



COUNTRY REPORT

SOVEREIGN:

The Revival of Sovereignty in Central and Eastern Europe and the European Union

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The project is co-financed by the governments of Czechia, Hungary, Poland and Slovakia through Visegrad Grants from the International Visegrad Fund. The mission of the fund is to advance ideas for sustainable regional cooperation in Central Europe.

COUNTRY STUDY:

POLAND

SOVEREIGNTY IN STATE DOCTRINE

During the struggle against communist dictatorship, the idea of independence dominated the opposition's programmatic statements, which was more prevalent than the concepts of national sovereignty/state sovereignty. It can be assumed that two factors were decisive in this regard. Firstly, the idea of independence had stronger moral potential; secondly, the Polish People's Republic had the formal attributes of a sovereign state, but was not considered an independent state by the majority of the population.

After 1989, following the regaining of independence, the concept of state sovereignty gained greater significance and is now used almost as often as the concept of independence (other terms used include: "national independence," "state independence," and "our national sovereignty"). This applies in particular to the state doctrine expressed in the statements of presidents, prime ministers, and ministers of foreign affairs. In his very precise exposé in May 1992, Minister of Foreign Affairs K. Skubiszewski said: "The fundamental goals of Polish foreign policy are to strengthen Poland's sovereignty and security, support its economy and civilizational development, and secure a strong position for our country in Europe and the world. The foreign policy chosen by the nation in 1989 is, despite various obstacles and all the ups and downs of domestic politics, a stabilizing force that confirms the independence of the state"¹. A few months later, Prime Minister H. Suchocka placed sovereignty at the center of foreign policy: "Poland's sovereignty and independence, strengthening its security, and creating favorable external conditions for the country's civilizational and economic development remain the permanent goals of our country's foreign policy"².

¹ Government statement on foreign policy. Exposé by Minister of Foreign Affairs Minister Krzysztof Skubiszewski in the Sejm, May 8, 1992.

² Statement by Prime Minister Hanna Suchocka on the proposed composition and program of the government in the Sejm, July 10, 1992.

Between 1989 and 2004, sovereignty was present in state doctrine in several senses, as:

1. the protection of sovereignty/independence as the basis of Polish foreign policy,
2. support for the sovereignty of neighbouring countries, especially the Visegrad Group countries and Ukraine,
3. a reference to the sovereignty of states in the context of international law, territorial integrity of states, and respect for human rights.

Prime Minister Tadeusz Mazowiecki argued that these references had both moral and pragmatic value: "...international relations based on sovereignty and partnership are more stable than an order based on domination and force"³. During this period, the idea of the sovereignty of the Republic of Poland was linked to the desire to anchor Poland in the world of Western institutions. In 1991, Prime Minister Jan Olszewski said: "I recall with satisfaction that nearly 16 years ago, I was a co-author of the underground Polish Independence Agreement program, which was the first to propose Poland's accession to the European Community. The government will seek the rapid ratification of the association agreement"⁴. K. Skubiszewski developed the most precise doctrine of sovereignty, along with acceptance for deeper integration under the Maastricht Treaty: "In relations with Eastern countries, including Russia, we cannot ignore the existence of forces seeking to reconstruct the old imperial order. It is in Poland's vital interest, on the one hand, to support democratic and independence forces in these countries, and, on the other hand, in accordance with our *raison d'état* and strategic orientation towards Western civilization, in view of a possible dangerous evolution, we must strengthen institutional ties with Western structures, giving priority to links with the Euro-Atlantic security system"⁵.

Support for Ukraine's independence was a constant factor in the strategy of strengthening Polish sovereignty. In his speech summarizing 10 years of Polish foreign policy, Minister W. Bartoszewski clearly presented the connection between

³ Statement by Prime Minister Tadeusz Mazowiecki on the proposed composition and program of the government's work in the Sejm, September 12, 1989.

⁴ Statement by Prime Minister Jan Olszewski on the proposed composition and program of the government's work in the Sejm, December 21, 1991.

⁵ Government information on foreign policy. Exposé by Minister of Foreign Affairs Krzysztof Skubiszewski in the Sejm, May 8, 1992; J. Buzek: "There is no better guarantee of Poland's sovereignty than NATO. I want to say this today, on the eve of the anniversary of the Republic's regaining independence. Poland in the North Atlantic Treaty Organization is a Poland that is permanently secure and permanently independent" (Presentation by Prime Minister Jerzy Buzek of the Council of Ministers' program of action with a motion for a vote of confidence, in the Sejm, November 10, 1997).

the sovereignty of both countries: "Since recognizing Ukraine's independence, our policy towards Ukraine has been aimed at making the most of the opportunity that history has created for both our countries: to support and strengthen its independence, to create bonds based on reconciliation, partnership, and mutually beneficial cooperation."

After accession to the EU in 2004, sovereignty was present in state doctrine primarily in the context of EU membership, which entailed a departure from absolute e sovereignty. Minister D. Rotfeld captured the qualitative change in the new context of the state's functioning: "...the international system has so far been based on sovereign states, where sovereignty was promoted in an almost absolute manner. Well, that is a thing of the past. The system that has developed over the last fifty years is one of interdependence. Regardless of whether we are talking about the constitutional treaty, which is, after all, an agreement, or any other treaty, this means that the parties to the treaty agree to limit their sovereignty to the extent that other states agree to do so. In other words, they accept the principle of full reciprocity"⁶. During the Civic Platform–Polish People's Party government, sovereignty was closely linked to membership in the EU and anchoring in its structures. The concept of practical sovereignty was an expression of a departure from absolute sovereignty and linking it to active participation in the EU. Minister Sikorski quoted Leszek Kołakowski: "Sovereignty (...) does not mean that a state can ignore the existence, interests, and aspirations of other states. In this sense, even the United States is not sovereign. A state is sovereign not because of the absence of actual restrictions imposed by others or because of an unattainable economic autarky, but by the fact that whatever decisions it makes, good or bad, it makes them itself, even when forced by circumstances or others: even a state that decides something as a result of threats from its neighbours does not lose its sovereignty, because it is within its power to decide otherwise, even against its own interests"⁷.

Minister R. Sikorski used the term "practical sovereignty," which is close to the French concept of effective sovereignty that appeared in the statements of the spokespeople for the ratification of the Maastricht Treaty. State sovereignty was to be strengthened through active participation in the process of European integration, but with the exclusion of the option of building a federal state. "I would

⁶ Government information on foreign policy. Exposé by Minister of Foreign Affairs Adam Daniel Rotfeld in the Sejm, January 21, 2005.

⁷ Government information on the principles of Polish foreign policy. Exposé by Minister of Foreign Affairs Radosław Sikorski in the Sejm, March 29, 2012.

like to say clearly to the utopians: there will be no such Union, nor should there be... Your vision is not only ahistorical and detached from reality, but downright harmful to the idea of European integration. We do not want to build a uniform, bureaucratic superstate, managed by isolated and impersonal elites of Eurocrats. Finally, there is a fourth scenario, namely deepening integration and creating a lasting political union. This is our vision. We assume that Member States will retain their independence forever, the right to leave the Union, and the right to determine the scope of powers transferred to the Community level"⁸.

The governments in power between 2007 and 2015 spoke out against the federalization of the EU and in favor of maintaining the fundamental role of sovereign states. Another important point of reference was the resolution of the Sejm of the Republic of Poland of April 2003 on the sovereignty of Polish legislation in the field of morality and culture⁹. One of its effects was the reservation on the limited application of the EU Charter of Fundamental Rights by the Republic of Poland, included in the protocol to the Treaty of Lisbon.

During the Law and Justice government's term in office from 2015 to 2023, criticism and accusations of violations of state sovereignty by EU institutions and the states dominating its structures prevailed. In "state" statements, the argumentation was softened (exposés by Ministers Waszczykowski, Czaputowicz, and Rau), but it was very harsh in the rhetoric of United Right politicians who were not directly responsible for foreign policy.

We will not find a more precise definition of sovereignty in public statements. The exposés of prime ministers and ministers pointed to the potential of the economy as the fundamental premise of sovereignty. J. K. Bielecki, "The economy creates the material foundations for the sovereignty of the country and the prosperity of its citizens"¹⁰. The idea of Poland's energy independence, meaning freedom from

⁸ *Ibidem*.

⁹ RESOLUTION of the Sejm of the Republic of Poland of April 11, 2003, on the sovereignty of Polish legislation in the field of morality and culture: Aiming towards integration with other European countries within the European Union, in view of the upcoming referendum on Poland's accession to the European Union, the Sejm of the Republic of Poland declares that Polish legislation in the field of moral order of social life, dignity of the family, marriage and upbringing, and protection of life is not subject to any restrictions by international regulations.

¹⁰ Statement by Prime Minister Jan Krzysztof Bielecki on the proposed composition and program of the government in the Sejm, January 5, 1991.

dependence on gas supplies from Russia, was important and highlighted¹¹. It can be assumed that the diplomatic efforts to establish an energy union were the subject of consensus. It is very important to note that until Russia's aggression against Ukraine, the state's defense potential as a fundamental prerequisite for sovereignty was given relatively little attention in the speeches of those in power. This observation applies to both the Civic Platform–Polish People's Party and the Law and Justice governments. It is worth adding that no significant political force has "taken over" the concept of "European sovereignty"; this was decided by a critical approach to the federalization of the EU¹². None of the governments even set itself the goal of Poland's entry into the euro zone, as this would require a change in the constitution. In this matter, there is a strong public preference for maintaining the national currency. The concept of the constitutional identity of states has not gone beyond the realm of legal reflection, unlike in France, for example. Finally, let us add that in recent weeks, the President Karol Nawrocki and the right-wing opposition have expressed their opposition to the SAFE program in terms that cast doubt on trust in the EU, which some analysts have viewed as a risk of triggering processes that could lead to a "Polexit"¹³.

In conclusion, the subject of consensus after regaining independence in 1989 was:

1. the protection of sovereignty/independence as the basis of foreign policy,
2. support for the sovereignty of neighbouring countries, especially Ukraine,
3. a clear anti-imperialist stance expressed in reference to the sovereignty of states as a principle of international law, together with the territorial integrity of states and respect for human rights.

¹¹ M. Morawiecki, "Law and Justice is a party that has always strived to guarantee energy security. This is a condition of our sovereignty." (Presentation by Prime Minister Mateusz Morawiecki of the Council of Ministers' program of action with a motion for a vote of confidence in the Sejm, December 12, 2017).

¹² According to a recent survey by the Centre for Public Opinion Research, "The level of approval for Poland's membership in the European Union has remained virtually unchanged since last July. Eighty-two percent of respondents support EU membership, while 14% oppose it. (...) The belief that EU membership excessively restricts our country's sovereignty is currently held by 38% of respondents (6 percentage points less than two years ago), while half (50%, an increase of 7 points since 2024) hold the opposite view. Concerns regarding the reduction of Poland's sovereignty primarily relate to agriculture and agricultural policy, as well as environmental and climate protection and the energy transition. (...) Since 2022, support for deeper European integration has clearly declined. Currently, Poles are more divided in their opinions regarding the desired direction of change in the EU. Similar percentages favor, on the one hand, deeper integration (26%), and on the other, an increased role for nation-states (23%) or even Poland's exit from the EU (5%). Nearly one in three people (32%) would like to maintain the status quo". CBOS (2026), *Polacy o integracji europejskiej* (oprac. Beata Roguska).

¹³ K. Szymański (2026, March 13), *Polska weszła na drogę do polexitu*, <https://www.rp.pl/plus-minus/art43953331-konrad-szymanski-polska-weszla-na-droge-do-polexitu>

President Trump's policy forces a reaffirmation of these principles or a revision of the position. A new, but as yet weak, phenomenon is the use of the concept of IT sovereignty in protest against the expansion of Big Tech¹⁴. Certainly, "tensions" with the US will force a redefinition of the premises and fields of sovereignty.

At this point, it is worth noting that data from a report by the Ebert and Jaures Foundations indicate that Polish society has a very positive view of both the sovereignty of its own state and European sovereignty. The report states that over two-thirds of citizens (69%) have a positive view of this concept, and over three-quarters if we consider only the opinions of people aged 50 and older. This is one of the highest rates among the eight countries surveyed, alongside Germany (73%)¹⁵. Most Poles also do not see a contradiction between European sovereignty and national sovereignty. For 61% of respondents, it is possible to combine the concepts of state sovereignty and "because European sovereignty and national sovereignty complement each other," while 39% believe that the two concepts are contradictory "because sovereignty refers primarily to the nation." It is very important to note that the majority of Poles (78%) are in favor of strengthening European sovereignty, as well as national sovereignty (80%). This result again exceeds the European average (73% and 77%, respectively). It is reasonable to assume that the state doctrine

¹⁴ https://archiwum_mc.bip.gov.pl/projekty-aktow-prawnych-mc/projekt-uchwaly-rady-ministrow-w-sprawie-strategii-cyberbezpieczenstwa-rzeczypospolitej-polskiej-na-lata-2025-2029-id131.html

¹⁵ The report provides more detailed data confirming Poles' positive attitude towards the concept of sovereignty: "Only 3% of Poles have a negative image of the word 'sovereignty', and 21% have neither a positive nor a negative image. Poles are more likely than Europeans in general to consider this concept "modern" (31% compared to 30% in Germany and an average of 20% in the eight countries surveyed), 17% consider it "outdated" (average 32%), and 41% consider it "neither one nor the other." Although the majority do not attribute any political connotations to it ("neither left-wing nor right-wing," 46%), the rest associate it more with the right (28%) than with the left (7%). In Poland, sovereignty is primarily associated with "independence" (65% of responses, 23 percentage points more than the European average of 42%) and "freedom" (61%, compared to a European average of only 28%, which is a particularly significant difference of 33 points). Nowhere else is there such a strong link between sovereignty and freedom. "Self-determination" (40% of responses, compared to the European average of 34%) completes the podium. The concepts of "power" (9% of mentions, compared to a European average of 37%), "nationalism" (6% in Poland, compared to an average of 31%) and "protectionism" are mentioned much less frequently than elsewhere. In Poland, sovereignty is still very often associated with the idea of "independence from others" (69%, a European record in this category) and "living according to one's own values and preferences" (60%). It is much less often associated with "the ability to pursue one's own interests" (37%) or "voluntary cooperation with partners" (35%). (...) the image of related concepts, such as national and European sovereignty, is very positive. The very positive connotations of the term "sovereignty" in Poland foster understanding and appreciation of expressions related to this concept. Most Poles have a good understanding of what "national sovereignty" (83%), "European sovereignty" (75%), and even "strategic autonomy" (64%) mean – these results are higher than the European average (71%, 63%, and 61%, respectively) in each case.

linking national sovereignty with strong ties to the EU and NATO is in line with the established views of society.

The sovereignty of the nation as the authority in the state has a special significance. We believe that for many years it was a "static factor" when it entered the constitutional order as the basis of democracy and the political rights of citizens. It was only after the victory of the Law and Justice that it became an important element of political discourse. It was essential to refer to the "verdict of the sovereign" and emphasize the strength of the electoral mandate of those in power, who on this basis have the right to carry out the will of the sovereign not only in terms of the electoral program, but also institutional transformations (the judiciary). This was a typical populist confrontation between the will of the sovereign and the state, social, and European elites. Interestingly, this new approach did not take root in law and institutions. Nor was it the basis for a deeper doctrine of sovereignty in relation to European integration, since Morawiecki's government agreed to extend the EU's responsibilities. It is also worth noting that the reference to the verdict of the sovereign was intended to justify a strong mandate to govern, rather than to practice and expand direct democracy. In the case of Poland, the rhetoric of "sovereignty" was linked to distrust of direct democracy. After 1997, not a single referendum was held by the Sejm at the request of citizens or MPs. The unsuccessful referendums initiated by President Bronisław Komorowski (in 2015, turnout 7.8%) and Andrzej Duda (in 2023, turnout 40.91%) were typical plebiscites aimed at supporting the policies of the political majority. At the same time, initiatives aimed at holding a referendum directly on the initiative of citizens did not gain the support of the political majority.

SOVEREIGNTY IN CONSTITUTIONAL LAW DOCTRINE

Assessing the relevance of the concept of sovereignty in constitutional discourse requires a closer look at the nomenclature of the Constitution. In the Constitution of the Republic of Poland adopted in 1997, sovereignty appears in both a subjective and objective sense. Among the fundamental principles of the Republic of Poland, the principle of the sovereignty of the Nation is of key importance. Supreme power in the Republic of Poland shall be vested in the Nation (Article 4 of the Constitution of the Republic of Poland). The principle of the sovereignty of the Nation legitimizes state power, and the state is the political form of organization of the sovereign. The state protects the independence and inviolability of its territory, ensures the freedoms and rights of humans and citizens and the security of citizens, protects

the national heritage and ensures the protection of the environment, guided by the principle of sustainable development (Article 5 of the Constitution of the Republic of Poland).

The principle of protecting independence and the principle of territorial integrity are a consequence of the principle of sovereignty, which means, above all, the ability of the sovereign to make decisions independently. Protecting sovereignty is the fundamental task of state authorities. Members of Sejm and Senators (Article 104 of the Constitution of the Republic of Poland, Article 2 of the Act of May 9, 1996, on Exercising the Mandate of Deputy and Senator), and the President of the Republic of Poland (Article 126 of the Constitution of the Republic of Poland) swear to protect the sovereignty of the Fatherland.

The principle of sovereignty does not, of course, preclude cooperation between nations. This has already been noted in the preamble ("aware of the need to cooperate with all countries for the good of the Human Family") and is confirmed by Articles 90 and 91 of the Constitution of the Republic of Poland. The Republic of Poland may, by virtue of international agreements, delegate to an international organization or international institution the competence of organs of State authority in relation to certain matters (Article 90 of the Constitution of the Republic of Poland). After promulgation thereof in the Journal of Laws of the Republic of Poland (*Dziennik Ustaw*), a ratified international agreement shall constitute part of the domestic legal order and shall be applied directly, unless its application depends on the enactment of a statute. An international agreement ratified upon prior consent granted by statute shall have precedence over statutes if such an agreement cannot be reconciled with the provisions of such statutes. If an agreement, ratified by the Republic of Poland, establishing an international organization so provides, the laws established by it shall be applied directly and have precedence in the event of a conflict of laws (Article 91 of the Constitution of the Republic of Poland).

It is worth noting that the legislator did not use the concept of transfer of part of sovereignty or sovereign powers, even though such proposals appeared during the work on the Constitution¹⁶. It only refers to the possibility of transferring the competences of state authorities in certain matters to an international organization

¹⁶ M. Jabłoński, M. Zieliński, *The principle of the primacy of EU law in the work on the 1997 Constitution of the Republic of Poland*.

or international body. In addition, it should be added that monetary sovereignty is constitutionally protected and Poland's entry into the euro zone would be conditional on a change to the Constitution. According to Article 227(1) of the Constitution of the Republic of Poland: The central bank of the State shall be the National Bank of Poland. It shall have the exclusive right to issue money as well as to formulate and implement monetary policy. The National Bank of Poland shall be responsible for the value of Polish currency. During the work on the Constitution, it was also decided to guarantee the primacy of international law over statutes, but not over the Constitution itself, as it was decided to use the concept of primacy "over statutes" and not, as was also considered, more broadly "over national law"¹⁷. This measure was intended to eliminate the supremacy of regulations established by an international organization over constitutional provisions. The supremacy of the Constitution is explicitly emphasized by the legislator in Article 8(1) of the Constitution of the Republic of Poland: The Constitution is the supreme law of the Republic of Poland.

It should be noted that sovereignty has axiological connotations in the text of the Constitution – it is not only the source of the legitimacy of power, but above all a value that this power is supposed to protect. This stems from the historical context, as until 1989 Poland was a non-sovereign satellite state under the political domination of the Soviet Union. For this reason, the authors of the Constitution avoid phrases suggesting a loss of sovereignty in the context of international integration.

The issue of sovereignty has been and remains the subject of intense debate in constitutional, international, and European legal doctrine. K. Działocha pointed to three basic ways of approaching sovereignty in the context of European integration in Polish legal doctrine¹⁸. Firstly, there is the concept of the limitation of state sovereignty. According to this position, Poland's accession to the European Union in its current form does not lead to a loss of sovereignty but is associated with its limitation, which is compensated by certain benefits resulting from membership. Secondly, there is the concept of "shared sovereignty," derived from the case law of the Court of Justice of the European Union, in particular from the judgment in *Costa v. ENEL*¹⁹. This judgment refers to the "permanent limitation of the sovereign rights" of Member States and to the "real powers of the Community" resulting from the

¹⁷ *Ibidem*.

¹⁸ K. Działocha [in:] *Constitution of the Republic of Poland. Commentary. Volume I, 2nd edition*, ed. L. Garlicki, M. Zubik, Warsaw 2016, Article 4.

¹⁹ Case 6/64, *Flaminio Costa v ENEL* [1964] ECR 585.

transfer of certain powers to it by the Member States. Under this concept, sovereignty is not seen as an indivisible and inalienable characteristic, but as a set of powers that can be divided between Member States and Community institutions. Thirdly, there is the theory of joint exercise of sovereign powers by states, also known as the concept of limited exercise of sovereignty. In this approach, the transfer of powers does not mean their definitive transfer by the state, but only a change in the way they are exercised. R. Kwiecień²⁰ sees the origins of this concept in the 1992 declaration of the heads of state and government in Edinburgh, adopted in connection with the problem of the ratification of the Maastricht Treaty by Denmark. This declaration emphasized that the Treaty on European Union requires independent and sovereign states that have voluntarily made such a decision to exercise their powers jointly in accordance with the existing treaties.

The primacy of the Constitution is an important expression of the exercise of state sovereignty. Although the Polish Constitutional Tribunal is not a body directly appointed to protect sovereignty, it does so by safeguarding the sovereignty of the legal order through ensuring the effective primacy of the Constitution of the Republic of Poland. "The states belonging to the European Union retain their sovereignty because their constitutions, which are an expression of state sovereignty, retain their significance"²¹.

In numerous rulings related to supranational integration, the Constitutional Tribunal refers to the concept of sovereignty. From the outset of its examination of European issues, it has emphasized that Poland's accession to the European Union is an expression of the sovereign decision of the Republic of Poland, taken in accordance with the Polish Constitution, and, moreover, a decision of the sovereign confirmed by the people in a referendum²². Participation in European structures was presented in the judgment examining the constitutionality of the accession treaty as an expression of sovereignty rather than an attack on it.

At the same time, the Tribunal has consistently developed the principles that must govern integration. First of all, it clearly defined the position of the national legal order in relation to the European legal order. Accepting the principle of the autonomy of Community law and its relative primacy over national law, the Tribunal

²⁰ R. Kwiecień, *State sovereignty in the European Union: international law aspect*, PiP 2003, p. 35

²¹ Constitutional Tribunal judgment of November 24, 2010, K 32/09, OTK-A 2010, No. 9, item 108.

²² Constitutional Tribunal judgment of May 11, 2005, K 18/04, Constitutional Tribunal judgment of November 24, 2010, K 32/09, OTK-A 2010, No. 9, item 108.

rejects the understanding of primacy as supremacy. The Polish Constitutional Tribunal's case law reflects the conviction that there is a close link between the principle of the supremacy of the Constitution and the sovereignty of the Republic of Poland. "The Constitution therefore remains, by virtue of its special power, the 'supreme law of the Republic of Poland' in relation to all international agreements binding on the Republic of Poland"²³. This definition of the relationship between the two legal systems means that a conflict between national and EU law cannot be resolved by automatically recognizing the supremacy of national law. EU law cannot override a constitutional norm that is in force. In the event of a conflict, either the Constitution must be amended, EU law must be changed, or Poland must withdraw from the European Union.

The Polish Constitutional Tribunal has derived a restriction on the transfer of powers from Article 90 of the Constitution of the Republic of Poland. "The use by the legislator in Article 90(1) of the Constitution of the Republic of Poland of the expression 'in certain matters' means that the transfer may only concern some matters, and not the powers of state authorities in all matters"²⁴. The Constitution does not define a list of "non-transferable powers." In its ruling on the accession treaty, the Constitutional Tribunal only ruled out the possibility of "a transfer of state powers that would be contrary to the fundamental principles of a democratic state ruled by law, on which the Republic of Poland is based"²⁵.

In its ruling on the ratification of the Treaty of Lisbon, referring to the concept of "constitutional identity," it expanded on its view. "Regardless of the difficulties involved in establishing a detailed list of non-transferable powers, provisions laying down the fundamental principles of the Constitution and provisions concerning the rights of the individual that define the identity of the state, including in particular the requirement to ensure the protection of human dignity and constitutional rights, the principle of statehood, the principle of democracy, the principle of the rule of law, the principle of social justice, the principle of subsidiarity, as well as the requirement to ensure better implementation of constitutional values and the prohibition on transferring constitutional power and the competence to create competences"²⁶.

²³ *Ibidem*.

²⁴ *Ibidem*.

²⁵ *Ibidem*.

²⁶ Constitutional Tribunal judgment of November 24, 2010, K 32/09, OTK-A 2010, No. 9, item 108.

The Tribunal emphasizes that the transfer of competences does not lead to a permanent restriction of sovereignty, as it is reversible²⁷.

As a rule, the Constitutional Tribunal does not allow for the review of the constitutionality of European Union's secondary law. However, it has ruled that such a review is possible on the basis of a constitutional complaint. In 2004, the Court emphasized that "the rights and freedoms of the individual enshrined in the Constitution constitute a minimum and inviolable threshold which cannot be lowered or challenged as a result of the introduction of Community regulations"²⁸. However, it should be emphasized that in the event of a constitutional complaint against a secondary legal act, the complainant will be required to indicate the nature of the violation of their freedoms and rights and to substantiate that the contested secondary legal norms significantly reduce the level of protection guaranteed by the Constitution²⁹.

The significance of the Polish Constitutional Tribunal's rulings issued after 2015, when its independence was destroyed, has changed fundamentally. The doctrine of sovereignty in the jurisprudence of the Polish Constitutional Tribunal has changed: moving away from its previous cautious and "integration-friendly" stance, the Polish Constitutional Tribunal began to refer to the concept of absolute sovereignty, used as a tool to reject the primacy of EU law. The key argument became that the Constitution stands above EU law and that the Polish Constitutional Tribunal, as the "court of last resort," can examine not only acts of national law, but also EU treaties and CJEU case law, recognizing them as *ultra vires* or contrary to a broadly interpreted "constitutional identity." In its judgment K 3/21 of October 7, 2021³⁰, the Constitutional Tribunal for the first time questioned the compatibility of treaty provisions (including Articles 1, 4(3), and 19 TEU) with the Constitution, arguing that the CJEU's interpretation violates state sovereignty, the principle of democracy, and the supremacy of the Constitution. Sovereignty has thus become a protective and defensive category, used to block the application of EU law and its enforcement mechanisms, especially in the area of judicial independence. In practice, this has led to a breakdown in judicial dialogue with the CJEU, justification for refusing to apply EU rulings, and the creation of a mechanism

²⁷ *Ibidem*.

²⁸ Constitutional Tribunal judgment of May 11, 2005, K18/04.

²⁹ The possibility of reviewing the constitutionality of EU law in light of the provisions of the Polish Constitution of 1997, p. 61

³⁰ Constitutional Tribunal judgment of October 7, 2021, K 3/21, OTK-A 2022, No. 65.

that has a "chilling effect" on national judges through the threat of disciplinary liability for applying EU law. The 2021 ruling was reactive in nature and constituted an act of support by the Polish Constitutional Tribunal for the actions of M. Morawiecki's government, which resulted in the destruction of the judiciary. In it, the Polish Constitutional Tribunal exceeded the scope of its legitimate interpretation of treaty law. It should also be emphasized that, contrary to the arguments in the justification for this judgment, prior to 2016, the Constitutional Tribunal did not grant itself the right to repeatedly interpret unchangeable treaty norms – it took the position that European treaties are reviewed when they are amended or new treaties are adopted.

POLISH POLITICAL THOUGHT ON THE ISSUE OF SOVEREIGNTY

Polish reflection on sovereignty after 1989 stems from the experience of regained statehood: the collapse of the communist system and the break with dependence on the USSR restored Poland's independence, understood in the classical Westphalian sense as the highest political authority establishing and enforcing law in a given territory. However, already in the first years of transformation, it began to be recognized that sovereignty is not only a state of formal autonomy, but a more complex category, encompassing the state's ability to act effectively. In this sense, the experience of 1989 meant, as Zdzisław Najder noted, a shift in reflection from "freedom from" (negative) external domination to "freedom to" (positive), i.e., sovereignty itself. This reflection was developed in Poland mainly by thinkers belonging to the conservative camp, although there were also exceptions on the liberal and left-wing sides.

In his theoretical reflection, Jacek Czaputowicz captured this change, pointing out that sovereignty cannot be reduced to the original absolutist model of supreme power. Sovereignty can be limited, divided, and dispersed without automatically losing its essence. In this sense, a state does not cease to be sovereign simply because it participates in international structures; rather, the problem becomes the ability to maintain real subjectivity in conditions of interdependence. This issue came to the fore when Poland joined the European Union.

European integration forced a rethinking of the classical understanding of sovereignty. The transfer of some powers to supranational institutions did not fit into the logic of an absolutely sovereign state, but at the same time did not mean the disappearance of the state. Czaputowicz points out that if sovereignty is defined as

the highest authority not subject to any other, the concept of a "sovereign European Union" would be logically contradictory to the sovereignty of member states. However, political practice shows that sovereignty in the modern world is relational and multi-level – it does not disappear, but changes form. In the Polish experience, this meant a shift in emphasis from formal autonomy to the real effectiveness of the state.

A structural diagnosis of this problem is provided by Jadwiga Staniszkis, evident for example in her work "The Power of Globalization," which describes the functioning of semi-peripheral states in conditions of "asymmetry of rationality." By adopting institutions and procedures appropriate for more developed systems, Poland retains formal sovereignty but may lose some of its steering capacity. Staniszkis also shows that Western European reflection on sovereignty, which is a fundamental point of reference for Poland, is not uniform. In the German tradition, sovereignty is, procedural, and multi-level in nature; a limitation of autonomy at one level can be compensated for by participation in power at a higher level. In France, sovereignty is more political in nature and is treated as a resource in relations between states, while maintaining a symbolic belief in full autonomy. Polish reflection, functioning between these models, seeks its own definition of sovereignty, which would be based on the use of international relations to increase real sovereignty.

In Marek A. Cichocki's reflection, presented in his book "The Problem of Political Unity in Europe," sovereignty is not primarily a legal and institutional category, but a spiritual and existential phenomenon related to the identity and nature of the community. Its essence is the coupling of two dimensions: internal subjectivity (identity) and external agency (power). Sovereignty means the community's ability to self-determine, that is, to translate the awareness of "who we are" into effective action in the world. Without identity, power loses its meaning; without agency, identity remains powerless.

The foundation of sovereignty is the act of demarcation, the ability to distinguish between what is "internal" and what is "external." It allows the community to define its own integrity and move from ad hoc reactions to autonomous existence over time. In this sense, sovereignty is a way of organizing reality and counteracting chaos. Identity, which Cichocki describes as the "mother of the community," plays a key role: only a self-aware community can become a political entity capable of rational and ethical action.

Sovereignty also has a metapolitical dimension. It consists in the ability to decide which areas of life are subject to authority and which remain outside it. A sovereign community can even voluntarily limit its own instruments if this results from a conscious decision. That is why Cichocki distinguishes sovereignty from its historical tools: the state is only an instrument that can change, while sovereignty lasts as long as the community retains its freedom to make decisions.

In the Polish context, this means that sovereignty does not have to take the form of a centralized Westphalian state. The tradition of the First Republic was based rather on a federal, multinational community and a subjective definition of itself in relation to Europe. Ultimately, sovereignty means the community's ability to answer the questions: who acts on its behalf, for what purpose and by what means, i.e., the ability to combine identity with real agency.

Leszek Kołakowski, a patron of a large part of the Polish intellectual elite, rejects both absolutist and illusory understandings of sovereignty. Kołakowski emphasizes that European integration does not leave the sovereignty of states untouched, but rather limits it, yet sovereignty has never meant complete autonomy; states have always functioned in relationships of dependence. Sovereignty is only violated when other entities can make decisions on behalf of a state without its consent. In his view, Europe does not replace nation states, but is a political project requiring constant effort, and sovereignty is redefined rather than abolished.

In the Polish debate, the concept of sovereignty has sometimes given way to the category of subjectivity. Jan Rokita, in an interview with the conservative *Teologia Polityczna* (Political Theology), defines it as the permanent ability to determine one's own destiny, i.e., the ability to act strategically under conditions of constraint, while sovereignty or the lack thereof creates the context for this subjectivity. Subjectivity is not synonymous with sovereignty; rather, it means the ability to define one's own goals and influence political reality. In the context of Poland, this means that formal sovereignty can coexist with peripherality, and real subjectivity depends on the quality of institutions, elites, and the ability to participate in multi-level power structures.

Polish political reflection on sovereignty after 1989 shows its clear evolution: from sovereignty understood as a concept synonymous with independence, through its perception mainly in the context of European integration, to the understanding of sovereignty as a concept linked to the agency of state institutions and the political community.

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