average rating of all EU Member States.[49]

Chancellor Merkel opposed solutions supported by Belgium, Luxembourg and Italy. She believed that the founding treaties would not allow for Eurobonds. She also argued that the flat interest (on Eurobonds) for all Eurozone members would not

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[46] *Cf. Merkel legt Neun-Punkte-Plan vor*, http://www.faz.net, p. 4; *Regierungserklärung von Bundeskanzlerin Merkel zum Europäischen Rat am 16. und 17. Dezember in Brüssel*, http://www.bundesregierung.de, pp. 1-2.

[47] *Cf. European Council*, 16-17 December 2010, *Conclusions*, p. 1 and p. 2; *"PermanenterKrisenmechanismus" ab 2013*, http://www.faz.net, pp. 1-2.

[48] *Cf. Merkel gegen neue Notmassnahmen*, http://manager-magazin.de; *"Permanenter Krisenmechanismus ab 2013...*, pp. 1-2; *Mehr Geld, weniger Zinsen*, "Frankfurter Allgemeine Zeitung" no. 61, 14.03.2011, p. 14.

[49] *Cf. Merkel gegen neue Notmassnahmen*, http://manager-magazin.de; *Euro-Anleihen: Darumgeht es*, http://www.heute.de/ZDFheute.

persuade Member States to implement savings and painful reforms.[50] At the meeting of the European Council held on 16-17 December 2010, also France, Sweden and Austria opposed Eurobonds.[51]

The position of the German Chancellor on Eurobonds was fiercely attacked by the President of the Eurogroup, Luxembourg Prime Minister Jean-Claude Juncker. He accused Angela Merkel of "unrefined thinking" and "non-European conduct".[52]

At the turn of 2011, Germany proposed "a pact for competitiveness". The German government wanted to use the pact to overcome (in the long-term), the financial crisis in the Eurozone. The pact was to introduce "a debt brake" in Member States belonging to the euro area. That brake was to be modelled on Germany's anti-crisis instrument. Other measures involved adjustment of retirement age to demographic data and freezing the automatic indexation of salaries against inflation. Other goals included mutual recognition of school and professional certificates, establishment of national banking systems of combating the crisis and uniform CIT. The effects of the implementation of the pact would be evaluated by means of objective criteria, i.e. labour unit cost, stability of public finance and minimum rate of investment in R&D, education and infrastructure. The German government foresaw the application of financial sanctions on Member States that would failed to comply with the provisions of the pact. According to the Chancellor, the legal basis for sanctions was Article 136 of the Treaty on the functioning of the European Union. Under this Article, EU Member States could decide whether a given Member State pursued wrong policies and should be fined. In order to prevent further divisions in the EU, the German government invited also non-Eurozone members to join the pact. Under the pact, the economic policies of Member States would be coordinated to an extent. Merkel called the above "an economic government".[53]

It is worth noting at this point that, in Germany, the pact did not meet with full support of the ruling coalition. FDP politicians were against the introduction of the common CIT which, according to them, would lead to the end of competitiveness in the area of taxes. President of the European Council Herman Van Rompuy and, to a large extent, Nicolas Sarkozy opted for the adoption of the pact.[54]

At the beginning of 2011, the unwillingness of most Member States to increase the volume of EFSF credits waned. Germany also altered its position, whereby Minister Wolfgang Schäuble insisted on a solution opposite to that promoted by President of the European Commission José Manuel Barroso, i.e. to link the changes to

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[50] *Cf. Merkel gegen neue Notmassnahmen*. http://manager-magazin.de

[51] *Cf. Merkel sieht EU auf dem Weg zu gemeinsamer Wirtschaftsregierung*, http://www.faz.net, p. 2.

[52] *Cf. Merkel legt Neun-Punkte-Plan vor*..., p. 3 and p. 4.

[53] *Cf. Frau Merkel serviert schwere Kost*, "Die Welt", 4.02.2011, p. 4; *Merkel ängstigt Europa Schwache*, "Die Welt" 5.02.2011, p. 9; *Deutschland will bald Beschluss zu EU-Koordination*, "Frankfurter Allgemeine Zeitung" no. 26, 1.02.2011, p. 13; *Das große Euro-Tohuwabohu*, "Frankfurter Allgemeine Zeitung" no. 26, 1.02.2011, p. 13.

[54] *Cf. Deutschland will bald Beschluss zu EU-Koordination*..., p. 13.

the EFSF with other planned reforms of the currency mechanism.[55] At the same time, Schäuble opposed the tendency of some Member States to pass the costs of increasing EFSF credit capacity to the Federal Republic of Germany and other EU Member States of highest creditworthiness such as Austria, Finland, France, the Netherlands and Luxembourg.[56]

On 4 February 2011, another meeting of the European Council was held. It was dedicated to the struggle against the sovereign-debt crisis. The participants agreed on numerous projects constituting elements of a large reform package. The proposals included, *inter alia*, the drafting of specific proposals by the Eurogroup aimed at strengthening the EFSF, work on designing operations of the (permanent) European Stability Mechanism and the pact for competitiveness.[57]

The proposal of the pact was presented by the German Chancellor in agreement with President Sarkozy. At the meeting, some of the proposed provisions of the pact were heavily criticised. The most criticised provisions included e.g. the postulated harmonisation of the CIT rate. Cyprus, Ireland, Slovakia and the Netherlands were against this solution.[58] Cyprus, Ireland and Slovakia had low CIT rates.[59] Belgium and Luxembourg opposed the suggested abandonment of adjusting salary scales for inflation. In Belgium, salaries rose more slowly than labour effectiveness. That is why the cancellation of salary indexation had no economic grounds. Luxembourg politicians doubted whether that solution would improve the economic situation in their country.[60]

Austria and the Netherlands were against the EU regulating retirement age. Austria justified its position by stating that its economic situation was good.[61] Most Member States frowned at Germany's postulate to introduce debt anchors to national constitutions. EU institutions criticised EU Member States for attempting to coordinate their economic policies practically excluding the European Commission and the European Parliament from this process.[62]

Eurogroup finance ministers managed to reach an agreement on some elements of the permanent ESM formula at the meeting of 15 February 2011. They decided that their member States would contribute EUR 500 billion to the mechanism. Ad-

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[55] *Cf. Finanzminister wollen Rettungsschirm erweitern*, "Frankfurter Allgemeine Zeitung" no. 14, 18.01.2011, p. 2.

[56] *Cf. Finanzminister Schäuble gegen einseitige Belastung für Deutschland*, "Frankfurter Allgemeine Zeitung" no. 15, 19.01.2011, p. 9.

[57] *Cf.* European Council, *Conclusions*, 4.02.2011, pp. 12-13.

[58] *Cf. Jagd auf den Yeti*, "Der Spiegel" 14.02.2011, p. 25; *Szczyt państw strefy euro przypomni o jej kłopotach*, "Rzeczpospolita" 5-6.03.2011, p. B3; *Merkel ängstigt Europa Schwache...*, p. 9.

[59] In Cyprus, the CIT rate was 10%, in Ireland 12.5%, and in Slovakia 19%. *Cf. Firma w UE*, http://www.ck.agh.edu.pl.

[60] *Cf. Jagd auf den Yeti...*, 14.02.2011, p. 25; *Niemcy są pewni, że potrafią wypełnić pustkę po Brukseli*, "Dziennik Gazeta Prawna" 10.03.2011, p. A11; *Ein Pakt für Wettbewerbsfähigkeit*, http://www.ksta.de, p. 2.

[61] *Cf. Merkel ängstigt Europa Schwache...*, p. 9.

[62] *Cf. Frau Merkel serviert schwere Kost...*, p. 4.

ditionally, the IMF was to provide EU 250 billion, and non-euro EU Member States were to make voluntary contributions.[63]

In response to the strong criticism of the pact on competitiveness expressed by some Member States, President of the European Commission José Manuel Barroso and President of the European Council Herman Van Rompuy prepared a compromise document consulted with Eurozone members.

The authors of the document refused to abandon salary indexation and to mutually recognise school and professional certificates. At the same time they postulated that Member States should be capable of implementing the remaining proposals of Chancellor Merkel (e.g. regarding retirement age) in the form of declarations of intent. As a result, German proposals were notably weakened. According to José Manuel Barroso and Herman Van Rompuy, Member States were to discuss the implementation of their obligations at one of the annual summits of heads of state and government. The document also contained recommendations on the pay policy in the public sector and improvements in pay indexation where it was applied.[64]

The "Pact for the Euro", drafted to a large extent on the basis of the document of compromise delivered by the two EU politicians, was adopted without much dispute at the European Council meeting of 11 March 2011. The principles and objectives of the Pact implementation were described in the Pact. The main goals were to foster competitiveness and employment, contribute further to the sustainability of public finances and to reinforce financial stability. When formulating the objectives, reforms which were priorities were pointed out. It was decided, after the document drafted by José Manuel Barroso and Herman Van Rompuy, that each year Eurozone members would decide on concrete actions on the European Council's forum.[65]

At the meeting held on 11 March 2011, the heads of state and government of the euro area devoted much time to discussing the (permanent) ESM and EFSF. They drew many important conclusions. They agreed that the ESM would be capable of granting loans of EUR 500 billion in total and that financial aid would be provided at the request of a Eurogroup member on condition that such an intervention would be assessed as necessary for the stability of the entire Eurozone. The decision on ensuring financial aid would be taken unanimously, and financial aid would be dependent on close adherence to a designed macroeconomic adjustment programme. Eurozone heads of state and government also decided that the EFSF would achieve its full capacity to grant loans of EUR 440 billion in total upon the launch of the (permanent) EMS. That meant that they consented to the granting of additional warranties securing credits. Only Finland opposed those decisions.[66]

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[63] *Cf. Schäuble: höhere Belastung durch Euro-Krisenfonds*, "Frankfurter Allgemeine Zeitung" no. 39, 16.02.2011, p. 9.

[64] *Cf. Merkels Pakt ist kein Pakt mehr*, "Frankfurter Allgemeine Zeitung" no. 51, 2.03.2011, p. 12.

[65] *Cf. Kritik am Euro-Kompromiss aus Koalitionsfraktionen*, "Frankfurter Allgemeine Zeitung" no. 61, 14.03.2011, p. 1; *Conclusions of Eurozone heads of governments and stated of 11 March 2011*, pp. 5-12.

[66] *Cf. Konkluzje szefów państw lub rządów strefy euro...*, pp. 4-5; *Der endgültige Euro-Krisenfonds steht*, "Frankfurter Allgemeine Zeitung" nr 69, 23.03.2011, s. 10.

Member States kept working on the restricting conditions and measures of the Stability and Growth Pact. EU finance ministers made the decision at their meeting on 15 March 2011. As followed from the adopted provisions, Member States would be punished not only for budget deficits, but also for incurring debt and negative turnout balance on current accounts. Member States with a debt-to-GDP ratio exceeding 60% would be obliged to reduce the difference between the debt and the reference value by 1/20 every year. Should the European Commission decide that the negative turnout balance on current accounts was too high, the Commission would be entitled to launch appropriate proceedings.[67]

Member States subjected to excessive deficit, debt or negative debit balance procedures would have to submit a deposit amounting to 0.2% of their GDP. If a Member State fails to improve its financial standing, the deposit will be turned into a fine. It would be difficult for Member States to avoid sanctions, as they could only be waived by a resolution of the Council of the European Union passed by a majority of 2/3 of votes.[68]

While debating the (permanent) ESM, the "key" according to which Eurozone members would participate in the financing of that mechanism was a highly controversial issue. According to Minister Schäuble, Slovakia and four other Eastern European Member States demanded a different division of financial obligations, arguing that the criteria preferred by the German Minister would be an excessive financial load.[69]

Germany decided to make concessions which allowed to reach an agreement on ESM regulations at the meeting of Eurogroup finance ministers on 22 March 2011.[70] Finance ministers considered the new mechanism to be a new international financial organisation modelled after the International Monetary Fund.

It was decided that the mechanism would dispose of funds amounting to EUR 700 billion, EUR 80 billion of which would be contributed by Member States and constitute its share capital. The remaining EUR 620 billion would encompass warranties of Member States and capital on demand. Generally, contributions to the ESM were to be calculated according to the principles adopted by the ECB in regard to shares in its basic capital. In regard to Central and Eastern European Member States, the strength of their economies would be taken into account as otherwise contributions of these countries would be too high. Half of the share capital was to be contributed in 2013. The last provision was the outcome of a compromise negotiated by Minister Schäuble. The mechanism would have the capacity to grant

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[67] *Cf. EU-Stabilitätspakt wird schärfer*, http://www.faz.net

[68] *Cf. EU-Finanzminister billigen Reform*, http:://www.manager-magazin.de/politik; *EU-Finanzminister beschließen strengeren Stabilitätspakt*, http://www.euractiv.de

[69] *Cf. EU streitet über Hilfsfonds und Irland*, "Frankfurter Allgemeine Zeitung" no. 68, of 22.03.2011, p. 11.

[70] *Cf. Der endgültige Euro-Krisenfonds steht...*, p. 10.

credits of EUR 500 billion in total and it would aim to strengthen its activities by involving the International Monetary Fund. Eurozone members experiencing financial difficulties would have the possibility of using credits, if that was necessary for maintaining the financial stability of the entire euro area. The debtor would have to meet rigid requirements on economic and fiscal policies. Interest on the loans would be similar to that applied to IMF bailout loans, i.e. it would be lower than the EFSF interest. The ESM would enjoy privileged status in relation to all other creditors, i.e. its receivables would have to be satisfied first.[71]

At the meeting of 24-25 March 2011, the European Council adopted an action package aimed at overcoming the financial crisis in the Eurozone. The Pact for the Euro was included as some non-euro Member States entered into that agreement, i.e. Bulgaria, Denmark, Lithuania, Latvia, Poland and Romania. For this reason the Pact was named the "Euro Plus Pact".[72]

The effectiveness of the Pact is dependent on the nature of actions it will promote. Of course, the Pact should support real reforms that lead to the rationalisation of state expenditure and elimination of obstacles to economic growth.

Another part of the package was constituted by the ESM regulations agreed upon by Eurogroup finance ministers, as well as the provisions adopted by heads of state and government on increasing the EFSF's lending capacity to EUR 440 billion. The European Council, however, introduced a change to these regulations. Its amendment concerned the deadline of making cash contributions to the mechanism. They were to be made annually for five years, starting from 2013. Angela Merkel pressed for that change and by doing so, she rejected the abovementioned compromise negotiated by Minister Schäuble. The decision of German Chancellor was motivated by the position of the CDU/CSU and the FDP parliamentary groups and economic conditionalities. The adopted solution could lower a new net debt of the Federal Republic of Germany.[73]

Owing to the positions of the Federal Republic of Germany and Finland, it was not agreed when the EFSF lending capacity would be increased. Germany intended to delay its decision on additional guarantees, and Finland was still against their granting.[74]

As mentioned above, the European Council agreed at its meeting of December 2010 that the establishment of the ESM would require amending the Treaty on the functioning of the European Union. In consequence, at the meeting held on 24-25 March 2011, the Council took the decision on adding the following paragraph to Article 136 of the Treaty: "The Member States whose currency is the euro may

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[71] *Cf. Neugestaltung der Währungsunion*, "Frankfurter Allgemeine Zeitung" no. 72, 26.03.2011, p. 11; *Der endgültige Euro-Krisenfonds steht...*, p. 10.

[72] *Cf. Neugestaltung der Währungsunion...*, p. 11.

[73] *Cf. ibid*., p. 11, 6.

[74] *Cf. ibid*.; *Der endgültige Euro-Krisenfonds steht...*, p. 10.

establish a stability mechanism to be activated if indispensable to safeguard the stability of the euro area as a whole. The granting of any required financial assistance under the mechanism will be made subject to strict conditionality". The decision was to enter into force on 1 January 2013, on condition that notifications of ratification were received from all EU Member States. If that was not the case before 1 January 2013, it was to enter into force on the first day of the month following the receipt of the last of the notifications.[75]

The European Union decided – in compliance with the resolutions of the finance ministers of EU Member States – to tighten the Stability and Growth Pact. In the end, this was regulated by five regulations and one directive, i.e. by the so-called six-pack, adopted by the Parliament and EU Council at the turn of October 2011. All those legal acts entered into force on 13 December 2011.[76]

Both preventive and corrective/repressive arm regulations were made stricter. Provisions on the implementation of sanctions were introduced to the preventive arm. Sanctions were to be imposed when a given Member State failed to specify its medium-term budgetary objective. The ECOFIN adopted an appropriate resolution based on the recommendation of the European Commission by a qualified majority of votes. The penalised Member State would be obliged to submit an interest-bearing deposit amounting to 0.2% of its GDP. If a Member State provides false data on its budget deficit and debt, it would be fined an additional sanction of 0.2% of GDP.[77]

In the preventive arm, the significance of the European Commission in the decision-making process was increased. The EU Council received the power to lift the sanctions, i.e. cancel the implementation of Commission recommendations, but only if such a decision was adopted by an ordinary majority of votes.[78]

In the repressive arm, the list of cases in which the anti-deficit procedure applies was broadened. The anti-deficit procedure was to be launched if the debt of a given EU Member State exceeded 60% of GDP or was not being reduced fast enough. The anti-deficit procedure was shortened and the scale of applied sanctions was increased. Shortening the procedure was possible with rising the role of the Commission. Sanctions against a Member State that violated the binding provisions were to be applied automatically in line with the recommendations of the Commission, unless the EU Council passed a veto by a qualified majority of votes. Thus sanctions could be called "quasi-automatic". The imposed fine was a non-interest-bearing deposit amounting to 0.2% of GDP. If the Member State failed to adhere to the binding

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[75] *Cf. Neugestaltung der Währungsunion...*, p. 11; European Council, 24-25 March 2011, *Conclusions*,

[76] *Cf. Neugestaltung der Währungsunion...*, p. 11; *Der endgültige Euro-Krisenfonds steht...*, p. 10.

[77] *Cf.* European Council, 24-25 March 2011, Conclusions, p. 6; *European Council Decision of 25 March 2011 amending Article 136 of the Treaty on the Functioning of the European Union with regard to a stability mechanism for Member States whose currency is the euro* (2011/199/EU). "Official Journal of the European Union" 6.04.2011, L91, p. 2.

[78] *Cf. Six-Pack tritt am Dienstag in Kraft*, http://derstandard.at.

provisions again, the deposit was to be converted into a fine. That fine would be higher if the Member State failed to comply with the recommendations of the Commission.[79]

Under the legal acts passed by the European Parliament and Council, the supervision of the macroeconomic development of EU Member States was increased, which was aimed at detecting problems as fast as possible and correcting the "harmful" macroeconomic instabilities and differences in competitiveness levels. The ECOFIN monitors the situation and is authorised, at the request of the European Commission, to provide a Member State with recommendations on how to overcome current assets imbalances. If such recommendations are not implemented, their recipient is obliged to submit an interest-bearing deposit. If the Member State continued to sabotage the activities suggested by the Council, the deposit would be converted into a fine of 0.1% of GDP.

It should be underlined that in such a case the sanctions are also quasi-automatic. The recommendations are drafted in accordance with the request of the European Commission, unless the ECOFIN rejects the Commission's request with a qualified majority of votes. The introduction of quasi-automatic sanctions has increased the effectiveness of the Commission's actions.

When adopting the six-pack, the EU Council and the European Parliament followed the regulations adopted by EU finance ministers on 15 March 2011. Some issues, however, sparked serious controversies. These were the issue of applying quasi-automatic sanctions in the preventive arm and the elimination of positive (surplus) current account balances. France was particularly not in favour of such penalties, and the Federal Republic of Germany also was not too happy with them. Germany, similarly as the European Parliament, did not opt for the elimination of positive current account balances. France had a contrary opinion on that issue.[80] The position of Germany is fully understandable – its economy is characterised by outstanding international competitiveness. At the same time, Germany's position is compliant with the basic principle of capitalism, i.e. the principle of free market competition.

Finally, a compromise was reached. France and Germany pushed through their postulates on the nature of the sanctions specified in the preventive arm of the Pact, and at the same time France revised its position concerning the issue of positive current account balance.[81]

THE DEEPENING PUBLIC FINANCE CRISIS IN THE EUROZONE AND ITS CONSEQUENCES

In the second half of 2011, the public finance crisis hit Italy while the economic situation in Spain deteriorated. The debts of both Member States grew systematically, which induced rating agencies to lower their creditworthiness. Standard&Poor's and Fitch did so at the end of September and at the beginning of 2011. In consequence,

[79] *Cf.* C. Colombier, *op. cit*., p. 6.
[80] *Ibid*., p. 6.
[81] *Ibid*., pp. 5-6.

the interest on Spanish and Italian bonds went up notably. To provide an example: in November 2011, the interest on Spanish treasury bonds was higher than 6%.[82]

As the public finance crisis in the Eurozone worsened, Germany and France put forward a few significant (from the perspective of combating such crises) proposals at the European Council meeting of 8-9 December 2011. It was the Federal Republic of Germany which had the casting vote on their wording. Both Member States proposed the application of automatic sanctions to EU Member States that fail to keep their deficits below 3% of GDP. They also postulated the introduction of debt brakes to the national legislature of Member States, and demanded that the European Court of Justice monitors compliance with such provisions. France and Germany believed that for those proposals to enter into force, it was necessary to amend the Treaty on the functioning of the European Union. They expressed their support for the launch of the ESM already at the end of 2012.[83]

The Franco-German postulates did not touch upon the issue of introducing Eurobonds, which was favoured by France. Germany was strongly against this solution.[84] At the mentioned meeting, most Member States did not share France and Germany's opinion on the amendment of the Treaty but supported the position of the President of the European Council, Herman Van Rompuy, who suggested changing only the Protocol to the EU Treaty. The latter solution would take less time to complete and would not require ratification.[85] Finally, it was decided to enter into an intergovernmental agreement as the Member States would not consent to the terms put forward by the UK. The UK made its consent to amending the Treaty (as well as the Protocol to the Treaty) dependent on the adoption of a regulation that would exempt the UK from complying with some EU regulations on the financial market.[86]

Eurozone heads of state and government decided that the provisions on the introduction of new financial regulations to national constitutions would be included in the intergovernmental agreement. The annual structural budget deficit was not to exceed 0.5% of nominal gross domestic product. If a Member State violated that principle, the European Commission would specify the date by which the Member State should reach the admissible deficit level.[87]

At the meeting other details of the contents of the intergovernmental agreement were agreed upon. The agreement stipulated that any violation of the Stability and Growth Pact would incite specific actions unless Eurozone members vetoed

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[82] *Cf. Durchbruch bei Verhandlungen über Stabilitätspakt*, "Frankfurter Allgemeine Zeitung" 8.09.2011, p. 11.

[83] *Ibid.*

[84] *Cf. Italien und Spanien werden in die Pleite gestuft*, http://www.heise.de; *Fitch stuft Kreditwürdigkeit Italiens und Spaniens*, http://de.nachrichten.yahoo.com; *Wraca zaufanie do Włoch i Hiszpanii*, "Dziennik. Gazeta Prawna" 13-15.01.2012, p. A5.

[85] *Cf. Merkel und Sarkozy Vertragsänderung im März 2012*, http:://www.faz.net.

[86] *Ibid.*

[87] *Cf.* Sarkozy: *Wir brauchen mehr Disziplin und gemeinsames Regieren*, "Frankfurter Allgemeine Zeitung" 9.12.2011, p. 1.

such a decision by a qualified majority of votes. The agreement would also contain the principle that Member States with debt exceeding 60% of GDP were obliged to gradually decrease their debt volume. Each and every year, such Member States would have to lower the amount of debt exceeding the admissible level by 5%.[88]

Eurozone heads of state and government undertook to support the introduction of the ESM already in July 2012. They decided, together with their peers representing the remaining EU Member States, to discuss the issue and confirm their contribution of additional funds amounting to EUR 200 billion in the form of bilateral loans to the IMF within ten days.[89] The objective of the latter solution was to increase the role of the Fund in the struggle against the Eurozone public finance crisis. They agreed that the EFSF capacity to grant loans would be tripled (via leverage) to about EUR 750 billion.[90]

Negotiations on the contents of the intergovernmental agreement, i.e. the Fiscal Compact, were conducted at a fast pace. Before the European Council meeting of 30-31 January 2012, the issue of whether non-euro EU Member States would participate in the implementation of the Compact was still particularly controversial. France opposed their participation while Poland, supported by e.g. the European Central Bank, was an ardent supporter of this solution.[91] The Polish government made the undoubtedly correct assumption that if only 17 Eurozone members participated in the Fiscal Stability Treaty, then the continent would be divided into a Europe of "two speeds".

At the meeting of the European Council in the end of January 2011, the participants managed to end the dispute and reach a compromise. Generally, Eurozone Member States were to deliberate on their own, and non-euro EU Member States had the right to participate in crucial meetings on e.g. a global strategy of the Monetary Union, competitiveness of EU Member States and principles of the Fiscal Compact. In result, the European Council could write down the international agreement . At the summit, it was also agreed that the Pact would enter into force if it was ratified by twelve Member States. The Czech Republic and the UK did not intend to participate in the Compact.[92] At the meeting of the European Council, the agreement on the establishment of the (permanent) European Stability Mechanism was also written down.[93]

The Fiscal Pact was signed at the Brussels summit on 2 March 2012 by 25 EU Member States (except for the Czech Republic and the UK).[94]

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[88] *Cf. Ein Europa der Geschwindigkeit*, "Frankfurter Allgemeine Zeitung" 10.12.2011, p. 2.

[89] *Cf. Merkel: Gipfel ist der Durchbruch zu einer Stabilitätsunion*, "Frankfurter Allgemeine Zeitung" 10.12.2011, p. 1; European Council, *Statement by the Euro area Heads of State or Government*, Brussels, 9 December 2011, p. 3.

[90] *Cf.* European Council, *Statement*..., p. 3; *"Durchbruch zu Stabilitätsunion"*, "Frankfurter Allgemeine Zeitung" 10.12.2011, p. 2.

[91] *Cf.* European Council, *Statement*..., pp. 5 and 6.

[92] *Cf. Was auf dem Gipfel beschlossen wurde*, http://www.spiegel.de, p. 1.

[93] *Cf. Union streitet vor dem EU-Gipfel über den Inhalt des Fiskalpakts*, "Frankfurter Allgemeine Zeitung" 30.01.2012, p. 11.

[94] *Cf. EU-Gipfel beschließt Fiskalpakt und ESM-Vertrag*, http://www.faz.net, pp. 1 and 2.

CONCLUSIONS

The Eurozone is troubled with the public finance crisis. The crisis first surfaced in Greece, i.e. at the beginning of the 21st century. In the years 2010 and 2011, it affected more EU Member States (Ireland, Portugal, Spain and Italy).

Many collective instruments were introduced in the European Union to combat the crisis. These included temporary and permanent measures. The former embraced financial aid programmes for Greece, the European Stability Mechanism and the purchase of loans issued by Eurozone states struggling with the sovereign-debt crisis by the ECB, while the latter included the Euro Plus Pact, stricter provisions of the Stability and Growth Pact and the Fiscal Compact. In the future, the (permanent) European Stability Mechanism would be added to the latter group of instruments. The adopted solutions have been the outcome of difficult negotiations, and some contradicted the Treaty on the functioning of the European Union.

Temporary measures did not bring about significant positive results. Only in Ireland its financial situation improved, which was also due to Ireland's modern economy structure. The condition of Greece's public finances is still very bad. At the end of 2011, the Greek national debt amounted to EUR 355 billion, i.e. 163% of GDP. At the beginning of 2012, Greece was EUR 15 billion short on funds to repay debts due, according to the estimates of the European Commission, the ECB and the IMF.

However, one should not expect the bankruptcy of Greece though many economists propose such a solution (this assessment was formulated at the beginning of 2012). Eurozone politicians are generally against the adoption of this solution. They fear consequent financial losses.[95] Generally, expelling Greece from the Eurozone has not been an option, as it would suggest to financial market players that the European Union "lets euro states fall".[96] This opinion, expressed by Volker Kauder, Chairman of the CDU/CSU group in the Bundestag, undoubtedly reflects the position of Angela Merkel's government. That is why, in the future, more bailouts would have to be provided to Greece.

Permanent instruments for combating debt might yield results in the case of most Eurozone states if they are consistently applied to achieve the set goals. It seems that the situation that occurred at the beginning of the 21st century will not repeat itself. It was in 2003, when the EU Council rejected recommendations of the European Commission to launch the procedure against France and Germany for their excessive budget deficit and thus the procedure was suspended. Instead of applying the sanctions, the Council acknowledged the unilateral obligations of both Member States to limit their budget deficits and called for improving their budget situation in 2005.[97]

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[95] *Cf. EU-Gipfel beschließt Fiskalpakt und ESM-Vertrag*, http://www.faz.net, pp. 1 and 2.

[96] *Cf.* Merkel: *Fiskalpakt ein Meilenstein der Geschichte der EU*, "Frankfurter Allgemeine Zeitung" 3.03.2012, pp. 1-2.

[97] *Cf. Schwarzer Peter*, "Der Spiegel" no. 5/2012, p. 19.

There is a risk that France and Germany will use the Fiscal Compact to harmonise taxes in the Eurozone, i.e. to introduce a single (unified) tax base and unified rates. In their letter presented at the European Council meeting of 30-31 January 2012, Angela Merkel and Nicolas Sarkozy informed that they would present proposals concerning the harmonisation of some taxes (on corporate income, financial transactions and energy sources). Some Eurozone states rightly fear that this might be the first step toward the harmonisation of the Corporate Income Tax rate.[98]

The above would be tantamount to introducing tax rates as high as those in Germany and France in the whole Eurozone, which would have a negative impact on Member States with low income tax rates. It would slow down economic growth and international competitiveness, and, consequently, hamper the struggle against growing debts.

ABSTRACT

The author presents initiatives launched by the European Union in order to overcome the financial crisis of the Eurozone member states. To meet this goal, emergency instruments were created (aid programmes for Greece, the European Stability Mechanism and purchase by the European Central Bank of loans issued by countries of the Eurozone in debt crisis) as well as permanent instruments (the Euro Plus Pact, sharpened regulations of the Stability and Growth Pact and the Fiscal Pact). Emergency measures did not bring about any substantial positive effects, since only the financial situation of Ireland improved to some extent. The state of public finances in Greece is still critical and therefore many economists suggest that this country should declare its bankruptcy. Permanent instruments to fight debt might yield the desired effects (in the case of the majority of the Eurozone countries) if they are used consistently and in accordance with their purpose.

[98] *Cf. Durchbruch bei Verhandlungen über Stabilitätspakt*, "Frankfurter Allgemeine Zeitung" 27.01.2012, p. 2.

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POLAND'S NATIONAL AND FOREIGN DEBT

GLOBAL FINANCIAL CRISIS AND EXCESSIVE BUDGET DEFICIT PROCEDURES

The global financial crisis at the turn of 2010 and 2020 was a fact which had serious macroeconomic consequences for the world, Europe, the Eurozone, and Poland.

It can be assumed that the fall of one of the largest American investment banks, Lehman Brothers, was a strong manifestation of the global financial crisis and take this date as the starting point for crisis analyses though the reasons of the crisis probably lie much deeper and reach much further back. Lehman Brothers went bankrupt on 15 September 2008 and they were the first domino to fall – it was soon revealed that their collapse impacted many seemingly powerful financial institutions. The dominant role of banks in unleashing the crisis stemmed from liberalisation of economy accompanied by its deregulation. This created favourable conditions for the fast growth of refundable forms of financing enterprises and consumption. The competition between banks and the increased market supply and consumption were not insignificant as their synergy led to the granting of loans to individuals and entities with decreasing repayment capacity. The rescue plan of US Secretary of State Henry Paulson was to buy out mortgage secured non-liquid assets of banks in return for USD 700 billion. After numerous heated discussions, the plan was implemented, which was the curtain-raiser for large-scale intervention activities. It seems likely that the crisis spread mainly through financial channels and to a large extent resulted from collective actions of financial market players. Intervention activities focused mainly on sustaining financial liquidity of the banking sector. This was done by guaranteeing the repayment of liabilities by banks, extension of deposit warranties, lowering interest rates, increasing the capital of banks, as well as by taking over threatened assets and imposing limits on short-term, and to a large extent speculative, sales (to 15 days).[1] The rescue plan for banks operating in the UK equalled

[1] *Cf.* W. Nawrot (2009), *Globalny kryzys finansowy XXI wieku. Przyczyny, przebieg, skutki, prognozy*, Warszawa, pp. 131-138, cf. also http:__www.efixdm.pl_C_P_doc_News_0020OgraniczenieSS.html. Accessed 11 November 2011.

USD 697 billion, which matched the level of financial aid provided in the United States.[2]

Owing to international financial ties, the crisis that surfaced in the USA spread out to Europe and countries with less-developed economies.[3] The situation complicated seriously with the economic crisis in Greece, Portugal and Ireland, as well as in Spain and Italy – large states of the euro area. This might impact the entire European Union. The common denominator of the wide-spread crisis is the growing public debt.

The Delors report drafted in 1989 presented the concept and stages of establishing the Economic and Monetary Union underlining that fiscal policy discipline is equally important for the functioning of the single currency as the monetary policy. Limitations on this policy should be incorporated in the institutional framework of national policies and included in the Community's legal framework.[4] General provisions of the Treaty of Maastricht on limiting budget deficit to 3% of GDP and public debt to 60% of GDP were to be detailed in the Stability and Growth Pact.[5] The implementing regulations imposed numerous obligations on the Member States. The most important ones were the obligation of Eurozone states to draft stability programmes and in the case of non-euro EU Member States to draft, convergence programmes. The 2005 revision introduced the requirement to submit medium-term budget objectives for each and every Member State, except for the UK. The excessive budget deficit procedures were introduced and precisely formulated. It was also agreed that the sanction on not meeting pre-set limits could not exceed 0.5% of GDP.[6]

Excessive budget deficit procedures apply to all Member States, but financial sanctions can only be imposed on Eurozone Member States. The procedures foresee the submission of e.g.:

1. a report by the European Commission on the relation of government and local government institutions' deficit to the GDP and its monitoring by the EC;
2. an opinion of the Economic and Finance Committee composed of representatives of the Ministry of Finance and the central national bank of a Mem-

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[2] *Cf.* W. Nawrot, *op. cit.*, p. 149.

[3] 2001 Nobel Prize winner, American economist Joseph E. Stiglitz underlined that "the current global financial crisis carries a *made-in-America* label", after: A. Wojtyna, *Gospodarki wschodzące wobec kryzysu gospodarczego – duża odporność czy podatność?* in: A. Wojtyna (ed.) (2011), *Kryzys finansowy i jego skutki dla krajów o średnim poziomie rozwoju*, Warsaw, p. 19.

[4] *Cf.* L. Skiba, *Polityka fiskalna w unii walutowej*, http://www.piotr.wseip.edu.pl/pliki/R–06.pdf. Accessed 15.11.2011.

[5] *Cf.* http:/europa.eu_legislation–summaries_economic–and–monetary–affairs_stability–and–growth–pact_index–en.htm. Accessed 17 November 2011.

[6] http:/eur-lex.europa.eu/LexUriServ_LexUriServ.do?uri/CELEX:31997R1466:PL:NOT, http:/eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri/DD:10:01:31997R1466:PL:PDF. Accessed 17 November 2011.

ber State and a representative of the Commission and the European Central Bank;
3. a preliminary opinion of the European Commission on launching the excessive budget deficit procedure;
4. the final position of the European Commission on starting the abovementioned procedure;
5. the final confirmation of the excessive budget deficit issued by the EU Council. The EU Council also specifies the period in which the deficit should be lowered to less than 3% of GDP and recommends how this should be achieved.

The EU Council has the right to oblige a Member State to submit a non-interest-bearing deposit that can be converted into a fine.

The algorithm used to calculate the deposit amount is:

$$D = 0.1\ (P + 0.002\ \text{GDP})$$

where:
D – agreed deposit amount
P – amount by which the deficit limit was exceeded
GDP – gross domestic product

However, the procedures presented above have not been applied so far and their efficiency has been notably limited. In 2003 the described procedure had been initiated in the case of Germany and France, the largest EU Member States and Eurozone members. The Commission assessed that their draft budgets for 2004 did not implement the recommendations on limiting deficits and prepared a draft declaration for the EU Council, which was to constitute the basis for imposing financial sanctions on Germany and France. Despite the recommendations of the European Commission, the EU Council did not share its opinion on the need to start the procedure. Steps taken by Germany and France ensured that the European Commission's decision was not supported by the required majority of votes. Despite many efforts of the Commission, the European Court of Justice ruled that decisions of the Council are sovereign in this respect.[7]

The reasons for the increase in public debt are numerous and they constitute a complex structure of cause-and-effect dependencies, however, bringing the initiated procedures to a halt was conducive to the growth of debt and led to the weakening of strict procedural principles.

[7] *Cf.* Department of Media and Communications, press release no. 57/0413, July 2004. Judgement of the Court of Justice in Case C-27/04, the Commission of the European Communities vs. the Council of the European Union, http:/curia.europa.eu/jcms/upload/docs/application/pdf/2009-02/cp040057pl.pdf. Accessed 18 November 2011.

POLAND'S PUBLIC DEBT AND DEBTS OF EU MEMBER STATES

Public debt and budget deficit are closely related economic categories. Their meanings are only seemingly obvious and uncontroversial. In economics, public debt is associated with the loans taken out by the state.[8]

From the Polish perspective, the definition seems to be important as it is not entirely clear whether the debt incurred under the Communist rule (and associated with the financing of not always rational economic undertakings) has been fully repaid.[9]

In Polish publications, the term "public debt" is often referred to its definitions in successive public finance acts.[10]

Polish legal solutions[11] use the term "state [national] public debt"[12] which covers the financial liabilities on treasury bills and bonds, credits, loans, received deposits, and obligations (liabilities) due to e.g. execution of court rulings, administrative decisions, etc.[13]

The term "budget deficit" does not arouse any doubts about its interpretation. It means expenditure higher than income.[14] Budget deficit can also be defined from the perspective of budget balance, i.e. the situation where budget expenditure is covered by income, whereby a budget surplus, i.e. the positive difference between income and expenditure, does not disrupt the balance.[15]

The causes of budget deficit and public debt are interwoven. Undoubtedly, the abovementioned judgement of the European Court of Justice endorsed more lenient sanctions applied in the case of excessive budget deficit, which stimulated Member States to increase debt with impunity.

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[8] "The accumulated borrowed amounts of the government go by the name *government debt* or *public debt*" (P. A. Samuelson, W. D. Nordhaus (1995), *Ekonomia*, vol. 1, Warsaw, p. 541).

[9] Public (national) debt is the total outstanding debt of the state. "If the government is responsible for the debts incurred by nationalised industry sectors (as is the case in Great Britain), then it would be correct to combine the state budget deficit with the debt of nationalised industry sectors and consider it to be the public sector debt" (D. Begg, S. Fischer, R. Dornsbusch (1992), *Ekonomia*, vol. 2, Warsaw, p. 84).

[10] "By public debt, one understands the total of nominal liabilities of entities classed as public finance sector entities, after the deduction of mutual liabilities (i.e. after debt consolidation)" A. Wernik (2011), *Finanse publiczne*, Warsaw, p. 106.

[11] "Public debt is most often defined as the sum of financial liabilities of public authorities (state and local government) resulting from incurred loans" (S. Owsiak (2004), *Finanse publiczne. Teoria i praktyka*, Warsaw, p. 251).

[12] Article 72 of the Public Finance Act of 27 August 2009 (Journal of Laws No. 157 of 2009, item 1240).

[13] *Cf.* Article 72, par. 1, point 1-4 of the abovementioned Act, *ibid*.

[14] D. Begg, S. Fischer, R. Dornsbusch, *op. cit.*, vol. 2, p. 68.

[15] *Cf.* A. Wernik, *op. cit.*, p. 73.

Table 1

Public deficit and debt and profitability on 10-year bonds in EU Member States

	2009			2010		
	Deficit/ surplus	Debt	10-year interest	Deficit/ surplus	Debt	10-year interest
	% of GDP	% of GDP	%	% of GDP	% of GDP	%
Greece	-15.4	127.1	5.17	-10.5	142.8	9.09
Italy	-5.4	116.1	4.31	-4.6	119.0	4.04
Belgium	-5.9	96.2	3.90	-4.1	96.8	3.46
Portugal	-10.1	83.0	4.21	-9.1	93.0	5.40
Hungary	-4.5	78.4	9.12	-4.2	80.2	7.28
France	-7.5	78.3	3.65	-7.0	81.7	3.12
Germany	-3.0	73.5	3.22	-3.3	83.2	2.74
Austria	-4.1	69.6	3.94	-4.6	72.3	3.23
United Kingdom	-11.4	69.6	3.36	-10.4	80.0	3.36
Malta	-3.7	67.6	4.54	-3.6	68.0	4.19
Ireland	-14.3	65.6	5.23	-32.4	96.2	5.74
The Netherlands	-5.5	60.8	3.69	-5.4	62.7	2.99
Cyprus	-6.0	58.0	4.60	-5.3	60.8	4.60
Spain	-11.1	53.3	3.98	-9.2	60.1	4.25
Poland	**-7.3**	**50.9**	**6.12**	**-7.9**	**54.9**	**5.78**
Finland	-2.6	43.8	3.74	-2.5	48.4	3.01
Sweden	-0.7	42.8	3.25	0.0	39.8	2.89
Denmark	-2.7	41.8	3.59	-2.7	43.6	2.93
Latvia	-9.7	36.7	12.36	-7.7	44.7	10.34
Slovakia	-8.0	35.4	4.71	-7.9	41.0	3.87
Czech Republic	-5.9	35.3	4.84	-4.7	38.5	3.88
Slovenia	-6.0	35.2	4.38	-5.6	38.0	3.83
Lithuania	-9.5	29.5	14.00	-7.1	38.2	5.57
Romania	-8.5	23.6	9.69	-6.4	30.8	7.34
Bulgaria	-4.7	14.6	7.22	-3.2	16.2	6.01
Luxembourg	-0.9	14.6	4.23	-1.7	18.4	3.17
Estonia	-1.7	7.2		0.1	6.6	
Eurozone	**-6.3**	**79.3**	**3.82**	**-6.0**	**85.1**	**3.62**
EU	**-6.8**	**74.4**	**4.13**	**-6.4**	**80.0**	**3.83**

Source: *Strategia zarządzania długiem sektora finansów publicznych w latach 2012-2015.* http://mof- net.gov.pl/–files–/dlug–publiczny/strategie–zarzadzania–dlugiem/strategia–zarzadzania–dlugiem–2012-15.pdf. Accessed 21 November 2011.

One should also mention social costs as they become an especially heavy burden in times of crisis, when the economy breaks down and income drops, and the state needs to provide more financial support to various entities. Economic slowdowns entail interventions that, according to Keynesian theory, are most often connected with increasing the debt. In Poland, apart from the abovementioned causes, one should also point to the costly pension reform. Its implementation requires additional PLN 20 billion per year as both the "old" system needs to be sustained and the new one has to be financed. It should also be mentioned that some decisions on reduction of pension premiums and taxes were not the best.

The starting point for performing this evaluation is the observation that the average budget deficit of EU Member States in 2010 amounted to 6.4% of GDP and decreased by 0.4% of GDP within one year. In the Eurozone, the average deficit was lower and dropped from 6.3% to 6%. In Poland, the deficit went up from 7.3% to 7.9% of GDP. Similar trends could be observed in the relation of public debt to GDP. The EU average in 2009 amounted to 74.4% and, in the course of 2010, went up to 80.0%. The relevant index for the Eurozone increased from 79.3% to 85.1%. The share of public debt in Poland's GDP rose from 50.9% to 54.9% in the same period.

It follows from the above data that although the share of Poland's public debt in the GDP was notably lower than that in Eurozone states and in the entire European Union, the rise of the budget deficit to the GDP ratio from 7.3% to 7.9% could be interpreted as a highly alarming phenomenon that called for counteractions.

Interest rates on medium- and long-term treasury bonds are indicative of investment risk and financial stability of countries that issue them. Lack of financial stability and increased investment risk are reflected by higher interest on such securities. It ought to be underlined that the drop (Table 1) in the interest on Polish 10-year bonds from 6.12% to 5.78%, i.e. by 5.6%, reflects the increase in Poland's trustworthiness on international markets.

One ought to note that the interest on Greek, Portuguese, Irish and Spanish bonds rose, and that interest on Italian government bonds is on the rise. This process is clearly correlated with the worsening economic situation of these Member States.

POLAND'S PUBLIC DEBT AND BUDGET DEFICIT IN THE YEARS 2009-2011

In this part the focus is on Poland's public debt and budget deficit in the years 2009-2011. The year 2009 is the starting point as that is when the first symptoms of the crisis triggered by turmoil on the real estate market became apparent.

As statistical data and financial reports on the GDP are published on a quarterly basis, the quantitative data is to be presented for three-month periods. In 2009, Poland's nominal GDP amounted to PLN 1,343.4 billion. In 2011, it equalled PLN 1,522.7 billion.

The debt incurred by the public finance sector went up from PLN 627.6 billion to PLN 815.3 billion at the end of 2011, i.e. by 29.96%. The public debt to GDP ratio

displayed an upward trend. That index went up from 46.72% to 53.54% at the end of 2011.[16]

The debt of the government sector rose from PLN 597.5 billion to PLN 748.81 billion, i.e. by 25.32%, but its share in the GDP exhibited a downward trend (drop from 95.21% to 91.84% in 2011). The debt of the local government sector grew by 131.85%, and its share grew from 4.41% to 7.8%.

The debt incurred by the social security system was highly volatile, and in the last period it exhibited an explicitly downward trend. This component of the public debt was highest in Q4 of 2009 reaching PLN 7.0 billion, i.e. 1.0% of public debt total. At the end of 2011, it amounted to PLN 2.28 billion, i.e. 0.28% of public debt.

From the above data provided by the Central Statistical Office (GUS) and the Ministry of Finance, it follows that despite a difficult situation marked by economic downturn, in the analysed period the public debt to GDP ratio exhibited a slightly downward trend and started to grow in the last six months. The ratio depends on the volatility of the debt of the government, local government and the social security system. The debt generated by the government sector is slightly but systematically growing. However, its share in the GDP is on decrease. The debt generated by local government keeps growing. This is mainly due to the necessity to pre-finance municipal investments the cost of which is partly reimbursed at a later date. The dynamic growth of the latter is one of the causes of the increase in the debt-to-GDP ratio.

The decreasing deficit in the social security sector is a positive development which results mainly from the diversion of a portion of pension contributions from the so-called "second pillar" individual accounts.

The 2011 data show that the public-debt-to-GDP ratio was 53.54%, i.e. below the 55% threshold and thus its level was relatively safe. Was it higher, strict prudential and remedial procedures would have to be launched.

PRUDENTIAL AND REMEDIAL PROCEDURES

The provisions of the Maastricht Treaty concerning public debt are reflected in the Constitution of the Republic of Poland. Public debt cannot exceed 3/5 of annual gross domestic product.[17] This constitutional limitation was the basis for adopting special prudential and remedial procedures whose launch is to prevent exceeding the specified debt limit. Should the limit be exceeded, the threat is that further necessary and excessive credits generating unduly high service costs would be taken out and probably disrupt the economy notably.

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[16] Data on 2011 GDP, Statistics Department of the National Bank of Poland, *Informacja wstępna nr 2 z 2012 r.*, http://www.nbp.gov.pl/publikacje/informacja–wstepna/2012/2012–02.pdf. Accessed 4 April 2012.

[17] *Cf.* Article 216 par. 5. Constitution of the Republic of Poland (Journal of Laws of 1997, No. 78, item 483, of 2001, No. 28, item 319, of 2006, No. 200, item 1471, of 2009, No. 114, item 946).

Table 2

Poland's public debt and GDP in the years 2009-2011 in PLN million

	Q1 2009	**Q2 2009**	**Q3 2009**	**Q4 2009**
GDP, nominal	1,343,366			
Public debt	627,623.1	635,614.8	659,789.7	669,876.4
%	46.72	47.32	49.11	49.87
Government debt	597,532.1	603,894.0	625,698.7	623,592
%	95.21	95.01	94.83	93.09
Local government debt	27,704.3	29,296.9	32,072.0	39,324.7
%	4.41	4.61	4.86	5.87
Social security debt	2,386.7	2,423.6	2,018.9	6,959.8
%	0.38	0.38	0.31	1.04
	Q1 2010	**Q2 2010**	**Q3 2010**	**Q4 2010**
GDP, nominal	1,415,385			
Public debt	688,573.0	721,938.4	746,164.0	747,698.8
%	48.65	51.01	52.72	52.83
Government debt	646,222.7	678,158.1	698,597	692,360.5
%	93.85	93.94	93.63	92.60
Local government debt	38,768.0	40,620.0	44,708.8	53,519.0
%	5.63	5.63	5.99	7.16
Social security debt	3,582.4	3,160.3	2,858.2	2,019.3
%	0.520	0.44	0.38	0.27
	Q1 2011	**Q2 2011**	**Q3 2011**	**Q4 2011**
GDP, nominal	1,522,700			
Public debt	778,214.2	785,981.4	798,919.5	815,324.8
%	51.11	51.62	52.47	53.54
Government debt	722,455.5	729,394.1	739,550.1	748,812.9
%	92.84	92.80	92.57	91.84
Local government debt	54,048.4	54,914.3	57,892.0	64,232.8
%	6.95	6.99	7.25	7.88
Social security debt	1,710.3	1,673.0	1,477.2	2,279.1
%	0.22	0.21	0.18	0.28

Source: http://www.stat.gov.pl/gus/wskazniki–makroekon–PLK–HTML.htm, Part 4. Annual macroeconomic indices: http://www.nbp.gov.pl/publikacje/Informacja–wstepna/2011/2011–09.pdf; http://mofnet.gov.pl/dokument.php?const=5&dzial=590&id=70517; http://www.nbp.gov.pl/publikacje/informacja–wstepna/2012/2012–02.pdf. Accessed 31 March 2012. Author's own calculations.

The Minister of Finance is obliged to annually report the amount of public debt incurred in Poland, as well as the debt of the State Treasury and the amount of non-due liabilities of the State Treasury and local government on account of granted credit warranties and guaranties, and the ratio of these amounts to the GDP. The report is published in the "Monitor Polski", the official journal of the government of the Republic of Poland. That report gives the balance as at the end of the calendar year and should be published by 31 May of the following budget year.[18]

The procedure outlined above has three variants depending on the ratio (henceforth *r*) of the public debt to the GDP.

1. If $50\% < r \leq 55\%$,

then the Council of Ministers is obligated to present a draft budget act that meets the following requirement:

$$Def_{BPn} / Doch_{BPn} \leq Def_{BP(n\text{-}1)} / Doch_{BP(n\text{-})}$$

where:

Def_{BPn} – state budget deficit in the coming year,
$Doch_{BPn}$ – state budget revenues in the coming year,
$Def_{BP(n\text{-}1)}$ – state budget deficit in the current year as in the budget act,
$Doch_{BP(n\text{-})}$ – state budget revenues in the current year as in the budget act.

2. If $55\% < r < 60\%$,

then the Council of Ministers adopts a draft sustainable budget or specifies the budget deficit *DefBPn* to meet the formula below:

$$DSPn / PKB_n < D_{SP(n\text{-}1)} / PKB_{(n\text{-}1)}$$

where:

D_{SPn} – budget deficit planned for the coming year,
PKB_n – estimated GDP in the coming year,
$D_{SP(n\text{-}1)} / PKB_{(n\text{-}1)}$ – the ratio specified in a Notice

Moreover, the budget act does not foresee any increases in salaries in the public service sector while indexation of pensions and disability allowances cannot exceed the price index of consumer goods and services announced by the Central Statistical Office (GUS) for the previous budget year. The act bans granting new credits and loans from the budget and any rise in expenditure on institutions whose budgets are part of the state budget (and whose budgets cannot be adjusted by Minister of Finance) cannot exceed the rise index for government administration.[19] The Council

[18] *Cf.* Article 38 of the Public Finance Act of 27 August 2009 (Journal of Laws of 2009 No. 157, item 1240 and 1241, of 2010 No. 28, item 146, No. 96, item 620, No. 123, item 835, No. 152, item 1020, No. 238, item 1578, No. 257, item 1726, of 2011 No. 185, item 1092, No. 201, item 1183).

[19] This refers to the Chancellery of the President, Senate and Sejm [Parliament], Supreme Audit Office, Supreme Court, Constitutional Tribunal, Supreme Administrative Court and its regional bodies, National Council of the Judiciary, common courts, Commissioner for Children's Rights, Commissioner

of Ministers is obliged to carry out a review of expenditure financed from foreign funds and long-term programmes, and is also obliged to present a remedial programme aimed at improving the debt-GDP-ratio.

In the case of local government units, their expenditure should not exceed their revenues plus available funds and available budget surplus of previous years, as well as non-refundable foreign funds.

3. If $r \geq 60\%$,

then the abovementioned procedures are launched, and the Council of Ministers is also obliged to present a remedial programme to the Sejm [Parliament] within one month. The recovery programme should be aimed at lowering the *r* index to less than 60%. The programme should contain a description of the causes of the incurred debt, the action plan for lowering the debt and a three-year outlook for the relation of the public debt to the GDP. The budgets of local government units cannot close with budget deficit.

Starting from the seventh day after the Notice about the debt- GDP-ratio is published, the units of the public finance sector cannot grant credit warranties or guaranties.

The solutions mentioned above are not applied in the case of martial law introduction, the declared state of emergency due to a natural disaster or the general state of emergency in the territory of the whole state.

THE EXCHANGE RATE AND ITS IMPACT ON PUBLIC DEBT

In this case, it is worth performing a more thorough analysis of the threat of an increase in public debt resulting from an unexpected rise in the value of the Polish zloty (PLN) in relation to the euro and the US dollar, which would be reflected by the increase in the nominal value of foreign debt and might imply the necessity to initiate prudential and remedial procedures.

At the end of 2011, Polish public debt amounted to PLN 815.3 billion, which translates into the debt-to-GDP ratio of 53.54%. The mechanism of prudential and remedial procedures presented above points to hardships to be suffered by the state and the society. In the context of the presented above trends in the debt-to-GDP ratio, unpredictable and sometimes speculative exchange rate fluctuations might play a decisive role in pushing the *r* index to exceed its limit(s). In this analysis, foreign debt is calculated against the exchange rate at the end of a reporting period.

In the analysed period, i.e. from 2009 to mid-2011, Polish national debt went up by 22.08% while foreign debt increased by 50.76%. One ought to emphasise here that Poland's foreign and national debt increased at a similar pace, which was thus

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for Citizens' Rights, National Broadcasting Council, Inspector General for the Protection of Personal Data, Institute of National Remembrance, Central Election Office, and the National Labour Inspectorate (*cf.* Article 139 par. 2 of the Public Finance Act).

the pace at which the public debt grew. However, since the third quarter of 2011, the share of national debt fell by 4.29% in total, and the share of foreign debt rose by the same percentage. This altered the relation between national and foreign debt. The share of national debt fell from 72.61% to 68.32%, and at the same time the share of foreign debt went up from 27.39% to 31.68%.

The currency of 21.4% of the debt of the State Treasury was incurred in euros, 4.7% in dollars, and only 4.6% in other currencies. One might therefore assume that 82% of foreign debt can be expressed in euros, and 18% in dollars. Consequently, it can be estimated that as at the end of 2011, the debt amounted to EUR 47.9 billion and USD 14.1 billion, according to the table of exchange rates of 30 December 2011 where the exchange rate for EUR 1 equalled 4.4168 and for USD 1 it was 3.4174. Assuming there were no other variables, one can estimate the exchange rate that would lead to the exceeding of the 55% public-debt-to-GDP ratio.

Table 3

National and foreign public debt in PLN million

	Q1 2009	**Q2 2009**	**Q3 2009**	**Q4 2009**
Public debt	627,623.1	635,614.8	669,876.4	669,876.4
National debt	456,312.1	471,101.1	493,817.5	493,817.5
%	72.70	74.12	73.72	73.72
Foreign debt	171,311.0	164,513.5	176,058.9	176,058.9
%	27.30	25.88	26.28	26.28
	Q1 2010	**Q2 2010**	**Q4 2010**	**Q4 2010**
Public debt	688,573.0	721,938.4	747,698.8	747,698.8
National debt	505,044.2	520,699.3	543,388.5	543,388.5
%	73.35	72.13	72.67	72.67
Foreign debt	183,528.8	201,239.1	204,510.3	204,510.3
%	26.65	27.87	27.35	27.35
	Q1 2011	**Q2 2011**	**Q3 2011**	**Q4 2011**
Public debt	778,214.2	785,981.4	798,919.5	815,324.8
National debt	569,224.2	570,725.7	552,424.0	557,055.8
%	73.14	72.61	69.15	68.32
Foreign debt	208,990.0	215,255.7	246,495.4	258,268.9
%	26.85	27.39	30.85	31.68

Source: http://mofnet.gov.pl/dokument.php?const=5&dzial=590&id=70515. Accessed 31 March 2011. Author's own calculations.

Poland's foreign debt is to a large extent determined by the relation of the PLN exchange rate to the EUR and USD. Considering the GDP at the end of 2012 and national and foreign debt volumes, one can estimate the borderline exchange rates for the EUR and the USD which would lead to exceeding the 55% public-debt-to-GDP ratio. It is worth underlining that the analyses of exchange rate fluctuations given in the tables of exchange rates indicate that the variability pattern of rates for the EUR to the USD and to the PLN is highly similar.

The maximum exchange rate for the EUR and USD to the PLN amounted to PLN 4.90 and PLN 3.90 respectively on 18 November 2009.[20] This corresponds to the volume of foreign debt that amounted to PLN 288.0 billion after its conversion. At those exchange rates, the hypothetical public debt would amount to PLN 845.1 billion, and its relation to the GDP estimated for the current year would produce the index of 55.5% which would necessitate the launch of strict prudential and remedial procedures.

As it is impossible to indicate any significant reasons for such a low PLN exchange rate, one might consider it highly likely, or even bordering on certain, that the rate was a result of speculations directed at weakening the PLN.

Using the same procedure, one can calculate the borderline EUR-to-PLN and USD-to-PLN exchange rates that would rise the public-debt-to-GDP ratio to the level of 55%. This index would mean that public debt reached PLN 837,485 million. The borderline exchange rate is an estimate, so one should assume that national debt remains stable and amounts to PLN 557,055.8 million. This means that the foreign debt hypothetically amounts to PLN 280,429 million. The above corresponds to the index that reflects debt growth triggered by the growth of the exchange rate by 8.57%. It follows that 1 EUR = 4.79 PLN and 1 USD = 3.71 PLN are the rates that do not increase public debt over 55% of GDP.

It seems that exceeding those borderline exchange rates is highly unlikely. However, the question arises whether it is possible to prevent this highly improbable, yet possible threat. Some measures are in the hands of the National Bank of Poland, which has the right to intervene.[21] A limited inflow of euros obtained from the European Union within various policy frameworks via the BGK (Poland's only state-owned bank) to the market was effective, as it both strengthened the Polish currency and the exchange rate for Euro to the PLN was favourable.

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[20] http://www.nbp.gov.pl_home.aspx?f//kursy_kursy–archiwum.html. Accessed 31 March 2012.

[21] Communication of the NBP, *W godzinach popołudniowych NBP dokonał sprzedaży pewnej ilości walut obcych za złote*, Publication date: 29-12-2011, http://www.nbp.gov.pl_home.aspx?f//aktualnosci/wiadomosci–2011/in29.html. Accessed 1 January 2012.

PUBLIC DEBT UNDER THE "SIX-PACK" AND INTERNATIONAL AGREEMENTS

The lack of consistency in adhering to the provisions of the Maastricht Treaty on admissible budget deficit and public debt was one of the reasons of the uncontrollable debt growth in such Member States as Greece, Spain, Portugal and Italy. Those developments shook the euro and pushed for strong interventions necessary for restoring financial stability in the entire European Union. At the same time, all EU Member States became aware of the necessity to strengthen fiscal regime. It was necessary to develop consistent and irreversible procedures limiting budget deficits and public debts, and indisputable financial sanctions for their violation.

Taking decisions on those issues – fundamental for the functioning of the Eurozone and the entire European Union, became the task of the Polish Presidency.[22] The agreement reached by the European Parliament and the EU Council is a success in regulating fiscal policy in its broad sense. The necessity to introduce new regulations results from the insufficiency of the Stability and Growth Pact. To solve the problem of incoherent fiscal policy, a new financial directive has been adopted and provisions regulating this policy have been revised. The former is the MTO, i.e. *medium-term budgetary objectives*. The adopted solutions adjust the rigid provisions of the abovementioned Pact by taking into consideration such variables as the impact of a business cycle period, debt volume, increase in costs due to the ageing of the society and the implementation of pension reforms related to the introduction of a capital insurance pillar. Generally, this is about lowering the chances of exceeding the 3% borderline level of public-debt-to-GDP ratio. Member States that do not meet the MTO criterion should lower their debt-to-GDP rate by 0.5% per year.

Another amendment to the regulation applies to those Member States whose public-debt-to-GDP ratio exceeds 60% and obliges the Member States to lower this ratio annually by 1/20 of the amount exceeding the 60% limit.

Taking into account the experience accrued until now, the consequences of implementing sanctions on failing to adhere to the adopted provisions should be considered to be crucial for the effectiveness of fiscal provisions. There is a possibility of imposing sanctions on EU Member States that grossly violate the MTO index. They have to submit an interest-bearing deposit equal to 0.2% of their respective GDP. A non-interest-bearing deposit of the same percentage applies to Member States subjected to the excessive budget deficit procedure. A non-refundable fine can be imposed on Member States that fail to implement recommendations to reduce deficit or falsify statistical data. At the same time, it is possible to implement the excessive deficit procedure at a quicker pace though the provisions do not clearly stipulate what a significant and sustainable reduction of deficit to a level close to the 3% limit means.

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[22] Based on: M. Barańczak, M. Rozkrut, *Sześciopak – nadzieja czy porażka?* http://www.rp.pl/artykul/9157,732018.html. Accessed 3 January 2012.

The presented solutions deserve praise for making procedures precise and streamlining the enforcement of budget deficit and public debt limitations.

The summit of heads of state and government of EU Member States held in December 2011 ended with an agreement on the pact regulating the fiscal policy. This was an international agreement and not an amendment to EU Treaties as this option was vetoed by the UK. Thus the causative power of the provisions has been markedly weakened as they apply to those Member States that sign the agreement only. The agreement was signed by the Eurozone states and 6 other EU Member States, Poland included. Its signing and consistent implementation makes overcoming the public debt crisis and stabilising the Eurozone possible. Achieving stabilisation in this area conditions Poland's accession to the Monetary Union and, as it seems, prevents the development of a two-speed Europe.

THE FISCAL PACT AS THE DESIRED FORM OF INTEGRATED ECONOMIC STABILITY POLICY AND A HIGHER FORM OF EU INTEGRATION

The integration of the monetary policy of EU Member States is highly advanced. Employing available monetary policy instruments should be considered to be effective, and the supreme position of the European Central Bank over national banks does not arouse serious concerns. However, there is a striking divergence between the quite consistent implementation of the monetary policy and the lack of coordination and excessive freedom of fiscal policies. Despite the restrictive regulations of the Maastricht Treaty, not even major EU Member States have adhered to pre-set limits and the postulated solutions have not been implemented. The global financial crisis should force the EU to introduce more radical, generally implemented and enforced solutions. In these circumstances, the launch of drafting the agreement titled the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union should be praised. On 2 March 2012, the document was signed by heads of state and government of 25 EU Member States. Its main objective is to prevent excessive debts of Member States. The key arrangements adopted under this agreement embrace the following:

- the adoption of the budget rule under which the structural deficit cannot exceed 0.5% of nominal GDP, and public debt cannot be higher than 60% of GDP;
- the automatic imposing of financial sanctions amounting to 0.1% of GDP for violating fiscal limitations; rulings in this area are to be issued by the European Court of Justice and the imposed fines are to be transferred to the International Stability Fund.

It ought to be added that the European Commission is to supervise the implementation of fiscal provisions. Member States that declare accession to the Pact should grant legal force to its provisions and give preference to the constitutional sanctioning of the adopted rule.

As the United Kingdom and the Czech Republic did not join the Pact, the document is an international agreement. The UK vetoed the amendment of the contents of the Treaty. The discussed agreement was to enter into force on 1 January 2013 on condition that it was ratified by 12 of the 17 Eurozone member states. One ought to add that only the Member States that ratify the agreement would be entitled to avail themselves of the European Stability Mechanism (ESM), whose resources will most probably exceed the amount of trillion euros.

The purposefulness of the signed agreement is beyond doubt. It is a step toward the deepening of not only economic, i.e. fiscal and monetary, but also of political integration. The question arises whether such integration does not entail undue interference in the internal affairs of EU Member States and whether it does not limit sovereignty. By signing the Maastricht Treaty, Poland undertook to participate in the monetary integration process but did not provide its deadline for completing this task. In the course of time, it has become evident that monetary integration requires the deepening of fiscal integration. The latter offers an opportunity to compete for the old but also the emerging economic powers.

ABSTRACT

The beginning of the global economic crisis can be identified with the collapse of Lehman Brothers, an American investment bank. Liberalisation and deregulation processes enhanced competition on the market of goods and services and also on the market of loans, granted to persons and entities of decreasing repayment capacity. The crisis triggered large-scale interventionism, which in turn led to a substantial growth of public debt. A lack of consequences in implementing the procedures of excessive debt must be considered the major cause of a widespread growth of public debt in the EU Member States. This policy is responsible for the fact that the average public debt of EU countries in 2010 amounted to 80% of the GDP with 85.1% in the Eurozone. The Polish public debt at the end of 2011 was 53.5% of the GDP. Measures aimed at reducing the public debt of the Member States to the level provided for in the Treaty of Maastricht must be appreciated. The considered solutions include the so-called "six pack" and the Treaty on the Stability, Coordination and Governance in the Economic and Monetary Union. Ratification of those agreements and their implementation in respective constitutional arrangements would be desirable.

PRZEGLĄD ZACHODNI
I, 2013

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LEGISLATIVE CHALLENGES FOR THE EUROPEAN UNION AFTER THE TREATY OF LISBON ENTERED INTO FORCE

The European Union currently experiences an exceptionally difficult period. The outburst of financial crisis in 2007 created unfavourable conditions and new challenges with which Member States have struggled by drafting an international treaty on fiscal regime. At the same time, it has been the time of implementing and testing the provisions of the Treaty of Lisbon of 13 December 2007, which entered into force on 1 December 2009. At present, most researchers focus on problems resulting from the crisis and solutions proposed. The objective of this article, however, is to analyse legislative issues that are less often discussed. In recent years, some negative phenomena connected with the process of establishing EU law became apparent. Should they become regular practices, they might lead to, to quote historical institutionalists[1], "unintended consequences" in the future.[2] Early identification of the threats and appropriate remedies is an important task and challenge for the entire European Union. Postponing it cannot be justified with the struggle against the financial crisis.

In this article, at least six problems of legislative nature that the EU will have to solve in the future are identified. In the first part an analysis is offered whose results demonstrate that the Treaty of Lisbon deepened the legislative exclusion of the European Parliament by increasing the number of areas where the EP has no competences, in terms of both relative and absolute numbers. In the second part the claim that the ordinary legislative procedure prevails in the EU is refuted by demonstrating that more than half of the treaty basis for enacting legislation includes other procedures. In the third part, negative consequences of trilogues, i.e. informal meetings of representatives of the Parliament, Council and Commission in the initial stages of the legislative procedure, are discussed. In the fourth part, the issue of the so-called early legislative agreements is debated. They result in almost complete disappear-

[1] See: C. Hay, D. Wincott, *Structure, Agency and Historical Institutionalism*, "Political Studies" 1998, vol. 46, no. 5, pp. 951-957; K. Thelen, *Historical Institutionalism in Comparative Politics*, "Annual Review of Political Science" 1999, vol. 2, no. 1, pp. 369-403.

[2] P. Pierson, *The Path to European Integration. A Historical Institutionalist Analysis*, "Comparative Political Studies" 1996, vol. 29, no. 2, pp. 136-139.

ance of the second and third reading and quicken the decision-making process. The fifth part contains an analysis of the effects of the degraded role of the European Parliament's committees in legislative proceedings. In the last part of this paper, the phenomenon of "the Council of Ministers without ministers" is characterised, i.e. the declining involvement of ministers in the legislative process.

LEGISLATIVE EXCLUSION OF THE EUROPEAN PARLIAMENT

For many researchers on the European Union, the entering into force of the Treaty of Lisbon (hereinafter also TL) marked a new stage of the functioning of the European Parliament. Most of them emphasised that the TL strengthened the legislative role of that institution by expanding the codecision procedure (the renamed ordinary legislative procedure, hereinafter - OLP) to cover farming and fishery, the Common Agricultural Policy, transport, structural funds, comitology, intellectual property and partly the former third pillar.[3] It was also underlined that the TL reformed the assent procedure[4] in a manner favourable for the Parliament, especially by introducing Article 218 to the Treaty on the functioning of the European Union (hereinafter - TFEU), under which EU international agreements "concerning the areas subject to the ordinary or special legislative procedure" would require the consent of the Parliament.[5] The power of that provision became apparent in February 2010, when MEPs refused to consent to the EU-USA agreement on banking data transfers to the USA via the SWIFT network (the so-called "SWIFT agreement"). [6] The TL also eliminated the cooperation procedure under which the European Parliament had the weakest position, i.e. after consultations.[7] In consequence, the European Parliament was to perform the most important role in the EU legal system.

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[3] J.-C. Piris (2010), *The Lisbon Treaty: A Legal and Political Analysis*, Cambridge, p. 118.

[4] The Treaty of Lisbon replaced the term *assent procedure* with *consent procedure*. Though both terms refer to the same procedure, the latter is more powerful. The word *assent* denotes agreement or acquiescence, i.e. relatively feeble approval, while *consent* designates absolute agreement without which no action can be taken. In the Polish versions of the Treaties, this change was not noted.

[5] *Consolidated versions of the Treaty on European Union and the Treaty on the functioning of the European Union,* "Official Journal of the EU" of 30 March 2010, C 83, p. 145.

[6] *Legislative resolution of the European Parliament of 11 February 2010 on the proposal for a Council decision on the conclusion of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Programme (05305/1/2010 REV 1 – C7-0004/2010 – 2009/0190(NLE))*, "Official Journal of the EU" of 16 December 2010, C 341 E, p. 100. Later on, after the introduction of some changes, the agreement was approved.

[7] *Decision Making under Different Institutional Arrangements: Legislation by the European Community*, "Journal of Institutional and Theoretical Economics" 1994, vol. 150, no. 4, pp. 642-669; C. Crombez, *Legislative Procedures in the European Community*, "British Journal of Political Science" 1996, vol. 26, no. 2, pp. 218-220. Other opinions in: G. Garrett, G. Tsebelis, *An Institutional Critique of Intergovernmentalism*, "International Organization"1996, vol. 50, no. 2, p. 290.

However, if one counted the provisions on the legislative competences of the Parliament or their lack, the conclusion can be completely different (Chart 1). Paradoxically, the Lisbon Treaty did not widen the general legislative competence of the Parliament but weakened it! Since the Roman Treaties of 25 March 1957 entered into force, the absolute number of primary law provisions that contained any procedure in which the Parliament was involved kept growing and the TL strengthened that trend. Since the establishment of the European Economic Community (EEC) and the European Atomic Energy Community (Euratom) an increase in the EP's legislative competences was not accompanied by the introduction of many articles excluding its competences but the TL (and the Constitutional Treaty) constituted a tipping point: the number of excluding provisions was increased by almost 2/3 (from 70 articles in the Nice Treaty to 112 articles in the TL). The above observations might, however, be distorted as in successive treaties the general number of provisions and EU/EC competence areas rose. That is why the issue should be considered in terms of relative numbers. Such an analysis leads to similar conclusions. From the entering into force of the Single European Act of 17-28 February 1986, the percentage share of primary law articles that did not grant legislative powers to the European Parliament gradually decreased, only to go up in the TL (from 33.8% in the Nice Treaty to 36.8% in the TL). To sum up, though the Lisbon Treaty notably expands the competences of the EU legislature, it simultaneously excludes the EP from some decision-making areas, whereby the latter effect is dominant.

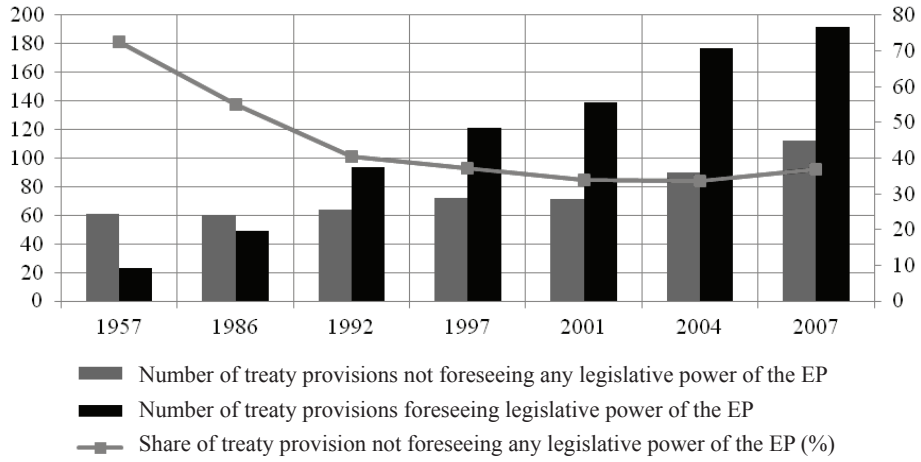
The legislative exclusion of the Parliament means that the EP loses its formal impact in many important areas. This refers mainly to the Common Security and Defence Policy and partly to the former third pillar[8], but also to issues previously covered by the EU first pillar policies, e.g. fixing the Common Customs Tariff duties (TFEU, Article 31), fixing quantitative limitations of fishing opportunities (TFEU, Article 43, Par. 3), establishing other sources of aid than those granted by a Member State for entities compatible with the internal market (TFEU, Articles 107 and 108) or the application of penal measures if a given Member State incurs excessive deficit (TFEU, Article 126). In those areas, the Council holds legislative monopoly. Some legislative power is also granted to other EU institutions and bodies (especially the European Council and the European Central Bank), while the role of MEPs boils down to exerting informal influence. The lack of mention of EP competences in 112 articles of the currently binding Treaties deepens information deficit in the EU. Making the entire documentation public results from the EP's participation in the

[8] For some researchers this is another argument confirming that the Treaty of Lisbon did not remove the pillar structure of the European Union. See: J. Gaspers, *The Quest for European Foreign Policy Consistency and the Treaty of Lisbon*, "Humanitas Journal of European Studies" 2008, vol. 2, no. 1, p. 35; S. Kurpas, *The Treaty of Lisbon – How Much "Constitution" is Left? An Overview of the Main Changes*, "CEPS Policy Brief" 2007, no. 147, p. 2; P. Kiiver, *Lisbon and the Lawyers Reflections on What the EU Reform Treaty Means to Jurists*, "Maastricht Journal of European and Comparative Law" 2007, vol. 14, no. 4, p. 338.

legislative process. Since other institutions are not obliged to publish all their documents, excluding the EU legislature is therefore tantamount to losing access to information on positions held by decision-makers, debates, the preparatory process and proceedings.[9] Marginalisation of the Parliament also means that legislative debates and public opinion control of the legislation have been brought to a halt. The above increases the distance between the European Union and its citizens and poses the risk of flawed legislation that is not suited to citizens' needs. Finally, it leads to excluding national parliaments, as – in compliance with the Treaties – they obtain information

Chart 1

Absolute and relative numbers of treaty provisions granting and not granting legislative powers to the European Parliament



Explanations: Left Y axis – absolute number of provisions, right Y axis – relative number (percentage).

Source: Author's own calculations based on EU Treaties. The years refer to the dates on which the Treaties were signed: 1957 – Roman Treaties, 1986 – Single European Act, 1992 – Maastricht Treaty, 1997 – Amsterdam Treaty, 2001 – Nice Treaty, 2004 – the Constitutional Treaty, 2007 – Lisbon Treaty.

[9] The Treaties only mention that all Member States shall engage in sincere cooperation (TEU, Article 4, judgement of the European Court in Case 204/86 *Hellenic Republic v Council* and judgement of the Court in Case 70/88 *Chernobyl*), as well as mutual consultations (TFEU, Article 295) between institutions, however, this is not tantamount to the automatic obligation to share information. History shows that the latter issue was the subject of informal agreements. See: R. Corbett, F. Jacobs, M. Shackleton (2000), *The European Parliament*, London, p. 176 ff. In the EU, the regulation on access to documents is still valid, but it is restrictive on public access to political documents drafted by the Council or other institutions. See: *Regulation (EC) no. 1049/2001 of the European Parliament and of the Council of 30 May 2001* regarding public access to European Parliament, Council and Commission documents "Official Journal of the EC" of 31 May 2011, L 145, pp. 43-48.

only about legislative acts[10], i.e. regulations, directives and decisions adopted "jointly by the Parliament and the Council, by the Parliament with the participation of the Council or by the Council with the participation of the Parliament".[11]

THE ILLUSION OF THE ORDINARY LEGISLATIVE PROCEDURE

A wide extension of the codecision procedure (as the OLP) with 44 new instances (30 articles where codeciding replaced other procedures, and 14 new articles) was positively evaluated by EU researchers. It was expected that as a result of the reform, approximately 95% of all EU secondary law would be adopted in accordance with the OLP.[12] Looking at the number of legislative proposals and acts adopted in the European Union in the years 1993-2011, one might consider the above prognosis to be accurate (Charts 2 and 3). Practically from the entering into force of the Maastricht Treaty (1 November 1993) to 2009, consultations were the prevailing legislative procedure. Initially, codecision was the procedure selected for the adoption of a few regulations, but after the Amsterdam Treaty entered into force (on 1 May 1999), it started to resemble consultations. This happened because the codecision process was extended from fifteen to thirty articles by that Treaty.[13] The adoption of the Nice Treaty (1 February 2003) did not lead to the strengthening of this procedure. In a way, it set the kinds of regulations adopted under this procedure. The above confirms critical opinions on the provisions of this Treaty (and references to the Treaty *not being so nice*).[14] The breakthrough did not come about until the Treaty of Lisbon. Although in the first years of applying its provisions, the number of legislative acts passed under the OLP was close to the prognosis, the number of the Commission's proposals presented in 2011 that will be examined at the end of the seventh term of the Parliament (2009-2014) shows that codecision clearly prevails over consultations (in 2011, 88.8% of legislative proposals were adopted under the OLP).

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[10] See: TEU, Article 12(a) and the *Protocol on the Role of National Parliaments in the European Union*, in: Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007, "Official Journal of the EU" of 17 December 2009, C 306, p. 148, Article 2.

[11] TFEU, Article 289. See: *Consolidated versions of the Treaty on European Union*..., p. 172.

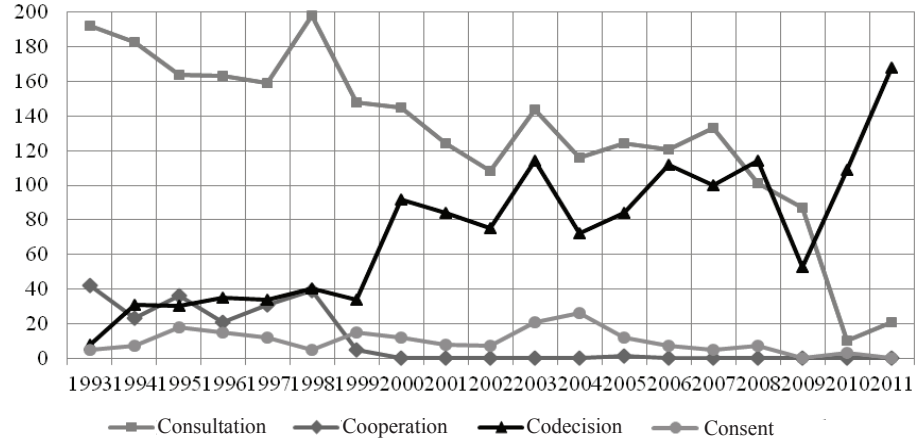
[12] J. J. Węc, *Reforma systemu instytucjonalnego Unii Europejskiej przewidywana w Traktacie lizbońskim*, "Rocznik Integracji Europejskiej" 2009, no. 3, p. 59.

[13] R. Corbett, F. Jacobs, M. Shackleton, *op. cit.*, p. 191.

[14] C. Neuhold, *The European Parliament and the European Commission: 'You Can't Always Get What You Want'*, in: F. Laursen (ed.) (2006), *The Treaty of Nice: Actor Preferences, Bargaining and Institutional Choice*, Leiden, pp. 351-367; M. Gray, A. Stubb, *The Treaty of Nice – Negotiating a Poisoned Chalice*, "Journal of Common Market Studies" 2001, vol. 39, no. 2, pp. 5-23; M. Hosli, M. Machover, *The Nice Treaty and Voting Rules in the Council: A Reply to Moberg (2002)*, "Journal of Common Market Studies" 2004, vol. 42, no. 3, pp. 497-521.

Chart 2

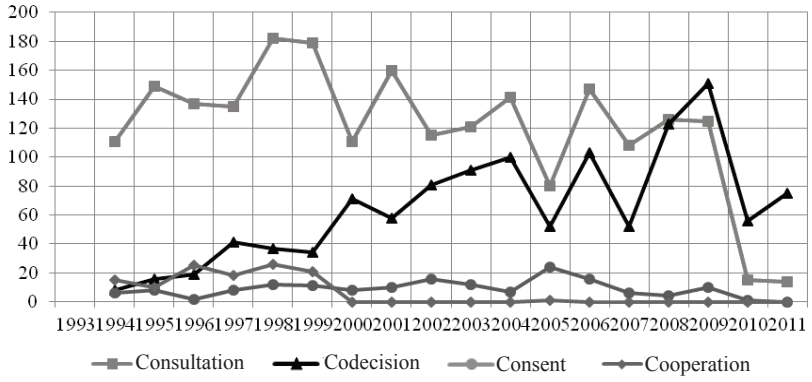
Number of legislative proposals put forward by the Commission in 1993-2011 and procedures applicable



Source: PreLex, the Commission's database on interinstitutional procedures in the European Union, http://ec.europa.eu/prelex/apcnet.cfm?CL=en.

Chart 3

Number of legislative proposals adopted under particular procedures in 1993-2011



Source: *The Legislative Observatory of the European Parliament*, http://www.europarl.europa.eu/oeil/index.jsp, own calculations.

The preponderance of the OLP, however, turns out to be an illusion if one looks at the number of treaty provisions that foresee this procedure (Chart 4). Although in the TL, for the first time in the history of the European Union, the OLP is mentioned in more provisions than consultation, the percentage share of the former procedure accounts for about 46% of legislative acts, which means that more than a half of primary law provisions require a different procedure of adoption. Both information and consultation, where the Parliament has a very weak position[15], are referred to in as much as 40.6% of all articles, which reveals that the OLP prevalence is an illusion. Of course, that becomes blurred in the every-day functioning of the EU as the provisions that foresee the OLP generate a very high number of legislative proposals. However, issues consulted and announced frequently refer to seldom regulated key areas such as the implementation of collective agreements at the European level (TFEU, Article 155, Par. 2), suspension of an international agreement (TFEU, Article 218, Par. 9-10), social security and social protection (TFEU, Article 21, Par. 3), provisions on passports, identity cards and residence permits (TFEU, Article 77, Par. 3), cross-border cooperation between judicial and police authorities (TFEU, Article 89), discrimination against carriers (TFEU, Article 95, Par. 3), prohibition of abusing the dominant position or agreements between enterprises that disrupt the internal market (TFEU, Article 103. Par. 1), harmonisation of indirect taxes (Article 113 of the TFEU), approximation of laws on internal markets (TFEU, Article 115), supervision of financial institutions (TFEU, Article 127, Par. 6), employment policy (TFEU, Article 148, Par. 2), decision on whether a Member State applying for accession to the Eurozone fulfils the necessary convergence criteria (TFEU, Article 140, Par. 2), special R&D programmes (TFEU, Article 182, Par. 4), measures significantly affecting a Member State's choice between different energy sources and the general structure of its energy supply (TFEU, Article 192, Par. 2c), and decisions on the EU system of own resources (TFEU, Article 311). In those areas the position of the European Parliament is weak because formally they are regulated by Member States individually.

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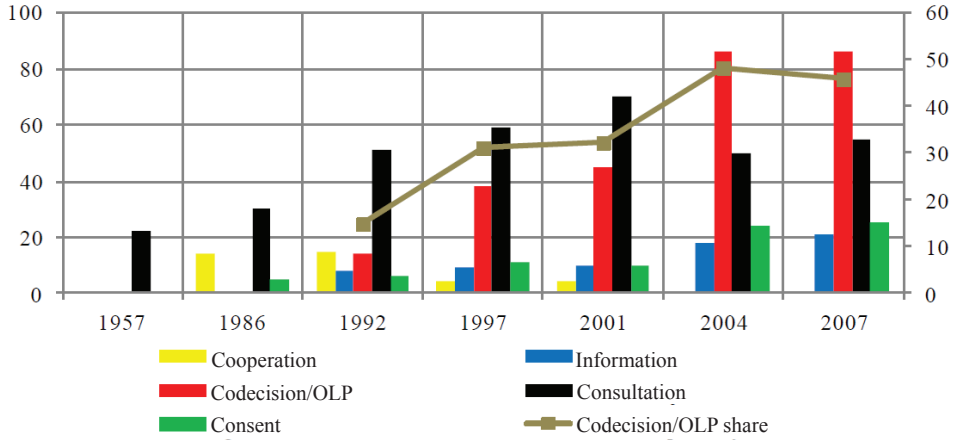
[15] See: C. Crombez, *Legislative Procedures...*, p. 205; S. Napel, M. Widgrén, *Strategic versus Non-strategic Voting Power in the EU Council of Ministers: The Consultation Procedure*, "Social Choice and Welfare" 2011, vol. 37, no. 3, p. 515; R. Scully, *The European Parliament and the Codecision Procedure: A Reassessment*, "Journal of Legislative Studies" 1997, vol. 3, no. 3, p. 60; B. Steunenberg, *op. cit.*, p. 651; G. Garrett, *From the Luxembourg Compromise to Codecision: Decision-Making in the European Union*, "Electoral Studies" 1995, vol. 14, no. 3, p. 294. In some situations, and when employing informal mechanisms, the Parliament is capable of attaining a strong position in consultations. See: R. Kardasheva, *The Power to Delay: The European Parliament's Influence in the Consultation Procedure*, "Journal of Common Market Studies" 2009, vol. 47, no. 2, pp. 385-409; A. Kirpsza, *Formalnie słaby, nieformalnie silny. Pozycja Parlamentu Europejskiego w procedurze konsultacji na przykładzie procesu uchwalania rozporządzenia ustanawiającego zasady dobrowolnej modulacji płatności bezpośrednich*, "Rocznik Integracji Europejskiej" 2011, no. 5.

Chart 4

Number of treaty articles that foresee application of specific legislative procedures



Explanations: Left Y axis – absolute number of provisions, right Y axis – relative number of provisions (percentage).

Source: Author's own calculations based on EU Treaties. The years refer to the dates on which the Treaties were signed, see: Chart 1.

THE TRILOGUE AND ITS CONSEQUENCES

The Maastricht Treaty introduced the codecision procedure, which created interdependencies between the Council and the Parliament.[16] The first symptom of this change was the application of the ONP to Voice Telephony Directive.[17] After unsuccessful negotiations in the Conciliation Committee, the Council decided to propose its own common position as the final version of the regulation. It believed that the Parliament would not be capable of obtaining the absolute majority of votes required to veto the regulation (the so-called third reading). However, the Council underestimated the Parliament, as 379 MEPs voted against the legislative proposal. That number of votes sufficed to reject the draft directive and demonstrated the strong position of the Parliament in the codecision procedure.[18] That was the

[16] M. Shackleton, *The Interinstitutional Balance in the EU: What Has Happened Since 1999?*, "EUSA Review" 2004, vol. 17, no. 3, pp. 2-3; M. Shackleton, T. Raunio, *Codecision since Amsterdam: A Laboratory for Institutional Innovation and Change*, "Journal of European Public Policy" 2003, vol. 10, no. 2, p. 173.

[17] *Proposal for a Council Directive on the application of open network provision (ONP) to voice telephony*, "Official Journal of the European Communities" of 12 October 1992, C 263, pp. 20-36, later amended.

[18] M. Shackleton, *The Politics of Codecision*, "Journal of Common Market Studies" 2000, vol. 38, no. 2, p. 327. The draft directive was presented by the Commission in 1992 while the common position of the Council was rejected by the Parliament in July 1994.

moment when both institutions understood that without direct and deep cooperation they would not achieve satisfactory, effective and quick agreements. That is why already in 1995, they established informal meetings of their representatives – the so-called trilogues. Trilogues are held before meetings of the Conciliation Committee and their objective is to get an agreement on amendments that would later be endorsed by the said Committee and involved institutions.[19] The interdependencies between the Parliament and the Council were tightened after the entering into force of the Amsterdam Treaty that introduced the possibility of ending the codecision procedure already at the first reading (the so-called fast track legislation) and cancelled the so-called special third reading. As a result, the Council could not impose its position on the Parliament after conciliation failure.[20] Consequently, in 1999 the Council, the Parliament and the Commission entered into an interinstitutional agreement in which they stated that pre-conciliation trilogues proved to be a success and therefore "this practice, which has developed at all stages of the codecision procedure, must continue to be encouraged".[21] In result, the trilateral meetings have become common practice also before the first and second readings.

Nowadays, the trilogues (also referred to as "trialogues")[22] are informal meetings of representatives of the Commission (heads of relevant Directorates-General, sometimes Commissioners), the Council (delegates of the Presidency, the head of COREPER, heads of working groups, sometimes Ministers), and the Parliament (heads of committees, rapporteurs, shadow rapporteurs, coordinators of political parliamentary groups and deputy presidents).[23]

Trilogues are held at the early stages of the legislative procedure and they are aimed at drafting the initial legislative agreement that will be adopted by the Council

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[19] *Ibid.*, p. 334.

[20] A. Maurer, *The Legislative Powers and Impact of the European Parliament*, "Journal of Common Market Studies" 2003, vol. 41, no. 2, pp. 228-230; H. Farrell, A. Héritier, *Formal and Informal Institutions Under Codecision: Continuous Constitution-Building in Europe*, "Governance" 2003, vol. 16, no. 4, pp. 589-590; C. Reh, A. Héritier, E. Bressanelli, C. Koop, *The Informal Politics of Legislation: Explaining Secluded Decision-making in the European Union*, paper prepared for the APSA Annual Convention, Washington, 2-5 September 2010, p. 8.

[21] *Joint Declaration on Practical Arrangements for the New Codecision Procedure (Article 251 of the Treaty establishing the European Community)*, "Official Journal of the European Communities" of 28 May 1999, C 148, p. 1.

[22] Both terms are used in EU documentation. In this article, I will use the term "trilogue".

[23] H. Farrell, A. Héritier, *Interorganizational Negotiation and Intraorganizational Power in Shared Decision-Making: Early Agreements under Codecision and Their Impact on the European Parliament and the Council of Ministers*, "Reihe Politikwissenschaft/Political Science Series" no. 95, March 2004, p. 12; P. Settembri, C. Neuhold, *Achieving Consensus Through Committees: Does the European Parliament Manage?*, "Journal of Common Market Studies" 2009, vol. 47, no. 1, p. 144; A. Héritier, C. Reh, *Codecision and Its Discontents: Intra-organisational Politics and Institutional Reform in the European Parliament*, paper prepared for the EUSA Biannual Meeting, Boston, 3-5 March 2011, p. 7. Trilogues are attended by up to 40 persons. See: *Codecision and National Parliamentary Scrutiny: Report with Evidence*, House of Lords: European Union Committee, 17th Report of Session, London 2009, p. 13.

and the Parliament in good faith and without significant amendments. Application of this mechanism is very widespread, which is reflected by the fact that already in the years 1999-2000, trilogues were held to discuss 41% of modified legislative acts adopted under the codecision procedure and this share grew every year (Table 1). The year 2007 turned out to be the culminating point of this trend. Under the new interinstitutional agreement[24], trilogues were institutionalised and since 2007 they are part of processing all legislative proposals adopted under codecision. They have also been used in consultations and the budget procedure, where they are traditionally referred to as "concertation".[25]

The impact of trilogues on the legislative procedure is ambivalent. Some researchers underline that trilogues have contributed to the creation of a culture of trust and cooperation between representatives of the three institutions, thanks to which the decision-making process is cooperative and based on mutual trust.[26] Other positive aspects attributed to trilogies include the strengthening of the legislative position of the Parliament. In trilogues, the Parliament has greater opportunities of effectively promoting its amendments than in isolation. In trilogues, the EP can put its strategic, negotiating and networking capacities to better use.[27] From the perspective of social constructionism, trilogues also strengthen the normative co-dependency which consists in the reduction of formal differences between legislative procedures.[28] Finally, trilogues facilitate interinstitutional negotiations and allow for reaching an agreement already at first reading.[29]

However, trilogues also generate many negative effects. First and foremost, they only allow selected entities to access the legislative process. Only a small group of representatives of the three institutions participate in the trilogues (in literature of the field, this group is referred to as "relais actors"[30]) and they control the course and results of the legislative procedure. This has three important consequences.

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[24] *Joint declaration on practical arrangements for the codecision procedure (Article 251 of the EC Treaty),* "Official Journal of the European Union" of 30 June 2007, C 145, pp. 5-9.

[25] R. Corbett, F. Jacobs, M. Shackleton, *op. cit.*, p. 183.

[26] M. Shackleton, *The Politics of*..., pp. 333, 335-336; H. Farrell, A. Héritier, *Interorganizational Negotiation*..., pp. 13-14.

[27] B. Steunenberg, T. Selck, *Testing Procedural Models of EU Legislative Decision-Making*, in: R. Thomson, F. Stokman, T. König, C. Achen (ed.) (2006), *The European Union Decides: Testing Theories of European Decision Making*, Cambridge, p. 81; F. Häge, M. Kaeding, *Reconsidering the European Parliament's Legislative Influence: Formal vs. Informal Procedures*, "Journal of European Integration" 2007, vol. 29, no. 3, p. 357; H. Farrel l, A. Héritier, *Formal and Informal*..., p. 594.

[28] See: A. Kirpsza, *Formalnie słaby, nieformalnie silny*...

[29] R. Kratsa-Tsagaropoulou, A. Vidal-Quadras, M. Rothe, *Activity Report of the delegations to the Conciliation Committee, 1 May 2004-13 July 2009 (sixth parliamentary term)*, PE427.162v01-00, p. 12.

[30] H. Farrell, A. Héritier, *Interorganizational Negotiation*..., p. 14.

Table 1

Trilogues under codecision and consultation in the years 1999-2007

	Codecision			Consultation		
	Trilogues	Absence of trilogues	Share of trilogues (%)	Trilogues	Absence of trilogues	Share of trilogues (%)
1999/2000	18	26	41%	0	53	0%
2000/2001	48	28	63%	3	76	4%
2001/2002	44	26	63%	0	75	0%
2002/2003	48	13	79%	1	73	1%
2003/2004	69	15	82%	1	77	1%
2004/2005	54	3	96%	5	43	10%
2005/2006	50	0	100%	12	51	19%
2006/2007	28	0	100%	4	29	12%
Total	**359**	**111**	**76%**	**26**	**477**	**5%**

Explanations: from 1 May of the given year to 30 April of the following year.

Source: R. Kardasheva, *Legislative Package Deals in EU Decision-Making: 1999-2007*, thesis submitted to the European Institute of the London School of Economics, April 2009, p. 26.

Firstly, an asymmetry between different members of the Council and the Parliament is apparent as those who do not participate in a trilogue cannot exert similar influence on the legislative procedure. Thus trilogues disturb the strongly enrooted norm of proportional participation in the decision-making process and have introduced a division into the weak and the powerful. In the case of the Council, informal negotiations strengthen the Presidency, and especially the chair of COREPER I who can adjust the given legislative proposal at will at the trilateral meetings while other ministers have no possibility to learn about the course of events.[31] In the Parliament, the winners are committee chairpersons, rapporteurs, coordinators and MEPs representing large groups as they participate in trilogues and decide who should join the trilateral meetings. The President and Vice President of the European Parliament, the MEPs who belong to small groups and the committees lose as their access to trilateral meetings is limited.[32]

Secondly, the dominant and elitist position of the *relais actors* enables them to escape the watchful eye of their mandators. Examples of such situations are, *inter alia*, as follows: transgressing the negotiation mandate, promoting solutions compliant with one's own preferences and employing the *fait accompli* tactics, i.e. presenting institutions with legislative proposals containing a note that this is the only

[31] *Ibid.*, p. 17.

[32] *Ibid.*, pp. 14-16; A. Héritier, C. Reh, *Codecision and Its Discontents*..., pp. 11-15.

acceptable solution.[33] In result, the Council and the Parliament cannot control and monitor the activity of its agents, but for the good of effective legislative processes they have to make do with their "legislative intermediaries".

Thirdly, the elitism of the legislative procedure might deform the culture of consensus so deeply embedded in the Council. The culture of consensus consists in reaching legislative compromises accepted by all Council members.[34] The representative of the Presidency that participates in trilogues is isolated from the institutional environment of the Council, and therefore might, in cooperation with MEPs, seek solutions that are especially beneficial for his/her Member State excluding preferences of other EU Member States. Already at the stage of trilateral meetings, the Presidency representative might build a coalition with Council members and secure the required number of votes and might later use this majority at the adoption stage. Such a strategy would be particularly feasible in the case of large and highly populated Member States that have large voting weights.[35]

Trilogues also generate coordination difficulties, in particular rivalry between negotiators representing the same institution.[36] This results mainly from point 8 of the interinstitutional agreement of 2007 which stipulates that trilogues "may be held at all stages of the procedure and at different levels of representation, depending on the nature of the expected discussion".[37] Those levels are decided upon mainly by group coordinators at their informal meetings. The issue of rivalry applies particularly the Parliament, which – in the course of procedures – is represented by many highly authorised entities that stem from various, sometimes opposing, political backgrounds.[38] The complex relations between those functions might affect the legislative process. This happened during the negotiations on the regulation on

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[33] N. Yordanova, *Plenary 'Amendments' to Committee Reports: Legislative Powers of the European Parliament Committees*, paper presented at the APSA 2009 Toronto Meeting and the EUSA 2009 Los Angeles Meeting, version: August 2010, p. 6.

[34] D. Heisenberg, *The Institution of "Consensus" in the European Union: Formal versus Informal Decision-Making in the Council*, "European Journal of Political Research" 2005, vol. 44, no. 1, pp. 65--90; J. Lewis, *Is the "Hard Bargaining" Image of the Council Misleading? The Committee of Permanent Representatives and the Local Elections Directive*, "Journal of Common Market Studies" 1998, vol. 36, no. 4, pp. 479-504; F. Hayes-Renshaw, W. van Aken, H. Wallace, *When and Why the EU Council of Ministers Votes Explicitly*, "Journal of Common Market Studies" 2006, vol. 44, no. 1, p. 163; A. Kirpsza, *Wpływ kryzysu finansowego na proces podejmowania decyzji w Unii Europejskiej*, "Studia Polityczne" 2012, no. 28, pp. 321-322.

[35] H. Farrell, A. Héritier, *The Invisible Transformation of Codecision: Problems of Democratic Legitimacy*, "SIEPS Report" 2003, no. 7, p. 31.

[36] *Ibid.*, p. 11; H. Farrell, A. Héritier, *Interorganizational negotiation...*, p. 19; P. Hausemer, *Participation and Political Competition in Committee Report Allocation: Under What Conditions Do MEPs Represent Their Constituents?*, "European Union Politics" 2006, vol. 7, no. 4, pp. 505-530; N. Yordanova, *The Effect of Inter-institutional Rules on the Division of Power in the European Parliament: Allocation of Consultation versus Codecision Reports*, Paper prepared for the 11th Biannual Conference of the European Union Studies Association Los Angeles, California, 23-25 April 2009.

[37] *Joint declaration on practical arrangements for...*, p. 6.

[38] P. Settembri, C. Neuhold, *op. cit.*, pp. 141-143.

advanced therapy medicinal products.[39] During its adoption, the main rapporteur, Miroslav Mikolášik, representing the European People's Party – European Democrats (EPP-ED, currently EPP), clashed with the shadow rapporteurs of the Party of European Socialists (PES, currently S&D), the Alliance of Liberals and Democrats for Europe (ALDE) and European United Left /Nordic Green Left (GUE/NGL) on the issue of "ethical" amendments to the legislative proposal. Failing to win the support of the Council and the Commission, he decided to break off the negotiations, threatening that the legislative procedure would be extended and the second reading would be held. However, the shadow rapporteurs decided to continue the trilogue without Mikolášik. They drafted a new legislative agreement that did not foresee "ethical" amendments. Next, they presented the agreement, in the form of a report, to a plenary of the Parliament, and – although it contained modifications that had not been consulted with the Commission and the main rapporteur, it won the support of MEPs and entered into force as an act of law.[40] Opposite situations also took place. Negotiations on access to EU institutions' documentation[41] reached a standstill caused by objections of the shadow rapporteurs. It was decided to exclude the shadow rapporteurs from the trilogue and the agreement was reached.[42] Conflicts between negotiators hamper coordination of the Parliament's position, which gives more leverage to the Council represented by one leader – the deputy ambassador of the Member State holding the Presidency (head of COREPER I).[43]

Trilogues are also a threat to transparency, proportional representation and democracy.[44] They are closed-door meetings and thus their course remains unknown to the public, the media, national parliaments and non-governmental organisations. Consequently, no entity is capable of controlling the legislative process.[45] Moreover, trilogues impair the influence of the weakest parliamentary groups on the legislative procedure. Their MEPs rarely participate in trilateral meetings and seldom have

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[39] Regulation (EC) No 1394/2007 of the European Parliament and of the Council of 13 November 2007 on advanced therapy medicinal products and amending Directive 2001/83/EC and Regulation (EC) No. 726/2004, "Official Journal of the European Union" of 10 December 2007, L 324, pp. 121-137.

[40] D. Judge, D. Earnshaw, *'Relais Actors' and Codecision First Reading Agreements in the European Parliament: The Case of the Advanced Therapies Regulation*, "Journal of European Public Policy" 2011, vol. 18, no. 1, pp. 59-66.

[41] *Regulation (EC) no. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents* "Official Journal of the European Union" of 31 May 2001, L 145, pp. 43-48.

[42] T. Bunyan, *Secret Trilogues and the Democratic Deficit*, Statewatch Viewpoint, September 2007, p. 9.

[43] M. Shackleton, T. Raunio, *op. cit.*, pp. 174-176.

[44] T. Bunyan, *op. cit.*, p. 9; B. Petkova, T. Dumbrovsk, *Conciliation in the Sixth European Parliament: Formal Transparency vs. Shadowy Legislating*, paper presented at UACES Exchanging Ideas on Europe: Europe at a Crossroads, Bruges, 6-8 September 2010, p. 3 and next. Contrary view in: A. Rasmussen, *Early Conclusion in Bicameral Bargaining: Evidence from the Codecision Legislative Procedure of the European Union*, "European Union Politics" 2011, vol. 12, no. 1, pp. 61-62.

[45] H. Farrell, A. Héritier, *The Invisible Transformation*..., p. 8.

the opportunity to play a major role in negotiations. They are overlooked by the Council's negotiators who prefer to contact representatives of large political groups as they guarantee the required support in the Parliament.[46] The trilogues also exclude MEPs representing Member States that joined the European Union in 2004 and 2007. In 2006 and 2007, around 6% of MEPs representing new EU Member States participated in trilateral meetings, but from 2008 to 2010 not a single one attended a trilogue.[47] This is mainly due to discriminating new MEPs in the process of appointing rapporteurs. In the sixth term of the European Parliament (2004-2009), they performed this function only in 9% of all codecisions, although new MEPs account for 22% of all Members of the European Parliament.[48]

The trilogues also pose the risk of establishing relations between governments of a Member State and its MEPs, which might influence the outcome of the legislative process. To provide an example: Germany has the largest national delegation to the Parliament, and its MEPs hold key positions in this institution.[49] The German government can count on their vast support in the European legislature and can make use of it while pressing for regulations it prefers in the course of interinstitutional negotiations.[50] The case of the Takeovers Directive speaks volumes here.[51] Germany opposed the proposal but did not manage to win enough votes to block it at the Council. Eventually, the Council adopted the agreement drafted by the Conciliation Committee. However, the regulation was rejected by the Parliament where rapporteur Klaus-Heiner Lehne, a German, effectively sought the support of MEPs.[52] Such national cooperation is possible, as trilogue participants include representatives of the Presidency and rapporteurs representing the same Member State or political party. Research shows that if the interests of the rapporteur participating in the trilogue and the preferences of the Minister representing the Presidency are convergent, which happens quite often if the two share common political or national identity, the likelihood of finalising the legislative agreement increases markedly.[53]

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[46] *Ibid.*, p. 25; M. Shackleton, T. Raunio, *op. cit.*, pp. 177-178; H. Farrell, A. Héritier, *Formal and Informal*..., p. 592.

[47] B. Petkova, T. Dumbrovsk, *op. cit.*, p. 12.

[48] M. Kaeding, S. Hurka, *Where are the MEPs from the accession countries? Rapporteurship assignments in the European Parliament after Enlargement*, "EIPASCOPE" 2010, no. 2, p. 23.

[49] Currently, German MEPs head three of the seven parliamentary groups: *S&D* (Martin Schulz), the Greens (Rebecca Harms) and *GUE/NGL* (Lothar Bisky). They also hold unduly numerous key positions such as heads of commissions and coordinators of political groups. See: *ibid.*, p. 23; A. Kirpsza, *Duch d'Hondta w Strasburgu. Zasada proporcjonalnej dystrybucji stanowisk w Parlamencie Europejskim*, "Przegląd Politologiczny" 2012, vol. 16, no. 4.

[50] H. Farrell, A. Héritier, *The Invisible Transformation*..., p. 9; A. Rasmussen, *op. cit.*, p. 13.

[51] *Proposal for a 13th European Parliament and Council Directive on company law concerning takeover bids*, COM/95/0655 final, "Official Journal of the European Communities" of 6 June 1996, C 162, pp. 5-8, later amended.

[52] H. Farrell, A. Héritier, *The Invisible Transformation*..., p. 28.

[53] C. Reh, A. Héritier, E. Bressanelli, C. Koop, *op. cit.*, p. 34; A. Rasmussen, *op. cit.*, p. 55.

THE "DEATH" OF THE SECOND AND THIRD READINGS

The trilogues produce legislative agreements that are adopted in the initial phases of legislative procedures. In the literature of the field, they are referred to as "early agreements" because they are reached before the Parliament adopts a legislative resolution and before the Council adopts its common position (*first-reading early agreements*) or between the adoption of the resolution by the MEPs and the adoption of a common position by the Council (*second-reading early agreements*).[54] Of course, not every trilogue ends with an early agreement. However, quantitative analyses demonstrate that in recent years they often have. In the fifth term of the European Parliament (1999-2004), the adoption of 20% of legal acts at first reading and 6% at second reading was the outcome of early agreements. In the sixth term of the EP, those values amounted to 72% and 18% respectively.[55] This proves that the trilogues are exceptionally effective in securing legislative compromises.

Early agreements have led to a remodelling of the legislative process which is reflected by the complete breakdown of the OLP system of three readings specified in the Treaties.[56] This is not accidental as, under the 1999 interinstitutional agreement, the Council and the Parliament undertook to cooperate with each other "in good faith throughout the procedure with a view to reconciling their positions as far as possible and thereby clearing the way, where appropriate, for the adoption of the act concerned at an early stage of the procedure".[57] In result, the number of legal acts adopted at the second and third readings dropped notably. The last year of the sixth term of the EP (2008-2009) was the turning point. The number of regulations adopted under codecision reached its all-time high (177 legal acts)[58]. Legal acts adopted at first reading accounted for 80% of all legislative acts (16% at second reading, 4% at third reading).[59] This trend continues also after the Lisbon Treaty, which means that the EU has witnessed the informal "death" of the second and third readings.

The diktat of the first reading means that legislative proposals presented to the institutions can hardly be modified. The compromise reached by the trilogue is forwarded, in the form of a letter with amendments to the proposal, by the chair of COREPER I to the chair of the relevant parliamentary committee. The letter reads that the Council "is willing to accept that outcome, subject to legal-linguistic verification, should it be confirmed by the vote in plenary".[60] This means that the Parliament has

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[54] *Codecision and National Parliamentary Scrutiny*..., p. 12.

[55] C. Reh, A. Héritier, E. Bressanelli, C. Koop, *op. cit.*, p. 9.

[56] See: Article 294 of the TFEU.

[57] *Joint Declaration on Practical Arrangements*..., p. 1, point I.1; *Joint Declaration on Practical Arrangements*..., p. 6, point 11.

[58] R. Kratsa-Tsagaropoulou, A. Vidal-Quadras, M. Rothe, *op. cit.*, p. 10.

[59] In the years 2009-2010, the share of legal acts adopted at first reading amounted to as much as 97%, but it ought to be noted that in this period a low number of legal acts was adopted. This has been shown in Chart 3.

[60] *Joint declaration on practical arrangements for*..., p. 6.

little room for manoeuvre. Its modifying proposals might ruin the compromise and lead to the launch of a long procedure that distorts the essence of interinstitutional agreements and would violate mutual trust. Moreover, the agreements reached by the elitist representatives put the ministers and MEPs in a difficult situation: either they accept the trilogue arrangements, or they modify them, i.e. reject them and risk the lack of any legislation (*take it or leave it*). In such circumstances, the ministers and MEPs are pressed to approve of the outcomes of trilateral negotiations, even if they do not correspond to the position of the institution. Still, adopting the early agreement is a better option than unleashing criticism of failed negotiations and the consequences of the legal loophole.[61]

The reaching of early agreements before the Council and the Parliament adopt common positions together with the agreements' rigidity lead to a situation where there is no point of reference for negotiations.[62] The mandate of the Presidency is not based on the formal decision of the Council[63] while the MEPs do not have to follow the mandate of the Committee and thus representatives of both institutions have vast liberty in reaching legislative compromises. In consequence, not only trilogues but also trilateral arrangements are beyond public control. They are part of the legislative process but at closed institutional forums. Heated disputes and social consultations held at the time are mere window dressing as everything has been decided beforehand. Votes are nothing more than a ceremonious approval of the agreements reached covertly and informally.

The finalisation of legislative procedures at first reading also speeded the OLP. In 1999-2000, it took 729 days on average to adopt one legal act. In 2006-2007, only 310 days were needed.[64] This change means that there is less time for deliberation, debates with social partners and political bargaining on the final wording of the legislative proposal.[65] Some scholars note that trilogues take long time if proposals are

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[61] C. Reh, *The Informal Politics of Codecision: Towards a Normative Assessment*, paper prepared for the UACES Conference on Exchanging Ideas on Europe, University of Edinburgh, 1-3 September 2008, p. 26; A. Rasmussen, M. Shackleton, *The Scope for Action of European Parliament Negotiators in the Legislative Process: Lessons of the Past and for the Future*, paper prepared for the Ninth Biennial International Conference of the European Union Studies Association, Austin, Texas, March 31-April 2, 2005, p. 17.

[62] M. Shackleton, T. Raunio, *op. cit.*, p. 178.

[63] H. Farrell, A. Héritier, *Interorganizational negotiation*..., p. 13. Sometimes the voting is based on the informal political agreement reached by ministers.

[64] R. Kardasheva, *Legislative Package Deals in EU Decision-Making: 1999-2007*, thesis submitted to the European Institute of the London School of Economics, April 2009, p. 27; S. Hix, *Memorandum*, in: *Codecision and National Parliamentary Scrutiny*..., p. 92. In comparison to the fifth term (1999--2004), in the EP's sixth term the average time of adopting a legal act in codecision was 1.3 month shorter. See: R. Kratsa-Tsagaropoulou, A. Vidal-Quadras, M. Rothe, *op. cit.*, p. 14.

[65] J. De Clerck-Sachsse, P. Kaczynski, *The European Parliament – More Powerful, Less Legitimate?*, "CEPS Working Document" 2009, no. 314, p. 11; C. Reh, *op. cit.*, p. 14.

crucial and then there is time for discussion[66]. They, however, seem to overlook the fact that these negotiations are held *in camera* and shy away from public communication platforms and institutions.

Early agreements also entail negative consequences for democracy at the national level. The Treaty of Lisbon notably strengthened the position of national parliaments to bring the citizens of each Member State closer to the EU decision-making process.[67] Special EU affairs committees have been established at the legislatures of Member States. Their task is to monitor the government's position and arrangements made at the EU level. However, early agreements make it practically impossible for these bodies to monitor the procedures, governments and collect information on interinstitutional negotiations as key decisions are taken at informal meetings before the Council and Member States adopt common positions. Consequently, when a minister presents the national parliament with the formal decision of the Council at first reading, the outcome of its evaluation by the MPs is insignificant as everything has been agreed already.[68]

DECREASING SIGNIFICANCE OF PARLIAMENTARY COMMITTEES

The Committees of the European Parliament are bodies that play a crucial role in the legislative process and thus are sometimes referred to as the "legislative backbone" of the EP. They have the final say on the legal position of the legislature.[69] In principle, amendments put forward by the committees are accepted by the Parliament without major modifications.[70] Their role is also important in the context of democracy deficit. Their meetings are public and even broadcast live on the Internet[71]. Furthermore, documentation of their activities is publicly available which is

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[66] D. Toshkov, A. Rasmussen, *Time to Decide: The Effect of Early Agreements on Legislative Duration in the EU*, http://www.dimiter.eu/articles/codecision%20duration%2029092011.pdf, p. 19. Contrary view in: C. Reh, A. Héritier, E. Bressanelli, C. Koop, *op. cit.*, p. 32.

[67] E. Popławska, *Rola parlamentów narodowych w świetle Traktatu z Lizbony*, "Przegląd Sejmowy" 2010, vol. 18, no. 5, pp. 157-174; J. J. Węc, *The Influence of National Parliaments on the Decision-Making Process in the European Union. New Challenges in the Light of the Lisbon Treaty*, "Politeja" 2008, vol. 10, no. 1, pp. 187-208.

[68] H. Farrell, A. Héritier, *The Invisible Transformation*..., p. 8.

[69] M. Westlake (1994), *A Modern Guide to the European Parliament*, London – New York, pp. 191-192.

[70] K. Collins, C. Burns, A. Warleigh, *Policy Entrepreneurs: The Role of European Parliament Committees in the Making of EU Policy*, "Statute Law Review" 1998,vol. 19, no. 1, p. 6; S. Bowler, D. Farrell, *The Organizing of the European Parliament: Committees, Specialization, and Coordination*, "British Journal of Political Science" 1995, vol. 25, no. 2, p. 234; V. Mamadouh, T. Raunio, *The Committee System: Powers, Appointments and Report Allocation*, "Journal of Common Market Studies" 2003, vol. 41, no. 2, p. 348; G. McElroy (2006), *Committee Representation in the European Parliament*, "European Union Politics" vol. 7, no. 1, pp. 10-13.

[71] At the website of the European Parliament television channel: http://www.europarltv.europa.eu/pl/home.aspx.

particularly important as it contains materials provided by the Commission and the Council. The strong position of EP committees is a positive element in the decision-making process.

Recently, however, the status of these bodies lowered which is reflected by the gradual decline in committees' amendments adopted in plenaries. This is primarily a consequence of early agreements. An analysis of legislative proposals debated in the sixth term of the EP demonstrates that if an early agreement was reached before the committee adopted the report, on average 90% of the committee's amendments was adopted in plenary, but if the agreement was reached after the adoption of the report, the percentage of approved modifications was only 31%.[72] The most drastic drop occurred in three committees: *ECON, ENVI,* and *TRAN*, i.e. in committees that focus on areas that usually evoke the heaviest contestation of the Parliament[73]. A less dramatic drop was observed in the case of *ITRE* and *EMPL*, which might result from the socialisation and deep feeling of community observed among members of those bodies.[74] Informal compromises prevail after the adoption of the report by the committee. In the sixth term of the EP that applied to 75.2% of all early agreements.[75] This means that should there be a large number of legislative proposals, the committees cease to be the "legislative backbone" of the Parliament.[76]

However, early agreements are not the only factor that contributes to the weakening of the legislative position of EP committees. Recently, some informal mechanisms have surfaced and moved negotiations on legislative proposals outside the committee frame. The Services Directive (also referred to as the "Bolkenstein Directive") is a good example.[77] During its adoption process, two negotiation groups composed of five to six MEPs of largest political groups – EPP and PES, were established. Their members were appointed to proportionally represent the "old" and "new" EU Member States and the Member State that held the Presidency at the time (Austria). The groups met once a week to prepare a legislative compromise on the Services Directive. Finally, their proposal of amendments was presented to the plenary and not the report of the committee.[78] Another phenomenon that can

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[72] If the agreement is reached before the report is adopted, then an average of 99% of committee amendments is accepted at the plenary.

[73] R. Kratsa-Tsagaropoulou, A. Vidal-Quadras, M. Rothe, *op. cit.*, pp. 34-35; F. Hayes-Renshaw, W. van Aken, H. Wallace, *op. cit.*, p. 171.

[74] C. Neuhold, *"We Are the Employment Team": Socialisation in European Parliament Committees and Possible Effects on Policy-Making*, paper presented at EUSA Tenth Biennial International Conference, Montreal, Canada, 17-19 May 2007.

[75] N. Yordanova, *Plenary 'Amendments' to Committee Reports:...*, p. 10.

[76] A. Kirpsza, *"Legislacyjny kręgosłup" czy techniczny organ pomocniczy? Pozycja komisji Parlamentu Europejskiego w procesie legislacyjnym*, "Polski Przegląd Dyplomatyczny", 2011, no. 4.

[77] Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on the services in the internal market, "Official Journal of the European Union" of 27 December 2006, L 376, pp. 36-68.

[78] P. Settembri, C. Neuhold, *op. cit.*, p. 145.

be observed is the *ad hoc* establishment of informal structures composed of MEPs and representatives of non-parliamentary interest groups. The Bolkenstein Directive serves as a good example here as well. In order to reach a compromise on this issue, the EMPL appointed a Trade Union Intergroup consisting of one to two MEPs from each and every parliamentary group and delegates of the European Trade Union Confederation (ETUC). Arrangements reached within the Trade Union Intergroup had major impact on the final version of the committee's report, which indicates that the autonomy of the committee gets limited.[79]

The above developments that limit the position of the committee generate a number of negative consequences for the legislative process. Firstly, they give trilogue participants increasingly more options to escape the supervision of the Parliament because if the proper legislative process is moved outside the legislature, the committees are not capable of controlling and sanctioning the *relais actors*. Secondly, they disrupt the consensual nature of the decision-making process at the Parliament. Research shows that the average majority by which reports are adopted in committees amounts to about 95%.[80] This means that the adopted amendments are almost always legitimised by all EP groups. The consensus allows smaller groups to participate in the legislative process and weakens the diktat of the EPP-S&D coalition[81] facilitating deliberations and not the Westminster democracy model[82] founded on rivalry between major political groups. However, moving negotiations outside the committee to the elitist trilogues does entail a consensus breakdown because the commission's amendments are generally not accepted in plenaries. They lose to modifications agreed upon at trilateral meetings. In result, the position of the Parliament does not reflect the views of the proportional representation of all MEPs but is the resultant of bargains between three largest parliamentary groups (EPP, S&D and ALDE) that form victorious coalitions.[83] Thirdly, the degradation of the committees' position causes expertise problems for MEPs. Since most EU legislation is of technical and regulatory nature[84], MEPs need opinions of experts to take rational decisions. Previously, expertises were provided by the committees that drafted them in coop-

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[79] *Ibid.*, p. 143.

[80] *Ibid.*, p. 137; P. Settembri, *Is the European Parliament Competitive or Consensual... "And Why Bother"?*, paper presented to the Federal Trust Workshop 'The European Parliament and the European Political Space', 30 March 2006, London, p. 19.

[81] S. Hix, A. Kreppel, A. Noury, *The Party System in the European Parliament: Collusive or Competitive?*, "Journal of Common Market Studies" 2003, vol. 41, no. 2, p. 318.

[82] See: A. Lijphart (1984), *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-one Countries*, New Haven; Idem (1999), *Patterns of Democracy: Government Forms and Performance in Thirty-six Countries*, New Haven.

[83] See: S. Hix, *What to Expect in the 2009-14 European Parliament: Return of the Grand Coalition?*, "SIEPS Report" 200, no. 8, p. 11; *Voting in the 2009-2014 European Parliament: Who Holds the Power?,* "Votewatch Report" July 2011, http://www.votewatch.eu/blog/wp-content/uploads /2011/07/votewatch–report-july-2011-who-holds-the-power.pdf, p. 4.

[84] Regulatory and administrative proposals constituted 55.7% of all legislative proposals presented by the Commission in the years 1999-2007. See: R. Kardasheva, *Legislative Package Deals*..., p. 116.

eration with public organisations, having listened to the parties concerned, holding talks with specialists or tasking EU officers with drafting such reports.[85] When trilogues take decisions, MEPs, who do not have access to trilateral negotiations, are not provided with the required expertise and that puts them in a difficult negotiation position especially while negotiating with the Council and the Commission, which have a large group of specialists at their disposal (employees of the General Secretariat of the Council and employees of the Directorates-General at the Commission). Fourthly, the exclusion of an EP committee also leads to democracy deficit as the debates open to the public are held by committees and it is the committees that stay in touch with other EU institutions.

The Parliament attempted to combat these phenomena. In 2004, it adopted recommendations on good practices in codecision which strengthened the supervisory functions of the committees over trilogue participants.[86] These, however, were not obligatory and brimming with such words as "should" and "may", and were not universally implemented. Further attempts to introduce reforms were made in 2009, when the Rules of Procedure of the European Parliament were revised under the Corbett report. The reform consisted in adding Annex XXI to the EP Rules of Procedure. The new provisions included the Code of Conduct for Negotiating in the Context of the Ordinary Legislative Procedures that was drafted by the parliamentary reform working group.[87] The Annex granted four significant powers to the committee. Those rights facilitated controlling the trilogues and limiting the independence of *relais actors*. Firstly, the committee was granted the status of the EP competent body in trilateral negotiations which decides on entering a trilogue (point 1 and 2 of the Code). Secondly, the committee could also specify the composition of the EP's negotiation team participating in the trilogue. Generally, the composition of a negotiation team should be a politically balanced representation of all EP groups (point 3 of the Code). This change was significant, as previously it was the political group coordinators who took decisions on the team composition.[88] Thirdly, before the trilogues, the committee was to adopt a mandate for the EP negotiation team the basis of which would be the amendments adopted in the commission or in the plenary and the pri-

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[85] C. Neuhold, *The "Legislative Backbone" Keeping the Institution Upright? The Role of European Parliament Committees in the EU Policy-Making Process*, "European Integration online Papers" 2001, vol. 5, no. 10, pp. 8-9.

[86] *First and second reading agreements: guidelines for best practice within Parliament*, http://www.europarl.europa.eu/code/information/guidelines–en.pdf. The guidelines have been discussed in: A. Héritier, C. Reh, *Codecision and Its Discontents:*..., pp. 22-23.

[87] *Annex XXI:* Code of conduct for negotiating in the context of the ordinary legislative procedures, in: Rules of Procedure of the European Parliament, sixth term – January 2012 (hereinafter referred to as "the Code"). The revision entered into force at the beginning of the seventh term of the European Parliament.

[88] A. Héritier, C. Reh, *Codecision Transformed: Informal Politics, Power Shifts and Institutional Change in the European Parliament*, paper prepared for the UACES Conference on Exchanging Ideas on Europe, Ecole Supérieure des Sciences Commerciales d'Angers, 3-5 September 2009, p. 25.

orities and a time limit for the negotiations as specified by the committee (point 4 of the Code). Fourthly, the commission was authorised to control the trilogue. After each trilateral meeting, the EP negotiation team was to inform the committee about the negotiation outcomes and provide a draft agreement that was to be examined at the committee's sitting. The committee was also entitled to update the mandate of the EP negotiation team if further negotiations were required (point 6 of the Code).

It is difficult to state whether the above changes have boosted the committee status. First of all, some provisions of the Code contradict the Rules of Procedure of the European Parliament. In the Code, it is stipulated that the decision on entering trilogue negotiations is taken by "broad consensus" within a committee, while Article 70, Par. 2 of the Rules of Procedure states that a majority vote is required. The same provision in the Rules of Procedure foresees that before a trilogue, the relevant commission should adopt the "mandate, directions **or** priorities", while the Code mentions the defined mandate **and** priorities (point 4.1 of the Code). The Code also introduces the EP negotiation team of enigmatic composition which is contrary to the provisions of the Rules of Procedure that grant significant and independent legislative rights to the rapporteur. Moreover, the Code lists numerous exceptions that significantly limit the position of the committees. For example, if it is impossible for a committee to examine the draft agreement because of its timing (fast agreement ending with the committee's vote or an urgent agreement), "the decision on the agreement shall be taken by the rapporteur and the shadow rapporteurs, if necessary together with the committee chair and the coordinators" (point 6.2 of the Code), i.e. the committee as a whole hardly has a say there. Similarly, when trilogues are held before the committee's vote, the committee does not specify the mandate, only provides guidelines to the EP negotiation team (point 4.2 of the Code). In the Code expressions like "as a general rule", "as far as possible", "in the exceptional case", "if this is not possible" and "if necessary" are used and they allow for some freedom of interpretation. Let us take the following sentence as an example: "As a general rule, the amendments adopted in committee or in plenary shall form the basis for the mandate of the EP negotiating team". This means that in non-defined individual cases this rule does not have to be applied. It is also worth noting that the Code does not consist of imperative sentences but of guidelines, e.g. "The decision [of the committee – author's note] to seek to achieve an agreement early in the legislative process shall be a case-by-case decision, taking account of the distinctive characteristics of each individual file" (point 2 of the Code). This means that the committee does not have to examine each and every proposal to decide about the EP's participation in the trilogue but may adopt the general rule of participation in every trilogue. To sum up, the Code does not only fail to solve many of the the discussed problems but it largely contributes to the informality of the trilogues and all their negative consequences for EP committees.[89] On the one hand, the above poses a risk of "geometrical legisla-

[89] A. Héritier, C. Reh, *Codecision Transformed:...*, p. 28.

tion", i.e. a committees may reach its internal compromise on the right to supervise trilogues and another committee will not be capable of agreeing on the supervision. In the latter situation the role of the *relais actors* gets strengthened. On the other hand, sustaining the trilogue informal status entails the threat of path-dependence[90], i.e. the irreversible and enrooted actual degradation of the committees' legislative functions.

THE COUNCIL OF MINISTERS WITHOUT MINISTERS

From the above it follows that the Parliament is excluded from many EU areas, and, in result, it is the Council that is the most important legislator in the EU.[91] It takes part in all legislative procedures and in some cases e.g. consultation or information, it holds formal legislative monopoly. Full access to information about the decision-making process that takes place in this institution is crucial for transparency of EU institutional law. It is not simple as it depends on the Council's internal regulations on decision-making.

Although formally, the Council is composed of representatives of ministries, it actually has a complex organisational structure that consists of three levels: working groups (lowest level), special committees (COREPER and SCA – medium level) and ministers (highest level). The Council has developed its specific decision-making system reflected in the agenda structure of its meetings. On the agenda there are points A, B, I, and II. Under point A are legislative agreements agreed at lower levels which are adopted by ministers automatically and without further discussion. Under point B are proposals that remain problematic or unresolved after deliberations and negotiations at the two lower levels of the Council decision-making process and they are subject to ministerial debates and decisions.[92] Taking into consideration that only ministerial meetings are open to the public, the society can only control legislative proposals adopted in the latter case. If a legislative proposal is agreed at the lower levels of the Council decision-making process, civic monitoring is impossible as meetings of working groups and COREPER are held *in camera*, and documents they examine are in general confidential.

The problem is that the direct and actual involvement of ministers in the legislative process at the Council keeps decreasing. In 1994, the ministers debated 61%

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[90] P. Pierson, *Increasing Returns, Path Dependence, and the Study of Politics*, "American Political Science Review" 2000, vol. 94, no. 2, pp. 251-267.

[91] See: S. Hagemann, B. Høyland, *Bicameral Politics in the European Union*, "Journal of Common Market Studies" 2010, vol. 48, no. 4, pp. 811-833.

[92] The division of legislative work at the Council has been presented in a simplified version here, as in practice it is teeming with exceptions. See: F. Häge, *Politicising Council Decision-Making: The Effect of European Parliament Empowerment*, "West European Politics" 2011, vol. 34, no. 1, pp. 18-47; idem, *Who Decides in the Council of the European Union?*, "Journal Common Market Studies" 2008, vol. 46, no. 3, pp. 533-558.

of all proposals. In 2006, this percentage fell to a mere 15%. This means that the increasingly heavy burden of reaching common positions at the Council has been handed over to working groups and COREPER. In last five years (2003-2007), decisions on as much as 76% of legislative acts were *de facto* reached in those lower bodies (points A on the ministerial agenda). Consequently, the possibilities of supervising the legislative procedure have been significantly limited. The procedure is increasingly non-transparent which increases the democratic deficit and makes room for uncontrolled lobbying of big European companies and conglomerates.

Apart from impacting democratic procedures, activities of the "Council of Ministers without ministers" have other consequences. The dominance of lower-level entities, especially working groups composed of experts and not politicians or diplomats, leads to technocratisation of the EU law.[93] Legislative agreements reached at that level are often overregulated, complicated and incomprehensible for average citizens. The complicated nature of the EU law boosts the significance of lawyers and linguists. Their assistance in resolving abstract problems is absolutely indispensable but, on the other hand, it allows them to use their authority and expertise to manipulate the interpretation of the new law according to their own preferences. Sociologists increasingly point to the existence of the so-called juridical (social) field[94] in the EU, i.e. a highly-organised, professional and isolated group of legalists that hold symbolical authority over knowledge and procedures and thanks to it they can "colonise" the non-judicial world.[95] The example of the role of the Legal Service of the Council General Secretariat in preparing treaties and legal acts supports this thesis.[96]

CONCLUSIONS

In this article, at least six legislative problems which the EU will have to solve, have been identified. The first one is the observed exclusion of the European Parlia-

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[93] A. Harcourt, C. Radaelli, *Limits to EU Technocratic Regulation?*, "European Journal of Political Research" 1999, vol. 35, no. 1, pp. 107-122; W. Wallace, J. Smith (1995), *Democracy or Technocracy? European Integration and the Problem of Popular Consent*, "West European Politics", vol. 18, no. 3, pp. 137-157.

[94] P. Bourdieu, *The Force of Law: Toward a Sociology of the Juridical Field*, "Hastings European Law Review" 1986, vol. 38, no. 5, pp. 805-835.

[95] A. Stone Sweet, *Integration and Constitutionalism in the European Union*, in: A. Cohen, A. Vauchez (ed.) (2007), *La Constitution Européenne. Elites, Mobilisations, Votes*, Bruxelles, pp. 12-13.

[96] See: D. Beach, *The Unseen Hand in Treaty Reform Negotiations: The Role and Influence of the Council Secretariat*, "Journal of European Public Policy" 2004, vol. 11, no. 3, pp. 408-439; T. Christiansen, S. Vanhoonacker, *At a Critical Juncture? Change and Continuity in the Institutional Development of the Council Secretariat*, "West European Politics" 2008, vol. 31, no. 4, pp. 751-770; M. Mangenot, *L'affirmation du Secrétariat général du Conseil de l'Union européenne: les transformations du rôle d'une institution non codifiée*, "L'institutionnalisation de l'Europe", Table-ronde no. 5, VIIe congrès de l'Association française de science politique, Lille, 18-21 septembre 2002.

ment from legislative procedures. Although the Lisbon Treaty expanded the legislative competences of the EP, it also increased the number of areas where the EP has no formal authority to roughly 37%. This applies especially to the former second (CFSP) pillar and partly to the third pillar, as well as to numerous important elements of first pillar policies. In result, in these areas legislation has been monopolised by the Council, access to information is hardly possible, democratic control of the decision-making process is limited, and the monitoring capacity of national parliaments is provisional.

The second challenge is the illusory prevalence of the ordinary legislative procedure (OLP). Although after the entering into force of the TL about 90% of all legislative proposals have been adopted under this procedure, a more thorough analysis reveals that the OLP is foreseen in 46% of primary law provisions. The remaining provisions mention different legislative schemes, whereby as much as 41% of articles concern consultation and information, where the Parliament's position is weak. Both those procedures concern areas that are characterised by a low frequency of regulation, nevertheless they are very important. There the monopoly of the Council is less far reaching and the public has more possibilities to control the procedure. Still, the legislative impact of the Parliament has been significantly limited.

The third issue refers to the advancing de-formalisation of the legislative process. It is reflected in the composition of trilogues, i.e. informal meetings of representatives of the Council, Parliament and Commission at early stages of legislative procedures with a view to reach a legislative agreement. Although they foster cooperation and interdependence between the participating institutions, they also yield revolutionary side effects: they move negotiations outside the said institutions, allow only the elite to access the legislative process by granting a small group of representatives the function of "legislative intermediaries", introduce asymmetry between members of the Council and the Parliament in shaping EU legislation, reduce transparency, generate problems in coordination of and control over trilogue negotiators, and increase the significance of national bonds between representatives of the Council and the Parliament in the adoption process. These phenomena derail the formal picture of the legislative procedure that follows from treaties. Consequently, the procedure becomes unpredictable and difficult to monitor.

The fourth issue is the acceleration of legislative procedures which is reflected by the adoption of early agreements and the "death" of the second and third readings. Members of the Council and Parliament have become politically and formally limited in their capacity to present amendments to legislative proposals. Public control over the legislative process at the plenary level of both institutions has also been reduced. The time for deliberations, debates with social partners and political bargaining on the final version of a proposal has been notably reduced. The right of national parliaments to monitor the emergence of law has been blocked.

The fifth challenge is the degradation of the role of EP Committees in the legislative procedure. If after the adoption of the report by the committee, a trilogue is held and produces an early agreement, which is often the case, the percentage of committee's amendments adopted at the EP plenary falls from 90% to 31%. The Parlia-

ment also impedes its committees by establishing informal *ad hoc* groups composed of parliamentary and non-parliamentary representatives whose goal is to secretly work toward difficult legislative compromises without the involvement of committees. Moreover, EP committees keep losing their influence on the legislative process because of trilogies, as the composition and negotiation framework of the latter are in the hands of group coordinators. The weakening of the committee's status means that the participants of trilateral meetings escape the authority of the Parliament, which disrupts the consensual manner of adopting amendments at the European Parliament. Furthermore, the legitimisation of amendments by all, even the smallest parliamentary groups decreases; MEPs do not have access to expert opinions which puts them in a difficult situation while negotiating at trilogues and, finally, democratic deficit grows. The Parliament tried to reduce the impact of the above changes by reforming the 2009 Rules of Procedure. However, it seems that these efforts will not have much impact on the standing of the committees. The regulations are too open and blurry. What is more, informal norms and relations have become embedded in the EU legislative procedure and therefore they are difficult to uproot.

The sixth legislative challenge concerns the significantly lesser involvement of ministers in the legislative process. In 2003-2007, about 76% of legislative proposals were agreed at lower levels of the Council's organisational structure and ministers adopted them only formally, i.e. without discussing them. This phenomenon leads to technocratisation of the EU law, the increasing significance of lawyers and linguists and to the deepening democracy deficit.

Those phenomena remodel the legislative process, relations between institutions as well as relations between institutions and EU citizens. The European Union should therefore quickly respond to these challenged by developing appropriate formal and informal rules of procedure. If actions are not taken, these disadvantageous practices might become deeply enrooted in the EU and at some point they might prove irreversible. This would be an enormous problem for the institutional and public control of the legislative process.

ABSTRACT

The purpose of the article is to identify the legislative challenges of the European Union that became apparent after implementation of the Treaty of Lisbon provisions. At least six such threats are diagnosed. Firstly, the Treaty of Lisbon has deepened the European Parliament legislative exclusion by increasing the number of areas where it does not have any formal powers. Secondly, more than half of the Treaty bases for enacting legislation includes procedures other than the ordinary legislative procedure which relatively weakens the position of the Parliament. Thirdly, the habit of trilogues – informal meetings between the Council, Commission and Parliament in the early stages of the legislative procedure generates serious consequences for the status of institutions and democracy in the EU. Fourthly, the custom of so-called early agreements results in almost complete disappearance of the second and third reading and quickens the decision-making process at the expense of its transparency. Fifthly, trilogues and early agreements degraded the role of the European Parliament's committees in legislative proceedings. Finally, there is a declining involvement of ministers in the legislative process, resulting in technocratic and secret decision making.

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EU IMMIGRATION POLICY IN THE LIGHT OF THE ARAB SPRING

GENESIS OF EU MEMBER STATES' COOPERATION ON IMMIGRATION

Multilateral cooperation between EU Member States on developing common provisions for the treatment of foreigners applying for entry and residence in the territories of the Member States dates back to 1985. Instruments allowing for combating illegal immigration and regulations on crossing external borders and travelling within the EU were specified in the Schengen Agreement and the Implementing Convention adopted in 1990.[1] In October 1986, an *ad hoc* group on migration was appointed. It was responsible for specifying the principles of granting third-country nationals access to the territory of the European Community (immigration, visa and asylum policies). In 1988 another group was appointed to work on the free movement of persons. The most important achievement of the former group was its drafting of the so-called Dublin Convention that specified Member State responsible for the examination of the asylum application. The agreement, adopted in June 1990, has become the main tool of the asylum policy as it eliminated submission of multiple asylum applications by one person. The combat against illegal entry and/or residence in the territory of EU Member States was to be supported by the Schengen Information System foresaw in the Schengen Agreement.

Although the declaration that made the free movement of persons dependant on cooperation in the area of immigration was added to the Single European Act (adopted in 1986)[2], the breakthrough in the cooperation progress was the adoption of the Maastricht Treaty on the European Union. In Title VI, which defined common interest areas, the immigration, visa and asylum policies were identified. Moreover, it was declared that principles governing the crossing of external borders and entry and residence of third-country citizens in the territory of the European Union would be adopted and actions to combat illegal immigration, residence and employment of third-country nationals undertaken. The above areas were regulated in the third

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[1] These instruments included cross-border pursuit, observation, removal, and readmission.

[2] See: F. Jasiński, P. Rakowski, *Walka z przestępczością zorganizowaną i terroryzmem*, in: *Obszar wolności, bezpieczeństwa i sprawiedliwości Unii Europejskiej. Geneza, stan i perspektywy rozwoju*, F. Jasiński, K. Smoter (ed.) (2005), Warsaw, p. 16.

pillar of the European Union, which from then on was to be characterised by international cooperation and lack of communitisation. In result, Member States played the key role in deciding on the pace and directions of cooperation, while the role of community institutions was notably limited. Cooperation within the third pillar was conducted mainly on the basis of international law, and the connection with the first pillar was to be maintained by "renting" community institutions whose tasks and competences were described anew.[3]

The weak points of the third pillar made it impossible to actually cooperate in the area of immigration, visas and asylum. As that cooperation needed to be closer, the immigration, visa and asylum policy issues were shifted from the third to the first pillar of the European Union under the Amsterdam Treaty (Title IV *Visas, asylum, immigration and other policies connected with the free movement of persons*). It was agreed that within five years from the entering of the Amsterdam Treaty into force, measures aimed at lifting border control at internal borders would be introduced, and the principles of crossing external borders would be specified.[4] The comprehensive approach taken involved legal and institutional solutions concerning the principles of entering the territory of the European Union, visa issues, and terms and conditions of short- and long-term residence. An opportunity for strengthening the cooperation in the area of immigration, visa and asylum policy arouse when the Schengen *acquis* was incorporated into the EU framework. The second Protocol to the Amsterdam Treaty facilitated implementation of the principles specified in the Schengen Agreement and the Implementing Convention on immigration, visas and asylum cooperation, though the UK, Ireland and Denmark were granted a special status. Those Member States, already at the stage of negotiations, opposed the inclusion of Schengen provisions to the *acquis communautaire*.[5] Derogations concerning those Member States entailed the introduction of the enhanced cooperation procedure.[6]

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[3] *Zwalczanie przestępczości w Unii Europejskiej. Współpraca sądowa i policyjna w sprawach karnych*, A. Górski, A. Sakowicz (ed.) (2006), Warsaw, pp. 34-35.

[4] In the years 1993-1997, six acts delineating the EU immigration policy were adopted. In June 1993, the family reunion principle became part of the EU immigration policy. This principle foresaw that the spouse and children of the person that holds a residence permit issued by an EU Member State are entitled to reside in that EU Member State. In December 1994, the residence permit was granted to students (persons obtaining education of the highest level) and self-employed persons. In accordance with the arrangement made in 1996, a person who continuously resided in a Member State for ten years had the right to pursue the status of long-term resident (LTR), but was not entitled to equal treatment in terms of access to employment. In December 1997, the issue of the so-called marriage of convenience was regulated. Member States received the right to verify marriages, and if the marriage is found to be a sham marriage, the non-EU spouse loses the right to reside in the EU.

[5] S. Peers (2000), *EU Justice and Home Affairs Law*, Essex, p. 39.

[6] Enhanced cooperation could be taken up if it was aimed at facilitating the conversion of the European Union into an area of freedom, security and justice (Article 40 of TEU), served the implementation of EU goals and boosted integration (Article 43, point a), respected EU Treaties and single institutional frameworks and respected the *acquis communautaire* (Article 43 point b and c), concerned at least eight Member States (Article 43, point g), respected the rights and freedoms of the states that did

The entering into force of the Nice Treaty brought about intensification of legislative work on policies complementing immigration solutions, i.e. the visa and asylum policies. In 2003, the so-called Common Consular Instructions were agreed upon. They introduced a uniform procedure for examining visa applications. In the same year, a decision to harmonise visa application formats was taken and necessary security standards for visas issued by Member States (both Schengen and national visas) were indicated. It was also precisely stipulated what information would be indicated on the visa form. In the area of asylum solutions, on 18 February 2003, the so-called Dublin II regulation was adopted. It applies to all Member States, except for Denmark. The regulation confirmed the provisions of the 1990 Dublin Convention and gave asylum seekers one chance to receive protection in the European Union. On 29 April 2004, the directive that specified the minimum standards for granting and withdrawing the asylum seeker status was adopted. The criteria decisive for granting protection in the form of the refugee status or a beneficiary of subsidiary protection were specified. The most important provision is the recognition that prosecution by state authorities or non-state actors is the basis for granting protection.

Upon the entering into force of the Lisbon Treaty, in reference to the policy for the protection of borders, immigration and asylum, it was agreed to lift internal borders and control of the movement of persons, irrespective of their nationality. This control was moved to the external borders of the European Union as part of the integrated border protection system. This is especially important as every year 1.5-2 million persons enter the territory of the European Union[7], 500,000 of whom are illegal immigrants. Close cooperation of border protection services of EU Member States supported by Frontex, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, was judged necessary to ensure increased effectiveness of combating illegal immigration. Actions of national border services and Frontex must comply with the binding legislative regulations on different treatment of illegal immigrants and persons applying for international protection. For this reason, it was underlined in the Lisbon Treaty that it was necessary to introduce further regulation in the area of asylum, immigration and visa policies and external border control. The European Union received the right to conclude international agreements on cooperation in managing the movement of persons, especially those seeking asylum and temporary or subsidiary protection, with third countries.[8]

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not cooperate in the enhanced cooperation procedure (Article 43, point h), was open for all EU Member States (Article 43, point j and Article 43b); it was implemented as a final measure if the cooperation goals could not be reached in a reasonable period by means of appropriate provisions foreseen in the treaty (Article 43a).

[7] G. Gancarz, J. Wiśniewski, *Unia Europejska a wyzwania migracyjne*, "Biuletyn Analiz UKIE", 2009, no. 23, p. 42.

[8] Cf. Article 79(3), *Treaty on the functioning of the European Union*, "Official Journal of the EU" C 115/358, 9.05.2008.

EU IMMIGRATION POLICY CHARACTERISTIC

The cooperation of EU Member States in the area of immigration focuses on combating illegal immigration and regulatory management of legal entries. The question of immigration is considered in reference to two contradictory rules: the freedom of movement and state sovereignty. The right of the individual to leave the country of origin, and then to enter and reside in a third state does matter. Those rights, however, are not absolute. The state has the right to define terms and conditions on entering its territory and residing there. It can also refuse a foreinger to enter or order an individual to leave its territory, if that person poses a threat to the security of the state, its internal order or public health.

In this very context, it needs to be made clear that legal immigration refers to third-country nationals who meet the EU requirements for a short-term stay, i.e. have a valid identity document that confirms their citizenship and entitles them to cross the EU border and a visa (if required by the EU). Illegal immigration refers to the following cases:

- illegal entry into the territory of a Member State via a green or blue border without the required documents or using false documents (individually or in result of international human trafficking);
- overstaying the EU visa or, in case of citizens of states that are not required to obtain visas, overstaying residency period by three months;
- human trafficking, understood as (in accordance with the definition provided in Council framework decision 2002/629 of July 2002) recruitment, transportation, transfer, harbouring, subsequent reception of a person, where use is made of force, threat, deceit or fraud, financial abuse, abuse of authority or if such actions are aided and abetted. The consent of the person that is the victim of human trafficking is not taken into account if any of the above actions was performed.

Effective regulation on legal immigration and the struggle against illegal immigration are conditioned by the strength of external border control. This, in turn, is connected with the necessity to establish mutual trust between EU Member States. Responsibility for supervision of external borders must not rest entirely upon the Member States with such borders but also on other European Union Member States, as halting the inflow of immigrants is in the interest of all EU Member States.

Taking the above into account, in May 2002, the Council accepted a proposal of a common, integrated policy for security and management of external borders of the European Union, which was crucial to the establishment of a coherent immigration policy. Security on external borders is dependent on the coherent functioning of four elements.[9]

The first element is constituted by external **border control**. In compliance with the provisions introduced under the Schengen Agreement and the Implementing

[9] Cf. *Report on the implementation of programmes, ad hoc centres, pilot projects and joint operations*, 10058/03, 3.06.2003.

Convention, it was agreed that crossing external borders (land – green, sea – blue and air borders at international airports) was only possible within designated zones. Each attempt of crossing the border anywhere else is considered to be illegal and is subject to punishment. Persons who cross the EU external border are obliged to provide their documents for control and identification purposes. The aim of the inspection is to ascertain the identity of the person on the basis of the provided document and to counteract and detect any threats to national security. Citizens of third countries must also have a visa if required, indicate the purpose and period of their stay in the Member State they wish to enter, and cannot pose a threat to the law and order of the Member State (SIS data, among others, are employed to this end). Member States have retained their exclusive right to decide on the granting or refusal of the right to enter the EU by a third-country citizen.

In order to streamline external border control, on 26 October 2004, the Council decided to establish the abovementioned European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union. The mandate of Frontex covered: coordination of Member States' cooperation in the scope of EU external border management, providing EU Member States with technical and operational assistance, providing training to national institutions responsible for border protection, assistance in organising deportation of illegal immigrants who have been issued a decision on removal or readmission, as well as the refugees' return to safe states, and repatriates' issues. The agency is supported by the Mediterranean Coastal Patrol Network (MEDSEA), the European police supervision system, national police, and border and customs services. Rapid Border Intervention Teams (RABITs) are an important cooperative component. The proposal to establish them, which was aimed at curbing illegal immigration, was put forward by the European Commission in July 2006, and approved by the Council under Regulation 863/2007/EC of 11 July 2007. In accordance with its provisions, RABITs are permanent teams of about 200-300 persons capable to immediately respond to each and every request of any Member State. Participation of Member States in these forces is voluntary. RABITs are not the EU border guard but a group established to carry out particular tasks and respond to particular immigration crises.

External border protection is the subject of the common responsibility of the EU Member States. Therefore, it was decided to cover its costs from the EU budget. Initially, actions aimed at ensuring external border security were financed from the Schengen Fund. Currently, the management of EU external borders is supported by the European External Borders Fund established under decision 574/2007/EC of 23 May 2007, in reference to the provision of the Programme on Solidarity and Management of Migration Flows. The Fund is responsible for, *inter alia*, supporting Member States in: maintaining registers of persons crossing external borders, enhancing the qualifications of border guards and introducing a uniform training system, effective management of the movement of persons at external borders, organising training in detecting falsified documents, applying the provision of EC law concerning border crossing in a uniform manner by the border guard (especially the regulation estab-

lishing the EC code of principles regulating the movement of persons across borders, i.e. the Schengen Borders Code). The Fund supports development of border crossing infrastructure, related buildings and systems required for surveillance between border crossings and operating equipment (sensors, ICT monitoring equipment, document verification devices, terminals with access to SIS, VIS and FADO systems, means of transport for the control of external borders, equipment for information exchange, training and secondment programmes, R&D investments). In 2007-2013, the budget for the implementation of the activities financed from the External Borders Fund in the years 2007-2013 amounted to over EUR 10 million. Allocations are proportional to the involvement of the Member States (except for the UK and Ireland which do not participate in the Fund, and Bulgaria and Romania which joined the Fund in 2010[10]) in the management of external borders. The assessment is performed on the basis of two types of factors:

1) permanent factors that embrace, *inter alia*, the length of the external border, the number of border crossings and border security guards, and
2) variable factors (number of persons crossing the external border).

The second element of the integrated policy for security and management of external borders is **information** exchange about persons who cross the external borders of the European Union. To this end, mainly the Schengen Information System (SIS and SIS II), the Visa Information System (VIS), the European fingerprint database for identifying asylum seekers and irregular border-crossers (EURODAC) and the Europol information system are employed.

Keeping the EU's external borders secure also depends on the **effective detection of cross-border crime**, especially illegal immigration. This is both about the combat against international smuggling of people and illegal human trafficking. The framework decision 2002/946/JHA of November 2002 on the strengthening of the penal system to prevent the facilitation of unauthorised entry, transit and residence is a crucial regulation on counteracting illegal immigration. Member States are obliged to ensure that assisting in or organising illegal entry, transit or residence of third-country residents is effectively punishable by criminal penalties. Apart from isolatory sanctions (sentence of not less than six years of imprisonment, and if the infringements were committed for financial gain, as an activity of an organised criminal group or while endangering the lives of the persons who are the subject of the offence – sentence of not less than eight years), it is possible to confiscate the means of transport used to commit the offence, prohibit practising the occupational activity in the exercise of which the offence was committed, and even deport the perpetrator.[11] To legal persons facilitating illegal entry, transit or residence, financial penalties apply too, as well as exclusion from public benefits or aid, temporary or permanent ban on commercial activities, a judicial supervision and even a dissolution measure.

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[10] *Commission Decision of 18.12.2007 adopting the annual programme for Community actions within the framework of the External Borders Fund for the year 2007*, C (2007) 6437, Brussels 2007.

[11] See: "Official Journal of the EU" L 328, 5.12.2002.

Having regard to the fact that the fight against human trafficking and international smuggling of people is dependent on the elimination of possibilities of transporting those persons, on 28 June 2001 the Council adopted Directive 2001/51/EC on the financial penalties provided for by Member States for carriers. The Directive obligated carriers to return third-country nationals who are refused entry to the European Union. Member States undertook to take the necessary measures to ensure that carriers who commit the specified infringements are fined with penalties for each person carried: minimum EUR 3,000 (or equivalent in national currency) and maximum EUR 5,000. Additionally, the judicial authority may decide on the confiscation of the means of transport used for illegal transit, prohibit practising the occupational activity in the exercise of which the offence was committed, order temporary suspension or withdrawal of the operating licence.[12]

The last element of the policy for security and management of external borders is constituted by **cooperation with the countries of origin of immigrants,** especially MENA states. In November 2006, the European Commission presented its communication on "Global Approach to Migration One Year on: Towards a Comprehensive European Migration Policy".[13] In reference to the report of December 2000, it opted for changing the approach to immigration, and pointed to three reasons for such a position: 1) demographic perspectives and the ageing of the European society (see: Table 1 below); 2) the necessity to ensure EU competitiveness on the global market; and 3) the lack of possibilities for effective prevention of illegal inflow of persons. As a result, the following approach to immigration was proposed. Cooperation with third countries was to be crucial. It was postulated to strengthen the dialogue and cooperation not only with countries of origin but also with transit states, especially in North Africa. It was proposed to create protection zones in countries of origin, which would prevent the inflow of immigrants into the European Union. Buffer zones were linked to activities of Migration Support Teams tasked with providing technical and specialist assistance to third countries. At the same time, the 2000 proposal concerning legalisation of immigration in accordance with the quota system was repeated, i.e. the number of persons who can legally enter, reside and take up employment in EU Member States would be specified annually, and each year a list of job positions, aimed mainly at highly-qualified immigrants, would be drafted. There was also a postulate to create European Job Mobility Portals which would provide information on job opportunities in the European Union.[14] Migration Mobility Centres, financed from the EU budget, would be responsible for the or-

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[12] See: "Official Journal of the EU" L187, 10.07.2001.

[13] More: *The Global Approach to Migration One Year on: Towards a comprehensive European migration policy, Communication from the Commission to the Council and the European Parliament*, Brussels, 30.11.2006, COM (2006) 735 final.

[14] More: *Communication from the Commission to the European Parliament and the Council on Circular Migration and Mobility Partnerships between the European Union and Third Countries*, Brussels, 16.05.2007, COM (2007) 248 final, p. 10.

ganisation of exchange programmes for students and researchers, employment for seasonal employees and professional training adjusted to the needs of the European labour market. These initiatives were to cater for mutual benefits by strengthening labour markets and economic development. On 20 November 2007 also the EU Foreign Affairs Council pointed to the link between immigration and development. In the conclusions adopted at the time it was underlined that adequate management of migration might "promote close relations" between countries of origin, transit states and target countries, and consequently contribute to the development of those states and provide assistance in the process of developing employment policies.[15] The *Agenda for new skills and jobs* was to ensure practical implementation of those objectives. The Agenda was presented by the European Commission in 2010. The main aim of the programme is to pursue a "comprehensive economic migration policy that would enable the flexible appeasement of labour market needs"[16] in cooperation with third countries.

Table 1

Demographics in the Middle East and North Africa as compared to the European Union in the years 2005-2030 (persons aged 15-64, in millions)

Year	Middle East and North Africa	European Union
2005	286,836	330,137
2010	322,423	332,364
2015	354,452	328,430
2020	384,648	322,832
2025	414,696	315,800
2030	443,154	306,471

Source: author's own calculations based on Ph. Fargues (2008), *Emerging Demographic Patterns across Mediterranean and Their Implications for Migration through 2030*, Washington, p. 7.

THE ARAB SPRING AS A FACTOR DETERMINING CHANGES IN THE EUROPEAN MIGRATION POLICY

Governments of Member States exposed to the inflow of persons from North Africa, especially Algeria, Egypt, Libya, Morocco and Tunisia (see: Table 2 below), understood how important cooperation with countries of origin of immigrants was.

[15] Point 7, *EU Council conclusions on coherence between EU migration and development policies*, CL 07-275EN, 20.11.2007.

[16] *Ibid*.

Table 2

Migration from North African states in 2000

Country of origin	No. of emigrants	% of persons staying in the EU
Algeria	2,070,840	79.1%
Egypt	2,173,711	8.9%
Libya	78,109	24.6%
Morocco	2,589,108	71.9%
Tunisia	607,491	75.1%

Source: author's own calculations based on L. Marchiori, F. Docquier (2010), *The impact of MENA-to-EU migration in the context of demographic change*, Luxembourg, pp. 8-9; and Ph. Fargues (2006), *International Migration in the Arab Region: Trends and Policies*, United Nations Expert Group Meeting on International Migration and Development in the Arab Countries, Beirut, pp. 24-25.

Taking into consideration the scale of immigration from those states, in 1999 ministers of internal affairs of France, Spain, the United Kingdom, Germany and Italy launched a discussion on the risks connected with illegal immigration. The meeting held in La Baule in 2003 led to the adoption of three recommendations on safe and secure third countries, minimum amounts of funds that persons applying for Schengen visas must hold upon entering the EU area, and the obligation of airlines to provide passengers' data (for the purpose of identifying persons who did not use their return tickets and might have stayed in the European Union).[17] During the meeting, it was proposed to establish a security zone in the western part of the Mediterranean Sea. Member States most threatened with illegal immigration were to take part in the project (Spain, France, Italy), as well as countries of origin of immigrants (Algeria, Tunisia and Morocco). The objective was to provide African states with financial support to enable more effective management of migration flows.

During the informal Summit of the European Council at Hampton Court held on 17 October 2005, the Franco-Spanish initiative to develop effective measures combating illegal immigration from African states was discussed. In result the European Commission issues its communication titled "Priority actions for responding to the challenges of migration: First follow-up to Hampton Court". The adopted global approach to migration, confirmed in the conclusions of the Council of December 2006, came down to establishing cooperation between the EU and African and Mediterranean states.[18] The involvement in migration management together with North

[17] E. Posel-Częścik, *Grupa Pięciu plus Polska?*, "Polski Przegląd Dyplomatyczny" 2004, vol. 4, no. 1, pp. 60-61.

[18] In June 2007, cooperation was extended to cover states of other regions, among others Central Asia and the Far East, Russia, Ukraine and the Balkan states. More: *Communication from the Commission of 16 May 2007 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions applying the Global Approach to Migration to the Eastern and South-Eastern Regions Neighbouring the European Union*, COM (2007) 247 final.

African states was discussed at the Rabat Conference on Migration and Development in July 2006 and at the conference held in Tripoli in November 2006.[19] Special attention was paid to the necessity to pursue political dialogue, including Article 8 and 13 of the Cotonou Agreement. As a result, in December 2007 at the EU-Africa summit held in Lisbon, the action plan and common strategy constituting "The Africa-EU Partnership on Migration, Mobility and Employment" were adopted. This partnership provided responses to migration and employment challenges in the interest of all partners.

The events of 2011, referred to as "the Arab Spring", contributed to the launch of the EU-wide debate on immigration policy. Although the first reactions of EU diplomacy to the 2011 developments in North African countries were but an appeal to restrain using force and to respect fundamental freedoms, as well as a call for hearing out protest participants,[20] the influx of immigrants to EU Member States forced the EU to become more active. Both ECHO (the Directiorate-General for Humanitarian Aid) and Frontex were put on high alert.[21] It was assumed necessary to take specific actions that would support EU Member States hit by the influx of migrants and to develop and adopt new solutions that would become part of the EU migration policy.

Support for Member States

According to the data provided by the United Nations High Commissioner for Refugees, from 20 February to 2 March 2011 about 88,500 people left North Africa, 85,000 of whom left Tunisia.[22] The humanitarian crisis sparked evacuation missions. By 14 March, 161 flights with the participation of UNHCR and the International Organisation for Migration were organised enabling about 25,500 people to leave Egypt and Tunisia.[23] Apart from the evacuations organised from the outset of the

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[19] More in: *Rabat Declaration and Action Plan*, Euro-African Ministerial Conference on Migration and Development, Rabat, 10-11 July 2006, http://europa.eu (18.12.2011) and *Joint Africa-EU Declaration on Migration and Development and Ouagadougou Action Plan to combat trafficking in human beings, especially women and children*, Africa-EU Ministerial Conference on Migration and Development, Tripoli, 22-23 November 2006, http://europa.eu (18.12.2011).

[20] Words of Catherine Ashton. After: *Tunisia closes schools and universities following riots*, BBC News, http://www.bbc.co.uk (4.03.2011) and *Libia jak Egipt? "Dzień gniewu" wobec Muammara Kaddafiego*, http://www.tokfm.pl (17.10.2011).

[21] *Voice after exit revolution and migration in the Arab world*, http://www.social-euro-pe.eu/2011/05 (14.10.2011).

[22] *Update No. 1 on the Humanitarian Situation in Libya and in the Neighbouring Countries*, UNHCR, Geneva, 2.03.2011, http://www.unhcr.ch (7.11.2011).

[23] *Update No. 8 on the Humanitarian Situation in Libya and in the Neighbouring Countries*, UNHCR, Geneva, 15.03.2011, http://www.unhcr.ch (7.11.2011).

Arab Spring, unorganised waves of migrants headed for the European Union, especially Italy. From mid-January to 14 March 2011, the small Italian island of Lampedusa, 225 km away from the coast of Tunisia and around 280 km away from Sicily, was entered by over 8,800 migrants. Authorities of Malta recorded the entry of over one thousand migrants by mid-April 2011.

Under these circumstances, the European Union was forced to take immediate actions aimed at supporting the Member States exposed to the increased influx of migrants from states affected by the Arab Spring. *Hermes 2011* operation, initiated at the request of Italy in February 2011, was directed at providing assistance in supervising the southern EU border and controlling ships with migrants attempting to enter Italy's territorial waters. Twenty Frontex specialists were delegated to the South of Italy and additional aerial and maritime assets were deployed as part of RABITs' action. Frontex led support was provided by France, Spain, the Netherlands, Malta and Germany.[24] On 23 March 2011, it was decided to prolong the *Hermes* operation by five months and extend it to cover Sardinia (the island suffered migration inflow from Algeria). Underlining the necessity to ensure technical and personnel support, the number and outreach of patrols was increased. The task of patrols was to turn back boats carrying migrants and prevent them from crossing EU borders[25]. The other support provided was one in examining applications for the granting of refugee status or other forms of protection foreseen by the EU law. The case of the *Mistral Express* ferry illustrates how controversial actions taken as part of the *Hermes* operation were. With over 1,800 persons from Morocco, Egypt, Libya, Algeria, Tunisia, Syria, and even Sudan and Mauritania on board, the ferry was not allowed to enter Italian territorial waters, as the Italian Ministry of Interior tried to learn how many migrants would submit asylum applications, and how many would seek the right to reside in the EU. The Ministry demanded such data prior to issuing its consent to the ship's entering Italy's territorial and internal waters. Some of the migrants, who managed to legally enter Italy, but were refused the temporary residence permit, attempted to enter the territory of France. This triggered a heated dispute between Rome and Paris.[26] The French authorities, referring to the necessity to ensure internal order and striving to stop the inflow of immigrants, issued a decision banning Italian trains from entering France. This was tantamount to restoring border control at the Ventimiglia-Menton border crossing. The example of France was followed by Danish authorities which reinstated internal border control. As a result, the myth of European unity and solidarity in the face of challenges and threats was dispelled. It turned out that the support of EU institutions and other Member States was indispensable.

It is worth underlining that support for Member States exposed to massive migration from North Africa was not limited to the technical and personnel assistance provided within the *Hermes 2011* operation. At the first stage of actions taken in re-

[24] *Hermes 2011 Running*, http://www.frontex.europa.eu/newsroom (14.12.2011).

[25] *Hermes Operation Extended*, http://www.frontex.europa.eu/newsroom (14.12.2011).

[26] *Voice after exit revolution...*

sponse to the crises in North Africa, the European Union allocated EUR 102 million to evacuation and repatriation of EU citizens and provision of aid to those in need. Another EUR 25 million was allocated to support Member States pressurised by migration from North Africa. The funds were obtained from the External Borders Fund and the European Refugee Fund. That was especially important, as until mid-May 2011 about 38,000 migrants entered Italy. Most of them fled from Tunisia (about 24,000) and Libya (about 14,000). By mid-June those figures increased to 43,000[27], of which 1,500 reached Malta and the rest entered Italy. In mid-August, the number of migrants that arrived in Italy amounted to over 52,000.

It is worth noting that the decision on increasing funds allocated to external border management and visa policy implementation was a direct consequence of the Arab Spring and related events. In 2012 the External Borders Fund for the implementation of national programmes was to be increased by 35% to the amount of EUR 370 million. The largest part was to be allocated to EU Member States of the Mediterranean: EUR 53 million to Italy, over EUR 48 million to Spain, over EUR 44.5 million to Greece, just under EUR 15 million to Malta and EUR 7 million to Cyprus.[28]

Proposals of new immigration solutions

The inflow of migrants in result of the Arab Spring made the authorities of Member States and EU representatives aware of the necessity to reform the Common Immigration Policy.

On 11 March 2011, an extraordinary European Council dedicated to the analysis of the situation in North Africa was held. The objective of the meeting was to discuss measures for ensuring security of EU Member States and stopping the inflow of migrants. On the other hand, it was recognised that it was necessary to support democratic aspirations of African states. In the opinion of Alvaro de Vasconcelos, Director of the Institute for Security Studies, the events of the Arab Spring should be useful for the European Union: "We should stop thinking that the people fighting for democracy in North Africa are extremists. We should treat Syria just like we treat Belarus [...]. The European Union must show now that it supports democratic aspirations of these nations".[29] The position adopted by the Council was reflected mainly by its declaration that support for countries of the region would be provided on condition that they make progress on their path to political transformation. The support

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[27] *Update No. 26 on the Humanitarian Situation in Libya and in the Neighbouring Countries*, UNHCR, Geneva, 27.05.2011, http://www.unhcr.ch (7.11.2011)

[28] *EU External Borders Fund to allocate euro 370 million to Member States in 2012*, European Commission Press Release, 5.08.2011, IP/11/953.

[29] *11 marca szczyt UE ws. Libii, a potem strefy euro* http://europarlament.pap.pl (14.10.2011) and the comment for "Gazeta Wyborcza" of 9 March 2011, http://www.gazeta.pl (14.10.2011).

was to encompass organisation of parliamentary elections (Tunisia) and a dialogue with the new authorities (Egypt). The main topic of the Council was the situation in Libya. While underlining that the government of Muammar Gaddafi was no longer a dialogue partner for the European Union, a dialogue with the Libyan National Transitional Council was initiated. The main objective was to guarantee that EU citizens were safe in Libya and that they were evacuated.[30]

Initiatives of the European Commission and the conclusions of the EU Council and European Council had the greatest impact on the new immigration policy.[31] Pressurised by the governments of France and Italy, in its Communication of 4 May 2011, the European Commission considered it necessary to attain greater solidarity among EU Member States in receiving immigrants and strengthening external border control to ensure more rapid and effective responses to migration challenges. It underlined the necessity to expand the Frontex mandate and the need to deal with unilateral restoration of border control by a Member State. In the opinion of EC representatives, restoring border control might be justified "under very exceptional circumstances, such as where a part of the external border comes under heavy unexpected pressure". [32] At the same time it was emphasised that such controls can be reinstated after all other available measures of migration management fail, and that such controls would be limited in time and geographically. On 24 May 2011, in its Communication on immigration and asylum, the European Commission recognised as indispensable the improvement of border crossings infrastructure and further training programmes for border services to ensure effective border control. Moreover, in the Communication, it was also underlined that it was necessary to establish the proposed Schengen evaluation mechanism that would allow for reviewing the effectiveness of the functioning of the Schengen area and to tighten cooperation between Frontex, Europol, and national immigration, border and police authorities.[33]

On 9 June 2011, those proposals were discussed by the Justice and Home Affairs Council (JHA). Similar issues were touched upon by the JHA during the Polish Presidency of the Council of the European Union. On 18-19 July 2011 in Sopot, an informal meeting of ministers of justice and ministers of interior of Member States was held. It was devoted to the functioning of the Schengen area, the Common European Asylum System, and measures to increase the effectiveness of external border management.[34] Differences in interests between EU Member States surfaced. Repre-

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[30] To this end, cooperation was launched with the Office of the United Nations High Commissioner for Refugees, the International Organisation for Migration, as well as the International Red Cross and Red Crescent Movement and non-governmental organisations.

[31] Cf. M. Duszczyk, *Polityka imigracyjna UE – odpowiedź na "kryzys migracyjny" 2011 r.*, "Wspólnoty Europejskie" 2011, no. 4, p. 20.

[32] After: A. Franco, *EU moots new Schengen rules*, http://www.swissinfo.ch (14.10.2011).

[33] *Annual Report on Immigration and Asylum (2010). Communication from the Commission to the European Parliament and the Council*, Brussels, 24.05.2010, COM (2011) 291 final, p. 10.

[34] *The Informal Meeting of the Justice and Home Affairs (JHA) Council,* http://pl2011.eu/content (14.10.2011).

sentatives of France and Italy, supported by German diplomacy, opted for amending Schengen agreements and enabling the reintroduction of external border control. The Polish Presidency, supported by, *inter alia*, Belgium, pointed to the fact that such ideas contradicted the idea of "Europe without frontiers". As an alternative, the Presidency postulated that the EU should undertake activities aimed at streamlining the management of the Schengen area, border management and establishing new immigration and asylum policy instruments that would allow for the legalisation of immigration and the establishment of an "effective and sustainable policy on returns and readmission".[35]

The issue of immigration and asylum was also debated by the European Council. At its meeting on 24 June 2011, it emphasised that it was necessary to seek close co-operation with Mediterranean states to advance the dialogue for migration, mobility and safety.[36] This was a reference to the European Parliament's resolution of 5 April 2011, where this postulate was crucial.[37] The objective was to increase the effectiveness of legal immigration management and limiting illegal immigration. Similarly as the European Commission had done before, the European Council also considered introducing the possibility of unilateral reintroduction of border control by a Member State. In the Council's Conclusions of 23-24 June, it was proposed to strengthen the competences of Frontex and the Schengen area, and establish a common policy for managing immigration in cooperation with third countries.

Taking the above postulates of the JHA, the European Council, and the European Commission into account, and in an attempt to reconcile contradictory visions of the European immigration policy, the decision to extend the Frontex mandate was taken. The EU Frontex Regulation of 26 October 2011 foresees the increase in the agency's operational capacity, among others thanks to increasing its personnel, the quantity of border rapid response groups and the possibility of receiving support from international teams of Member States that owing to excessive migration pressure would not be capable of exercising border control on their own.[38] Cooperation with third countries based on projects that would provide financial and technical support in implementing the return (readmission and removal) programmes was considered to be crucial. Additionally, at the initiative of the European Parliament, the European Commission was given 12 months to examine the possibilities of establishing

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[35] *Programme of the Polish Presidency of the Council of the European Union.* 1 July 2011 – 31 December 2011, Ministry of Foreign Affairs, Warsaw 2011, p. 25.

[36] This was postulated already in March 2011. Cf. *Komisja Europejska nawiązuje ambitne Partnerstwo na rzecz Demokracji i Wspólnego Dobrobytu z południowym regionem Morza Śródziemnego*, http://europa.eu/rapid/press-release_IP-11-268_en.htm (14.10.2011).

[37] Cf. *European Parliament resolution of 5 April, 2011 on migration flows arising from instability: scope and role of EU foreign policy*, 2010/2269 (INI).

[38] See: points 9,13 and 14 and Article 3 (1b), 3b, 8a, *Regulation (EU) No. 1168/2011of the European Parliament and 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*, "Official Journal of the EU" L 304/1, 22.11.2011.

a European border guard composed of existing support teams, border rapid response groups and national border officers delegated by Member States. Expanding the existing competences and adding new ones was to improve operations of the agency. The aim was also to respond more effectively to future migration crises.

In reference to previous arrangements, after the events in North Africa, specific actions were taken to launch the online Immigration Portal connected with Migration and Mobility Resource Centres. The portal, which was launched on 18 November 2011, is available in English, Spanish and Arabic. It contains basic information on the requirements that must be met by persons intending to enter the European Union, migration procedures, as well as on the possibility of taking up legal employment or education in EU Member States.

On the same day, the European Commission presented its Communication on the global approach to the issue of migration. Further amenities for migrants applying for legal residence and employment in the EU were hinted at. Simultaneously intensification of the struggle against illegal immigration, smuggling of people and human trafficking was announced. Visa procedures was to be shortened for those who apply for short-term residence (for purposes such as tourism, education, research or seasonal employment) and the quota system for persons intending to take up permanent residence and employment was to be implemented.[39]

The system of mutual recognition of qualifications and diplomas and further development of cooperation on asylum and other forms of protection will constitute significant elements of the new approach to immigration. At first, these enhancements will be directed mainly at potential immigrants from Egypt, Tunisia and Morocco. The EU also foresees the possibility of a dialogue on this issue with the new Libyan authorities.

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In 2003, immigrants constituted 3.6% of the population of the European Union. Seven years later, the number of immigrants exceeded 20 million which accounted for 4% of the total of EU inhabitants.[40] Legal and illegal arrivals of third-country nationals intending to take up long-term residence forced the European Union to adopt common principles of immigration management. Though the beginnings of the EU immigration policy date back to 1993 (when Pillar III encompassing immigration, visa and asylum solutions was introduced under the Maastricht Treaty) and its development was significant under the Amsterdam Treaty, the Arab Spring contributed to the launch of the debate on the necessity to reform the EU's approach to immigration. The postulates put forward in 2011 have yielded some results and will entail the adoption of new legal solutions in the near future. However, it is worth

[39] Cf. Part 5, *The Global Approach to Migration and Mobility, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions*, Brussels 18.11.2011, COM (2011) 743 final.

[40] *Annual Report on Immigration and Asylum (2010)...*, p. 1.

underlining that though the dominant factor of change was constituted by the inflow of immigrants from North Africa, the consequences of the new EU immigration policy will affect not only illegal immigrants but also those third-country nationals who enter the EU for short term visits (tourism, education, studies or research, business) and long periods (legal residence and employment).

The goal that according to Member States justifies the immigration policy reform has been clearly specified: counteracting illegal inflow of third-country nationals and their illegal stay in EU Member States. The task of the EU is therefore to protect the 136-thousand-kilometre-long external sea border, the 9-thousand-kilometre-long external land border and more than 300 international airports. However, it is worth noting that all EU bodies and institutions also support the legalisation of immigration in view of ensuring the growth and stabilisation of the European labour market. Undoubtedly, such an approach will protect the European Union from becoming trapped in a possible vicious circle of immigration policy[41] where the increase in outlays on external border control aimed at increasing its effectiveness leads to an increase in social belief in a migration threat, which in turn leads to further growth of allocations to border control.

ABSTRACT

Multilateral cooperation of the Member States of today's European Union which is oriented towards the creation of uniform immigration legislation goes back to 1985 when the Schengen Treaty was signed. However, it was the ratification of the Maastricht Treaty on European Union that marked a turning point. When defining the areas of common interest the Member States indicated immigration, visa and asylum policy and declared to accept regulations on the crossing of external borders. The objective agreed upon was to suppress illegal immigration, residence and work in the EU of the citizen of third countries. Implementation of a unified immigration policy for the Member States of the EU proved to be especially important in the situation of an increased influx of people from the region of North Africa. Developments known as the Arab Spring and the migration pressure from North Africa triggered a debate on the necessity of reforming the EU's immigration policy. The object of the reform is twofold. On the one hand, it is to increase the effectiveness of preventive measures against illegal influx of persons from third countries and their illegal residence in the EU. On the other hand, attention is drawn to constructing the EU's immigration policy in such a way as to facilitate legal immigration with a view to the development and stabilisation of the European labour market.

[41] Compare Douglas S. Massey's approach.

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AUDIOVISUAL POLICY OF THE EUROPEAN UNION

Media policy has many different definitions.[1] Most often it is considered to be "the activity of the authorities aimed at providing and shaping conditions for the functioning of a mass communication system constituted mainly by the press, the radio and television".[2] Others claim that it is "an element of public policy [...] that should provide the answer to the question what should be done to shape the media system as desired and achieve its pre-set goals, and how to solve emerging problems, as well as how and why this should be done and via which methods: what actions can be taken, and which cannot".[3] However, it is worth recalling a broader perspective where media regulation refers not only to regulation by relevant bodies of state authorities but also to the possibility of other actors exerting causative influence on the principles of the media system functioning. In this wider perspective, attention has been drawn to the possibility of media self-regulation, i.e. the establishment of rules by the media market players, including owners of communication media and journalists (e.g. in the form of a journalistic code of ethics). Finally, the third source of regulation is constituted by the cultural and political traditions of a given society.[4] This view deserves full approval. It follows that, currently, media policy is composed not only of the actions of the state bodies, but also of other actors. One ought to agree that "media policy encompasses the principles and forms of employing the media not only for political but also cultural, educational and economic goals. Media policy is part of general political communication and contains legal and organisational regulations on the functioning of the media."[5] Nowadays, media policy cannot be limited to the

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[1] For more see: E. Stasiak-Jazukiewicz, M. Jas-Koziarkiewicz (2011), *Polityka medialna w Unii Europejskiej*, Warsaw, pp. 19-30; J. Skrzypczak (2011), *Polityka medialna w okresie konwersji cyfrowej radiofonii i telewizji*, Poznań, pp. 14-17.

[2] B. Mierzejewska, *Polityka medialna, in: Media, komunikacja, biznes elektroniczny*, in: B. Jung (ed.) (2001), Warsaw, p. 227. See also: T. Goban-Klas, *Zygzaki polityki medialnej*, in: G. G. Kopper, I. Rutkiewicz, K. Schliep (eds) (1996) *Media i dziennikarstwo w Polsce 1989-1995*, Cracow, pp. 164-165.

[3] K. Jakubowicz (2008), *Polityka medialna a media elektroniczne*, Warsaw, p. 17.

[4] *Ibid.*, pp. 17-18.

[5] A. Hess, *Polityka medialna*, in: *Słownik terminologii medialnej*, in: W. Pisarek (ed.) (2006), Cracow, p. 151.

sole activity of a state. In the times of global media, it is necessary to adopt a wider perspective, both regional and international. In that approach, the term *media policy* is associated with legal regulations, as the process of establishing legal norms is its most important instrument.[6] Funding and informative-educational activity should be classed as such tools. These platforms for activity are, however, just the outcome of the legal norms adopted earlier on.

Currently, in the doctrine, the media policy is understood as activities concerning the regulation of the social communication process. However, it ought to be observed that until the 1970s[7], the phrases "communication policy", and later on "audiovisual policy" were used in EU documents.[8] This resulted from the fact that the UE was focused mainly on the functioning of television, and less of radio broadcasting. Television had the most powerful impact on public opinion and was, at the same time, the main source of information for citizens as it provided access to public information and cultural heritage. Still, it ought to be admitted that in the doctrine describing these phenomena, such terms as "media policy" and "radio and television policy" were also used.[9] The development of digital technology led to the revision of the adopted terminology (e.g. *radio broadcasting* and *television*). Also in EU documents, the term *television services* is replaced with the phrase *audiovisual media services*.[10]

The approach of the European Communities to media issues in previous decades can be divided into several stages. In the first period, which was relatively the longest, EC bodies were refused the right to interfere in this area. This resulted mainly from the differences in the perception of this incredibly sensitive issue between Member States, but also between EU bodies.[11]

The position presented in the ruling of the European Court of Justice of 30 June 1974 was a breakthrough. The Court explicitly stated that the broadcasting of television programmes should be classed as the rendering of services and all the princi-

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[6] K. Jakubowicz, *Polityka*..., p. 18.

[7] Cf. D. Goldberg, T. Prosser, S. Verhulst (1998), *EC Media Law and Policy*, London, pp. 42-54; A. Harcourt, S. Weatherill, *The Consumer, the European Union, and Media Law*, "Journal of Consumer Policy" 2008, vol. 31, no. 1, pp. 1-4; L. Nyakas, *Między rynkiem a misją*, "Raport o kulturze. Europa w mediach – media w Europie" 2002, no. 2, pp. 130-132 and M. Szewczyk (2002), *Polityka audiowizualna Unia Europejska – Polska. Wybrane zagadnienia*, Warsaw.

[8] E. Stasiak-Jazukiewicz (2005), *Polityka medialna Unii Europejskiej*, Warsaw, p. 17.

[9] K. Jakubowicz (2010), *Unia Europejska a media. Między kulturą a gospodarką*, Warsaw, pp. 10-11.

[10] E. E. Paraschos (1998), *Media Law and Regulation in the European Union. National, Transnational and U.S. Perspectives*, Iowa, p. 24; A. Harcourt, S. Weatherill, *op. cit*.; M. Wheeler, *Supranational regulation. Television and the European Union*, "European Journal of Communication" 2004, no. 19, pp. 349-369; T. Storsul, T. Syvertsen, *The Impact of Convergence on European Television Policy*, "Convergence: The International Journal of Research into New Media Technologies" 2007, no. 13, pp. 275-291.

[11] K. Jakubowicz, *Unia*..., p. 13.

ples binding in this area should apply.[12] This refers mainly to provisions on the free movement of services and goods.[13] Later on, the European Court of Justice reached a similar conclusion in the case *Procureur du Roi vs. Marc J.V.C. Debauve and others* (case file no. 52/70), by ruling that activity consisting in the dissemination and distribution of programmes by cable television can be classified as a service.[14]

The 1980s were characterised by attempts to develop appropriate strategies towards the mass media. In this period, there was much chaos, and varied trends surfaced. Therefore, the activities pursued in the years 1981-1984 are described as aimed at European cultural unity, at the expense of diversity. After 1985, the Community policy took a completely different approach and started to focus on the promotion of diversity over unity.[15] This was expressed in decisions to nourish European identity and stop the "flood" of American productions. In this period, satellite television became more widespread which gave the pretext to concentrate on the media not only at the national but also at the EU level. It was then decided that the policy of European Communities would focus on television, completely disregarding the printed press, and that radio broadcasting would be of minor concern. An appropriate audiovisual policy was supposed to create the feeling of community, strengthen integration trends and emphasise the benefits of such an EU policy.[16]

In those years, the European Parliament repeatedly appreciated the significance of satellite television as a truly global medium. The establishment of a common European satellite programme was strongly promoted.[17] In 1984, two important rec-

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[12] See: judgement of the European Court of Justice in case: *Public Prosecutor v. Giuseppe Sacchi* of 1974 (C155/73, ECR. 1974, p. 426). It was stated that "owing to the lack of an explicit provision that would state otherwise, the transmission of television signals, including those in the nature of advertisements, comes, as such, within the rules of the Treaty relating to services. However, trade in material, sound recordings, films, equipment and other products used for the diffusion of television signals is subject to the rules relating to freedom of movement for goods". More in: C. Mik (1999), *Media masowe w europejskim prawie wspólnotowym*, Toruń, pp. 153-154 and E. D. Sage, *Usługi audiowizualne*, in: J. Barcz (ed.) (2004), *Prawo Unii Europejskiej*, Warsaw, p. 1067, as well as R. R. Bartoszcze, L. Słupek (2001), *Telewizja – dobro kultury czy element rynku. Transformacja telewizji publicznych w krajach Unii Europejskiej*, Rzeszów, p. 182; E. Stasiak-Jazukiewicz, M. Jas-Koziarkiewicz, *op. cit.*, p. 30ff.; J. Skrzypczak, *op. cit.*, p. 132ff.

[13] *Cf.* T. J. O'Dowd, *Broadcasting Policy and European Law,* in: M. McGonagle (ed.) (1997) *Law and the Media. Views of Journalists and Lawyers*, Dublin, p. 276.

[14] K. Jakubowicz, *Unia...*, pp. 12-13.

[15] *Ibid.*, p. 30.

[16] *Cf.* the resolution of the European Parliament of February 1982, the so-called Hahn Act I and the 1983 report of the European Commission *Realities and tendencies in European television: Perspectives and Options* (COM 83, 229 final).

[17] It ought to be noted that in 1982, thanks to the involvement of 15 broadcasting stations, the Eurikon programme was launched. However, it was not universally available. In 1985, the Europa TV channel was created. It ceased to operate after 18 months. It should be noted that the resistance of national broadcasters was strong, and its popularity scarce. See K. Jakubowicz, *Unia*..., pp.43-44.

ommendations based on G. Arfe's report[18] and A. M. Hutton's report[19] were adopted. One should also recall most important theses of the Barzanti Report[20] which was the European Parliament's response to the European Commission's Green Paper "Television without frontiers".[21] In those documents the areas of interest for the EC media policy were specified and the conviction was expressed that liberalisation of the media market and streamlining of cross-border broadcasting would speed up the integration process and that European productions should be supported by introducing appropriate programme quotas, i.e. broadcasting stations would be obliged to transmit a specific number of programmes produced in Europe. It was also considered necessary to counteract the concentration of media companies and ensure appropriate balance between the public and private broadcasters' sectors. Attention was drawn to the problem of public broadcasters by stating that their independence should be guaranteed, *inter alia*, by appropriate financial support. It was acknowledged that European institutions should also contribute funds to establishing the common media market. It was postulated that legal provisions laying down advertisement broadcasting principles and the protection of copyrights and related rights should be regulated and harmonised. European cooperation on implementation of new technologies for transmitting television signals was also recognised as necessary.[22]

It should, however, be observed that mass media are approached in various ways in the EU policy. If they are classified as business entities, it is because they are examined from the perspective of the competitiveness policy and the principles of the internal market. It is also possible to discern a trend where the media are perceived as an element of democratic and cultural infrastructure of the European societies and an important component in building the information society. In general, the EU approach to mass media has leaned more toward treating them as business entities than elements of culture. This is best illustrated by the division of competences in the structures of the European Commission. Initially, the Directorate-General III dealt with the media issue. That DG covered also the internal market and economy and

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[18] *Report drawn up on behalf of the Committee on Youth, Culture, Education, Information and Sport on a policy commensurate with new trends in European Television. Working Documents 1983-84, Document 1-1541/83, 16 March 1984,* http://aei.pitt.edu/3118/.

[19] *Report drawn up on behalf of the Committee on Youth, Culture, Education, Information and Sport on broadcast communication in the European Community (the threat to diversity of opinion posed by the commercialization of new media). Document 1-1523/83, 15 March 1984*, http://aei.pitt.edu/3119/01/000056.PDF.

[20] *Report on the proposal from the Commission of the European Communities for a directive on the coordination of certain provision laid down by broadcasting activities. Rapporteur R. Barzanti*. Doc. A2-246/87. See: K. Jakubowicz, *Unia*..., pp. 41-42.

[21] *Television without Frontiers. Green Paper on the Establishment of the Common Market for Broadcasting, especially by Satellite and Cable. Annex. COM (84) 300 final/annex, 14 June 1984*. http://aei.pitt.edu/1155/.

[22] K. Jakubowicz, *Unia*..., pp. 42-43.

prepared the abovementioned Green Paper. The functioning of the media was also a domain of Directorate-General IV which dealt with competition on the internal market, and Directorate-General X, which was tasked with supervising such fields as communication, information, culture and the media. The MEDIA programmes were among the flagship projects of DG X. The mass media was also of interest to Directorate-General XIII which dealt with telecommunication, IT and innovation.[23] Later on, competences in this area were granted to the Directorate-General for Information, Communication, Culture and the Media, and then to the Directorate-General for Education and Culture. Since 2004, the Information Society and Media Directorate-General has been responsible for the audiovisual policy.

It needs to be underlined that the object of the EC audiovisual policy is firstly to design legal regulations on the functioning of this sector within a common framework, and secondly to ensure the implementation of technical and social infrastructure necessary for the functioning of the media[24]. Hence the strategy for regulating the principles of media functioning is double-track. One track covers the contents of the transmitted information, and the other covers technical infrastructure and the ways of transmission.

To the first track, the fundamental regulation that governs the EU media market is the Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities.[25] This document marks the beginning of liberalisation of the European television market and was basic for cross border television services. It was decided to introduce minimum standards. This mainly refers to protection of underage viewers, advertising rules, guaranteeing access to especially important programmes[26] and the right to reply. Moreover, the provision to protect European productions was introduced.[27] This document was revised under Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997[28]. It was decided that the existing solutions were not efficient enough and that the definitions given in Directive 89/552/EEC should be redefined. It was also agreed that minors should be protected more effectively.

Ten years later, due to advances in digital technology, another thorough revision of the legislation was necessary, *inter alia*, owing to the dynamic development of the media market. The data presented by the European Commission in its communication

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[23] *Ibid.*, p. 13.

[24] E. Stasiak-Jazukiewicz, *op. cit.*, p. 17.

[25] Published in the "Official Journal" (hereinafter "OJ") L 298 of 17.10.1989, pp. 23-30; Polish special edition: Chapter 06, vol. 01, pp. 224-231. This document is usually referred to as the "Directive on television without frontiers". More: O. Castendyk, L. Woods, *Comments on Article 1 TWFD*, in: O. Castendyk, E. Dommering, A. Scheuer (eds) (2008), *European Media*, The Hague, pp. 273-279.

[26] A. Jaskiernia, *Ewolucja standardów europejskich relacjonowania ważnych wydarzeń przez media elektroniczne*, "Studia Medioznawcze" 2007, no. 2, pp. 12-18.

[27] D. Goldberg, T. Prosser, S. Verhulst, *op. cit*., pp. 56-68 and C. Mik, *Media*..., pp. 241-256.

[28] Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997, OJ L 202 of 30.07.1997, pp. 60-70. Polish special edition: OJ of the EU, Chapter 06, vol. 02, pp. 321-331.

on the application of Council directive 89/552/EEC on television without frontiers[29] demonstrated that the number of television programmes went up from 584 in 2003 to 6,067 in 2008.[30] As a result, it was decided that it was necessary to adopt a directive on audiovisual media services.[31] The Commission's communication underlined the special significance of audiovisual media services for democratic societies, if only because of information provision. An important role of those services in shaping such values as freedom of expression and information was recognised, as well as their role in promoting political and linguistic pluralism and diversity of world views. In terms of approach, it was important that not only the economic value of this sector was noticed, but also its impact on culture, art and education.[32]

The definition of "audiovisual media services"[33] deserves special attention here, as it embraces traditional television broadcasting (so-called linear services[34]),

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[29] Communication from the European Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions of 22 July 2008. Eighth communication on the application of Articles 4 and 5 of Directive 89/552/EEC "Television without Frontiers". Amended by directive 97/36/EC in the years 2005-2006, Brussels, 22.07.2008, COM(2008) 481, final version, (SEC(2008) 2310), http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0481:FIN:PL:PDF. and Communication from the European Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions. Ninth communication on the application of Articles 4 and 5 of directive 89/552/EEC "Television without Frontiers". Amended by directive 97/36/EC in the years 2007-2008, Brussels, 22.07.2010, COM(2010) 450, final version, (SEC(2008) 995), text available at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?u-ri=COM:2010:0450:FIN:PL:PDF.

[30] *Ibid.*, p. 3.

[31] Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (Audiovisual Media Services Directive). Consolidated text published as Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services. (OJ of the EU L 95 of 15.04.2010, p. 1 and next). More: W. Kołodziejczyk, P. Stępka, *"Stare" i "nowe media". Dyrektywa "O audiowizualnych usługach medialnych" jako próba odpowiedzi na wyzwania rynkowe i technologiczne*, "Studia Medioznawcze" 2008, no. 1, pp. 13--16; A. Matlak, *Dyrektywa o audiowizualnych usługach medialnych*, "Zeszyty Naukowe Uniwersytetu Jagiellońskiego. Prace z Prawa Własności Intelektualnej" 2010, vol. 2 (108), pp. 127-147.

[32] More: A. Matlak, *Dyrektywa*..., p. 129.

[33] It is worth mentioning that under Article 1, Par. 1, Point a of Directive 2010/12/EU, the term "audiovisual media service" means " a service as defined by Articles 56 and 57 of the Treaty on the functioning of the European Union which is under the editorial responsibility of a media service provider and the principal purpose of which is the provision of programmes, in order to inform, entertain or educate, to the general public by electronic communications networks within the meaning of point (a) of Article 2 of Directive 2002/21/EC. Such an audiovisual media service is either a television broadcast as defined in point (e) of this paragraph or an on-demand audiovisual media service as defined in point (g) of this paragraph; or an audiovisual commercial communication".

[34] In compliance with Article 1, Point e of Directive 2010/13/EC, "television broadcasting" or "television broadcast" (i.e. a linear audiovisual media service) means an "audiovisual media service provided by a media service provider for simultaneous viewing of programmes on the basis of a programme schedule".

Video-on-Demand services[35] and commercial communication.[36] In result, the normative scope of Directive 89/552/EEC was extended to cover many varied forms of television activity available in the digitising era. Thus the new definition of audiovisual media services would encompass both traditional analogue and digital television, and various modes of broadcasting: terrestrial, cable, satellite and the so-called mobile or portable television. It includes also the Internet transmission both online and in the form of live streaming, i.e. webcasting and *Near-Video-on-Demand*, i.e. copies of a programme broadcast at short time intervals.[37] The common feature of VoD services is that they are available at any time and place selected by the recipient. Currently, the significance of these services keeps growing. They resemble traditional television broadcasting and are targeted at the same media market sector. However, it is the catalogue of exclusions that deserves outmost attention. The digitising era is characterised by a multitude of broadcasting options and thus exclusions, *de facto*, delineate the applicability or scope of the Directive. Among exclusions are audio transmissions, i.e. radio programmes, as well as electronic versions of newspapers and magazines. Moreover, the Directive excluded non-commercial broadcasts addressed only to selected persons, not for public viewing. To this group belong websites that are not profit oriented and e-mail. The same applies to services whose main objective is not to provide an audiovisual programme and where audiovisual elements are only complementary, e.g. short advertising spots. The abovementioned definition also excludes games and Internet browsers.[38]

It is worth discussing one more issue connected with the functioning of the said Directive. This act of law also applies to Internet transmissions. The issue was to

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[35] In accordance to Article 1, Point g of Directive 2010/13/EC, "on-demand audiovisual media service" (i.e. a non-linear audiovisual media service) means an "audiovisual media service provided by a media service provider for the viewing of programmes at the moment chosen by the user and at his individual request on the basis of a catalogue of programmes selected by the media service provider".

[36] In compliance with the quoted Directive, the "'audiovisual commercial communication' means images with or without sound which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal entity pursuing an economic activity. Such images accompany or are included in a programme in return for payment or for similar consideration or for self-promotional purposes. Forms of audiovisual commercial communication include, inter alia, television advertising, sponsorship, teleshopping and product placement".

[37] A. Matlak, *Dyrektywa*..., p. 130. See also: R. Chavannes, O. Castendyk, *Directive 2007/65/EC Audiovisual Media Services' Directive*, in: *European Media Law*..., p. 806.

[38] It is worth noting that similarly as Directive 89/552/EEC, this document hails the principle of the country of origin. Let us recall that this provision allows for resolving jurisdiction issues. Including Internet transmissions into the normative scope of this Directive, however, required a new approach as the data available online are in fact globally available information. Of course, this issue was touched upon earlier in the context of satellite television and its international nature. However, in the times of the *World Wide Web* a new perspective on national jurisdiction was needed. When the above provision was made more specific, it was decided that the national system of law of each Member State would apply to entities whose head offices are located in that Member State territory or which use a terrestrial and satellite broadcasting station located in that Member State or which use a satellite link-up that belongs to that Member State. This issue was described in detail in Article 2, Par. 3 of Directive 2010/13/EU

what extent the legislator can interfere in this area. In the legislative tradition up to that point, this field of human activity was relatively neglected by regulators. This resulted, *inter alia*, from the specific nature of this type of communication, i.e. communication of global character, or communication reaching beyond the frontiers of a given country. Moreover, communicating via the Internet gives the feeling (now may be illusory) of full freedom, anonymity, and exemption from legal responsibility. The approach of legislators had to take all concerns into account. In Directive 2010/13/EC, it was underlined that introduction of any forms of licensing or administrative approval of any entity intending to provide audiovisual services on the Internet is unacceptable.[39] It is also worth taking a closer look at the structure of that Directive. The first part consists of common provisions referring to both linear and non-linear services.[40] The second part concerns solutions for VoD services solely.[41] This part is characterised by a very liberal approach and regulation is reduced to a minimum. Those services can be self-regulated or co-regulated. Finally, the third part refers to linear television broadcasting and its provisions are most demanding.[42]

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[39] A. Matlak, *Dyrektywa*..., p. 130.

[40] Their providers have been obliged to make public such data as the name of the company, the address of its head office, e-mail address, as well as information about the relevant regulatory or supervisory body. Communications inciting to hatred on grounds of race, sex, religion or nationality have been prohibited. It is also prohibited to broadcast cinematographic works outside periods agreed with the rights holders, transmit surreptitious audiovisual commercial communication, use subliminal techniques, prejudice respect for human dignity, include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation, encourage behaviour prejudicial to health or safety, encourage behaviour grossly prejudicial to the protection of the environment, present any forms of audiovisual commercial communications for cigarettes and other tobacco products, broadcast audiovisual commercial communication for medicinal products and medical treatment available only on prescription in the Member State within whose jurisdiction the media service provider falls, cause physical or moral detriment to minors. Audiovisual commercial communications for alcoholic beverages cannot be aimed specifically at minors and cannot encourage immoderate consumption of such beverages. They cannot directly exhort minors to buy or hire a product or service by exploiting their inexperience or credulity, directly encourage them to persuade their parents or others to purchase the goods or services being advertised. Such communications cannot exploit the special trust minors place in parents, teachers or other persons, or unreasonably show minors in dangerous situations. It is also postulated that Member States encourage media service providers under their jurisdiction to ensure that their services are gradually made accessible to people with a visual or hearing disability.

[41] The parties concerned were also obligated to limit minors' access to communications that might affect their physical, psychological and moral development. At the same time, it was postulated that the production and distribution of European works be promoted. It was suggested that such support for European works should, for example, take the form of financial contributions to the production of and acquisition of rights in European works, placing European works in video-on-demand catalogues or attractive presentation of European works in electronic programme guides.

[42] These provisions concern, among others, the so-called exclusive rights and short news reports. On the one hand, these provisions are aimed at ensuring the protection of the held exclusive rights to the broadcasting of significant events, e.g. sport events. On the other hand, they strive to ensure that all viewers have access to most important items of news. It is the duty of the Member State to draw up a list of designated events, national or non-national, which it considers to be of major importance for society,

The technical and organisational structure of the functioning of the media has been dealt with in EU regulations separately. The relevant catalogue of acts of law contains many documents that touch upon very detailed technical issues.[43]

The European audiovisual policy also covers public media. Of particular importance was the Amsterdam Protocol on the system of public broadcasting in the Member States, which constitutes an Annex to the Amsterdam Treaty.[44] The authors of this Protocol expressed the conviction that "the system of public broadcasting in each Member State is directly related to the democratic, social and cultural needs of each society" and it contributes to media pluralism. The provisions of the Treaty establishing the European Community should be without prejudice to the competence of Member States to provide for the funding of public service broadcasting insofar as it supports broadcasting organisations in the fulfilment of the public service remit as defined and organised by each Member State, and insofar as such funding does not affect trading conditions and competition in the Community to an extent which would be contrary to the common interest.

In the Commission's Communication of 15 November 2001[45], a more capacious definition of public service mandate was proposed. The Communication reads: "a wide definition, entrusting a given broadcaster with the task of providing balanced and varied programming in accordance with the remit, while preserving a certain level of audience, may be considered, in view of the interpretative provisions of the Protocol, legitimate (under applicable provisions). Such a definition would be consistent with the objective of fulfilling the democratic, social and cultural needs of a particular society and guaranteeing pluralism, including cultural and linguistic diversity".[46] As Member States were entrusted with the power to specify the public service mandate, it was demanded that the terms of the public service remit should be precise, so that the European Commission could effectively monitor compliance with EU provisions. Member States may adopt the *single-funding system* or the *dual-funding system*. The first system assumes that the media are financed solely from public funds while the second system allows to combine public funding with com-

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and determine whether these events should be available by complete or partial live coverage or, where necessary or appropriate for objective reasons in the public interest, whole or partial deferred coverage. In the case of such transmissions, the requirements concerning advertising and telemarketing are much more stringent.

[43] One should mention Council Directive 86/529/EEC on the adoption of common technical specifications of the MAC/packet family of standards for direct satellite television broadcasting, Council Directive 92/38/EEC of 11 May 1992 on the adoption of standards for satellite broadcasting of television signals (i.e. the so-called HD-MAC Directive), OJ L 137 of 20.05.1992, pp. 17-20.

[44] More: H. Ungerer (2003), *Legal and Regulatory Aspects of Public Service Broadcasting*, Bucharest, p. 6ff.; idem (2003), *Impact of Competition Law on Media – some comments on current development*, Brussels, p. 2.

[45] *Communication from the Commission on the application of state aid rules to public service broadcasting,* OJ C 320 of 15.11.2001, pp. 5-11.

[46] *Ibid*.

mercial activity, e.g. broadcasting advertisements.[47] The latter, however, cannot have a negative effect on the market and competition in the media sector. Thus transparent rules need to be introduced that allow for differentiating between the sources and goals of financing. It is therefore necessary to keep separate accounts for resources from public funds and commercial revenues. Public funds can be allocated solely to the implementation of tasks specified in the public service mandate. The above was confirmed in the next Communication of the Commission.[48]

The EU's activity in the area of the so-called "new media" deserves special attention. One ought to mention the Green Paper of 6 April 1994[49], which reflects the fact that the telecommunications and media sector draw closer to each other.[50] One should also appreciate the significance of the next Green Paper of 3 December 1997[51], which concerned the future of the EU's audiovisual policy. Three variants of the policy for audiovisual and telecommunications services were put forward. The first assumed that a separate regulatory approach would be maintained toward television and radio services and telecommunications. The second approach postulated that a new law on convergent services be adopted, however, the approach to the sectors should remain varied. The third proposal was the most far-reaching one as it proposed a completely new coherent and uniform regulation on the new media.[52] In the next Communication from the European Commission of 14 December 1999[53],

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[47] *Ibid*.

[48] Communication from the Commission on the application of State aid rules to public service broadcasting (2009/C/257/01), OJ of the EU C 257 of 27.10.2009, pp. 1-14..

[49] *Strategy Options to Strengthen the European Programme Industry in the Context of Audiovisual Policy of the European Union – Green Paper*, (COM (1994)96 Final).

[50] See also *Digital Video Broadcasting Council Resolution of 27 June 1994 on framework for Community policy on digital video broadcasting,* OJ C 181 of 2.07.1994, p. 3-4. It is also worth mentioning Directive 95/47/EC of the European Parliament and of the Council of 24 October 1995 on the use of standards for the transmission of television signals, which introduced technical standards, among others, in the scope of the scrambling algorithm and the CAS interface. See: *Directive 95/47/EC of European Parliament and of the Council of 24 October 1995 on use of standards for the transmission of television signals*, OJ L 281 of 23.11.1995, pp. 51-54.

[51] *Green Paper on the Convergence of Telecommunications, Media and Information Technologies*, COM 97/623, December 1997. See also: D. Goldberg, T. Prosser, S. Verhulst, *op. cit*., pp. 114-117.

[52] K. Jakubowicz, *Unia Europejska*..., p. 50. In the 26 October 1998 report of the High-level Group on audiovisual policy, the so-called Orejo Group, titled "The Digital Age: European Audiovisual Policy", it was once again underlined that the media play an important role in contemporary European democratic societies, but at the same time it was recommended to take actions aimed at increasing the competitiveness of this sector in the digital era, enabling a notable increase in the number of transmitted programmes. In these circumstances, it was underlined that a new legal order was to be introduced. K. Jakubowicz, *Unia Europejska*..., pp. 50-51; E. Stasiak -Jazukiewicz, *Polityka*..., p. 29. It is also worth consulting the Action Plan of the European Parliament and EU Council on promoting safe use of the Internet by combating illegal and harmful content on global networks.

[53] *Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions, Principles and Guidelines for the Community's Audiovisual Policy in the Digital Age*, COM (1999) 657 final. Brussels, 14.12.1999, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:1999:0657:FIN:EN:PDF

the principles of developing an audiovisual policy in the digital era were outlined. These included, *inter alia*, the principle of proportionality which consists in ensuring that the regulation intervention scope adopted at the EU level should enable the achievement of the set goals. It was decided that it was necessary to keep regulations on contents and technical infrastructure separate. It was recommended that such instruments as self-regulation and co-regulation be used, and to safeguard such social values as freedom of expression, media pluralism, right to reply, protection of copyrights and related rights, the rights of minors and respect for human dignity, as well as the promotion of cultural and linguistic diversity. In the document, the role and significance of public media in the information society was also noted.[54]

During its meeting held in Lisbon on 23-24 May 2000, the EU Council underlined the potential for growth, competitiveness and job creation of the shift to the knowledge-based digital economy.[55] It pointed to the necessity of ensuring inexpensive access to information at all levels and decided that the MEDIA Plus programme would also cover European productions created by means of new technologies.[56]

In 2002, the so-called Telecommunications Package was adopted. The following Directives formed part of it: Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive)[57], Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive)[58], Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive), Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive). The above package was amended in 2009.[59]

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[54] *Cf.* T. Kowalski, *W poszukiwaniu nowej struktury regulacyjnej sektora mediów w Polsce – aspekt europejski*, "Studia Medioznawcze" 2003, no. 5, pp. 18-20 and K. Jakubowicz, *Unia Europejska*..., pp. 52-53.

[55] *Cf.* the preamble to Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive). OJ L 108, 24/04/2002 P.0033-0050, pp. 349-366.

[56] E. Stasiak-Jazukiewicz, *Polityka*..., p. 105. See: Commission's Communication of 10 February 2004 "Building our common future – Policy challenges and budgetary means of the enlarged Union 2007-2013", which extended the duration of the MEDIA Plus programme until 30 June 2007, *ibid*.

[57] Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services, OJ L 108, 24/04/2002 P.0033-0050, pp. 349-366.

[58] OJ L 108 of 24.4.2002, pp. 21-32, Polish special edition: Chapter 13, vol. 29, pp. 337-348.

[59] Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on

On 21 June 2002 at the Seville summit, the European Commission presented the document titled "eEurope 2005 action plan. An information society for all".[60] This comprehensive paper on the functioning of electronic media contained the postulate that Member States implement clear switchover rules, i.e. introduce transparent regulation on the conversion to digital television. It was considered indispensable that EU Member States adopt appropriate strategies that specify the intentions of Member States in this area, and that Member States would present a schedule of activities including switch-off, i.e. the itinerary for switching off analogue communications.[61]

The above guidelines were reiterated in the Communication of the European Commission of 17 September 2003.[62] The document did not contain a proposal of some single pan-European model of the switchover strategy, but it did oblige Member States once again to draft individual switchover schedules. [63] It contained the guidelines that should be taken into account when drafting the documents. It was recommended that when outlining this policy, not only technical, but also social, cultural, political and economic aspects should be taken into account. Another recommendation was to introduce transparent rules of radio spectrum management.

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cooperation between national authorities responsible for the enforcement of consumer protection laws (OJ of the EU L337 of 18.12.2009, pp. 11-36) and Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services (OJ of the EU L 337 of 18.12.2009 pp. 37-69). Under the above acts and Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office (OJ of the EU L337 of 18.12.2009, pp. 1-10), among others *BEREC* was established which replaced the so-called European Regulators Group (ERG). Other amendments concerned the management of radio spectrum. Also the necessity to respect the principle of technology and service neutrality was underlined, and secondary trading in the frequency market was permitted. See: F. Kamiński, *Charakterystyka pakietu regulacyjnego 2009 dla sektora komunikacji elektronicznej*, "Telekomunikacja i Techniki Informacyjne" 2010, no. 1-2, pp. 4-15.

[60] *Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions. eEurope 2005. An information society for all. An Action Plan to be presented in view of the Sevilla European Council 21/22 June 2002, COM (2002) 263*, Brussels, 28.05.2002, http://eur-lex.europa.eu/LexUriServ/LexUri- Serv.do?uri=COM:2002:0263:FIN:EN:PDF

[61] See also: *Digital Switchover Broadcasting. A BIPE study for the European Commission, Directorate General Information Society (Executive Summary)*, 12 April 2002. http://www.krrit.gov.pl/bip/Portals/0/radiofonia%20i%20telewizja%20cyfrowa/cyfr–bipe–a.pdf and *Digital Switchover Broadcasting. A BIPE study for the European Commission, Directorate General Information Society (Final Report)*, 12 April 2002. http://www.krrit.gov.pl/bip/Portals/0/radiofonia%20i%20telewizja%20cyfrowa/cyfr–bipe–b.pdf.

[62] *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the transition from analogue to digital broadcasting (from digital "switchover" to analogue "switch-off")*, COM (2003) 541, (SEC (2003) 992). http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2003:0541:FIN:EN:PDF.

[63] K. Jakubowicz, *Polityka*..., p. 192.

The document also contained a description of the role and competences of the market regulator and the principles of licensing the activity of market participants. It was necessary to specify the switch-off calendar and undertake actions that would encourage consumers to purchase appropriate equipment (either a set-top box or a digital television set) that enable viewing digital television. Member States, when achieving the above goals, were obligated to adhere to such principles as transparency, interoperability, technical neutrality, prohibition of discriminating against any media market participant, proportionality of policies and redefinition of the must-carry regulation. At the same time, the Commission reserved its right to supervise and monitor the implementation of national policies in this area.[64]

Two years later, on 24 May 2005, the European Commission expressed a much more definite opinion on the acceleration of the conversion from analogue to digital broadcasting.[65] It was underlined that the faster the EU switches from analogue to digital, the faster it will be capable of reaping the benefits of this process. It was argued that analogue transmission, which requires high-power transmitters, uses radio spectrum which could be put to better use in digital broadcasting. Digitalisation also offers the opportunity to make better use of the digital dividend, i.e. released radio frequencies could be re-used for different purposes. It was suggested that the valuable resources recovered in this process should be employed to render EU-wide services and various additional services (e.g. traffic information, mobile communications), other than television and radio broadcasting. At the time, it was postulated that the switch-off should take place at the beginning of 2010.

The opinion of the European Commission on the state financial aid which the Federal Republic of Germany has implemented for the introduction of digital terrestrial television (*DVB-T*) in Berlin-Brandenburg was a good example of the Commission's view on the state involvement.[66] It was stated that EU Member States have various possibilities of providing financial support to such projects, the more so because they enhance competitiveness and deepen social ties. In the said region, it was discussed whether to subsidise the purchase of needed equipment by citi-

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[64] In the *Communication from the Commission* of 15 December 2003 on the future of the EU audiovisual policy, the need for close monitoring of the digitalisation process was reiterated, and this concerned especially the outcomes of this process and changes in the market. See: *Communication from the Commission to the Council, The European Parliament, the European Economic and Social Committee and the Committee of the Regions "The Future of European Regulatory Audiovisual Policy"*, 15.12.2003 r.; COM(2003)784 final. Text available at www.eur-lex.europa.eu/LexUriServ/.

[65] Communication from the European Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions on accelerating the transition from analogue to digital broadcasting, COM (2005) 204, (SEC (2005) 661). http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005–0204en01.pdf. See also: *Radio Spectrum Policy Group, Opinion on the World Radio Conference 2007 (WRC-07) FINAL – November 23, 2005*. http://rspg.groups.eu.int/—documents/documents/opinions/rspg05–103–op–wrc07.pdf.

[66] Commission Decision (2006/513/EC) of 9 November 2005 on the State Aid which the Federal Republic of Germany has implemented for the introduction of digital terrestrial television (DVB-T) in Berlin-Brandenburg (OJ of the EU L 200 of 22.07.2006, pp. 14-34).

zens with low income, and whether to compensate broadcasters for costs generated by the so-called simulcasting, i.e. simultaneous analogue and digital broadcasting. State aid in this case did not disturb market competitiveness and did not discriminate against any market participant. The Commission decided that similar projects serve the purpose of catering for general public interests, and that this allows for the introduction of some subsidy mechanisms. However, one ought to take the technology neutrality principle into account. This means that one cannot give preference to one communication platform e.g. favour terrestrial transmission over satellite and cable broadcasting. It is also necessary to meet the interoperability requirement in relation to the implemented services. This means that one should employ open application interfaces that allow for using the equipment of various producers and technical standards. Moreover, the funds allocated to broadcasters can only lower the incurred loss and cannot constitute any privilege. In the case of Austria, on the other hand, the EU consented to the allocation of specified public funds to research and pilot projects connected with the introduction of digital technologies, as well as to subsidies to individuals for the purchase of set-top boxes.[67]

To conclude, the rapid development of media law commenced upon the granting of the mandate to regulate the functioning of the media to institutions of the European Community. This has been especially visible since audiovisual media went global. The introduction of satellite television was the first event of the kind. Establishment of international communication networks only intensified this process. However, media law was long limited to television, and only later embraced audiovisual media services. As much as interfering in the contents of media transmissions has been already limited, actions directed at the development of technical and organisational infrastructure have been broad spectrum.

ABSTRACT

The article provides a provisional systematisation of EU policy on mass media. The approach of the European Communities to the issue of mass media in the last decades can be divided into several stages. In the initial period, relatively the longest one, EC bodies were denied competences to interfere in this area. The 1980s and 1990s were characterised by an attempt on the part of the EU to work out adequate and distinct strategies regarding mass media. The moment the EC bodies "gained" the competences to regulate the principles underlying the functioning of the media, a boisterous development of the EU media law started and became especially conspicuous with the emergence of global media. Regulations on mass media initially pertained to television but then expanded onto audiovisual media services followed by a growing significance of the so-called "new media". EU policy deals with the media in three different contexts: firstly, in the context of competition policy and principles governing the functioning of the internal market; secondly as an element of democratic and cultural infrastructure; and thirdly, on the level of building the so-called information society. A hypothesis is put forward that the EU audiovisual policy is dominated by a two track strategy of regulating the functioning of the media.

[67] This is a reference to the Commission's decision of 16 March 2005, http://europa.eu.int/comm/competition/state–aid/decisions/additional–docs.html.

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