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## Current Constitutional Changes in Poland Against the Background of Polish Political and Legal Traditions

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The article is dedicated to the assessment of the current constitutional changes in Poland and viewing them to explain them in the context of Polish political and legal traditions. The adoption of the Constitution in 1997, based on the principles of political pluralism, democratic rule of law and division of powers, finished the process of the democratic transformation. However, in 2015, by way of statutory legislation and constitutional practice, in cooperation with the President, the new ruling forces started the process of the destruction of Polish constitutional system. A reference to the interwar period is an important motive for the ideology of the leader of the current ruling majority. On the other hand, the concept of the 'political decision-making centre' of the state located outside the state apparatus is anchored in the facade of constitutional solutions from the period of the socialist system.

**Keywords:** Poland, constitutional changes, legal tradition, Constitutional Tribunal.

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### Introduction

The process of constitutional transformation which led Poland from a socialist system to a democratic state governed by the new Constitution began in the landmark year 1989. The currently binding Constitution of the Republic of Poland

was adopted by the National Assembly on April 2, 1997 and then it was accepted by the nation in a referendum which took place on May 25, 1997<sup>1</sup>. In general, the constitutional practice before 2015 was stable and did not arouse controversies, which caused a belief in the stability of constitutional assumptions and political forces' agreement on the axiology and institutional arrangements of the Constitution<sup>2</sup>.

In 2015, right-wing groups came to power in Poland after populist electoral campaigns, winning the presidential elections in the spring and parliamentary elections in the autumn. They have obtained an absolute majority of seats allowing them to create a government and pass laws on their own, however, do not have the qualified majority required to change the Constitution.

By way of legislation and constitutional practice, in cooperation with the President, the new ruling forces started the process of the destruction of Polish constitutional system. Its essence was the elimination of instruments that enable the control over the Parliament and the government. Paralyzing the Constitutional Tribunal in 2016 by the legislative measures as well as the government's refusal to publish the Tribunal's judgements and negating their binding force have become a symbol<sup>3</sup>. In 2017, anti-constitutional political and legal campaign brought a great dispute over the position of common courts, the Supreme Court and the National Council of the Judiciary.

The destructive legislative actions also concerned issues outside the strictly 'third power' field. The changes introduced by ordinary law violated the foundations of basic principles: the rule of law, the division of powers and the independence of courts. According to new statutory regulations, the Prosecutor's Office became subordinated to the executive power and the Minister of Justice obtained (in an unconstitutional way) a significant influence on the judiciary. With an insult to the Constitution, the Act on Civil Service and Foreign Service was amended and the constitutional freedom of assembly was limited.

These changes are accompanied by political practice of making basic decisions outside the structures of state organs, with disregard for democratic and praxeological standards, in falsified and manipulative media setting. In the Parliament, procedures provided as exceptional became the rule<sup>4</sup>. Legislative

<sup>1</sup> Konstytucja Rzeczypospolitej Polskiej [Constitution of the Republic of Poland] (02.04.2007). *The Official Journal of Laws Dziennik Ustaw*, No. 78, 1997, item 483, with later amendments. See Szmyt, A. Zakres i treść Konstytucji RP z 1997 r. [The scope and content of the Constitution of the Republic of Poland of 1997]. "Zeszyty Prawnicze" *Biura Analiz Sejmowych*. Warszawa, No. 4, 2012, pp. 229–234; Sokolewicz, W. (ed.). *Zasady podstawowe polskiej Konstytucji* [The basic principles of the Constitution of the Republic of Poland]. Warszawa, 1998; Kuciński, J., Wołpiuk, W. J. *Zasady ustroju politycznego państwa w Konstytucji Rzeczypospolitej Polskiej z 1997 roku* [The principles of the constitutional system in the Constitution of the Republic of Poland of 1997]. Warszawa, 2012.

<sup>2</sup> See Jarosz, Z. (ed.). *Parlament. Model konstytucyjny a praktyka ustrojowa* [Parliament. Constitutional model and the constitutional practice]. Warszawa, 2006; Grzybowski, M. (ed.). *System rządów Rzeczypospolitej Polskiej. Założenia konstytucyjne a praktyka ustrojowa* [Constitutional system of the Republic of Poland. Constitutional assumptions and constitutional practice]. Warszawa, 2006.

<sup>3</sup> See Rytel-Warzocho, A., Szmyt, A. The new law of 2016 on the Constitutional Tribunal in Poland. *Annales Universitatis Apulensis. Series Jurisprudentia*, No. 19, 2016, pp. 263–290; Szmyt, A. Destruction of the Constitutional Tribunal in Poland in the Light of Opinions of the Venice Commission. In: *Giustizia e Costituzione agli albori del XXI Secolo*, a cura die L. Mazetti e E. Ferioli. Bologna: Benomo Editore, 2017, tomo 1, pp. 641–656.

<sup>4</sup> For example, the possibility of fast legislative path provided by the Standing Orders of the *Sejm* of the Republic of Poland (30.07.1992).

works are unprecedentedly fast, which *de facto* eliminates the possibility of debate. Consultations and public hearings are skipped. Commonly, the bills are submitted by deputies, which allows to bypass consultation processes required in case of governmental legislative proposals, although they are *de facto* prepared by the executive. In practice, without any justification, several laws were passed without proper *vacatio legis*. The ‘Citizens’ Legislation Forum’ indicates numerous other forms of the pathology of legislative proceedings which take place at the moment<sup>5</sup>. They create the impression of a real ‘emergency state’ in legislative processes, which is far from democratic standards and praxeological requirements. It would be difficult to admit that the requirement provided by the preamble of the Polish Constitution “to ensure diligence and efficiency in the work of public bodies” has been met.

## 1. Constitutional Changes Since 2015

As it has been already mentioned, the rank of the symbol of constitutional changes since autumn 2015 should be granted to, above all, the destruction of the Constitutional Tribunal. In fact, this diminishes the imperative of “the supremacy of the Constitution over the political freedom of action of the current parliamentary majority”<sup>6</sup>. On 25 November 2015, the new ruling majority ‘stated the lack of legal force’ of five resolutions of the *Sejm* of the previous term of office – adopted on 8 October 2015 – on the election of judges of the Constitutional Tribunal<sup>7</sup>. The President of the Republic of Poland refused to take the vow from these judges. On 2 December 2015, the *Sejm* elected five ‘new’ judges of the Constitutional Tribunal. This meant that in total 18 judges were elected by the *Sejm* to the Constitutional Tribunal, although the Constitution provides for 15 judges. The President took the oath from the ‘new’ judges on 2 December 2015 – the night preceding the Constitutional Tribunal’s important decision (of December 3, 2015)<sup>8</sup>. In this judgment, the Tribunal stated that on 8 October 2015 only two judges out of five were elected on legal basis incompatible with the Constitution. This meant that the three ‘newly elected’ judges were *de facto* ‘doubles’ of lawfully occupied judges’ seats. The President of the Constitutional Tribunal did not allow ‘doubles’ to adjudicate.

On 9 December 2015, the Constitutional Tribunal passed a judgment concerning the amendment of the Constitutional Tribunal Act of 19 November 2015<sup>9</sup>. The ruling majority called this amendment a ‘corrective act’, but the Constitutional Tribunal found several of its most important provisions unconstitutional. On 22 December 2015 the *Sejm* again amended the Constitutional Tribunal Act under the guise of ‘repairing’ the Constitutional Tribunal in a manner inconsistent with the Constitution. The *Sejm* decided that it shall come into force without *vacatio legis*. The Constitutional Tribunal ruled on the unconstitutionality of this amendment on

<sup>5</sup> See Jakość stanowienia prawa w pierwszym roku rządów Prawa i Sprawiedliwości [Quality of legislation in the first year of the Law and Justice government]. Available: <http://www.batory.org.pl/upload/files/Programy%20operacyjne/Odpowiedzialne%20Panstwo/Komunikat%20z%20IX%20obserwacji.pdf> [last viewed 11.02.2019]; Jakość stanowienia prawa w drugim roku rządów Prawa i Sprawiedliwości [Quality of legislation in the second year of the Law and Justice government]. Available: <http://www.jawnosc.pl/wp-content/uploads/2017/12/plik.pdf> [last viewed 11.02.2019].

<sup>6</sup> Garlicki, L. Polskie prawo konstytucyjne [Polish constitutional law]. Warszawa, 2014, p. 344.

<sup>7</sup> Resolutions of the *Sejm* adopted on 8 October 2015 – on the election of judges of the Constitutional Tribunal. The Official Journal of Laws *Monitor Polski*, items 1131–1135.

<sup>8</sup> Decision of the Constitutional Tribunal of 3 December 2015, case No. K 34/15.

<sup>9</sup> Decision of the Constitutional Tribunal of 9 December 2015, case No. K 35/15.

9 March 2016<sup>10</sup> in an extraordinary legal situation. In order to avoid the ‘legislative trap’ constructed consciously by the *Sejm*, the Constitutional Tribunal was forced to adjudicate on the basis of art. 195, p. 1 of the Constitution. The Tribunal took as a basis of its adjudication the directly applied provisions of the Constitution and the amendment act excluding some of its provisions which were aimed at ‘paralyzing’ the Constitutional Tribunal. According to legal requirements, the judgement of 9 March 2016 was to be published in the official journal of laws *Dziennik Ustaw*. However, the government ‘did not recognize’ the judgment of the Constitutional Tribunal and decided that there was no obligation to announce it, since – in its opinion – the judgment had no legal legitimacy. The standpoint of the Constitutional Tribunal was definitely supported by such authorities as the Supreme Court and the Supreme Administrative Court.

The subsequent ‘response’ of the ruling majority to the conflict was the new Act of 22 July 2016 on the Constitutional Tribunal<sup>11</sup>. This act ‘continued’ the line of constraint against the Constitutional Tribunal. Among others, it ‘ordered’ the permission to adjudicate by three ‘doubles’ judges and ‘prohibited’ the publication of the Court’s judgment of 9 March 2016. It contained a number of solutions unduly interfering with the internal organizational system of the Constitutional Tribunal preventing it from performing its duties efficiently and reliably. The Constitutional Tribunal ruled on this law in the judgment of 11 August 2016<sup>12</sup>, still in the period of its *vacatio legis*. The Constitutional Tribunal concluded that as to the merits, the new provisions have been already subject to Tribunal’s analyses and decisions of 3 and 9 December 2015 and 9 March 2016. That was because in the Act of 2016 the legislator ‘repeated’ provisions violating the principle of the tripartite division of power, the principle of the independence of judicial power as well as provisions preventing the Constitutional Tribunal from carrying out reliable and efficient actions. The judgment of the Constitutional Tribunal of 11 August 2016 was also not published by the Prime Minister in the official journal of laws.

Soon afterwards, the politicians of the ruling majority announced the beginning of works on the next act on the Constitutional Tribunal. The entire ‘chain’ of actions of the ruling majority consistently created instruments aimed at making the Constitutional Tribunal unable to review the constitutionality of its legislative activities. They were based on a political aspiration – against the constitutional principle of the tripartite division of power – to obtain power that is not limited by outside control. Already in 2016, disputes over the Constitutional Tribunal in Poland also resulted in two opinions of the Venice Commission – an advisory body in the legal area in the system of the Council of Europe<sup>13</sup>. They were definitely critical about the ‘legislative’ obstruction of the Constitutional Tribunal and disregarding its judgments by the Polish government. In particular, the lack of fulfilment of two basic standards of the balance of power – the independence of the judiciary and the position of the Constitutional Tribunal as the final arbitrator in constitutional matters was concluded.

<sup>10</sup> Decision of the Constitutional Tribunal of 9 March 2016, case No. K 47/15.

<sup>11</sup> Ustawa o Trybunale Konstytucyjnym [Act on the Constitutional Tribunal] (22.07.2016). *The Official Journal of Laws Dziennik Ustaw*, 2016, item 1157.

<sup>12</sup> Decision of the Constitutional Tribunal of 11 August 2016, case No. K 39/16.

<sup>13</sup> Opinions of the Constitutional Tribunal of 11 March and 14 October 2016.

Three new acts and further controversial constitutional practice were the epilogue of the dispute over the Constitutional Tribunal in Poland<sup>14</sup>. Under these acts, the problem of the lack of publication of the three judgments of the Constitutional Tribunal is still unresolved. The government ‘does not recognize’ them, assuming that it has the power to assess which rulings of the Court are ‘lawful’ and which are not. The Prosecutor’s Office does not see any violation of the binding law in the government’s refusal to publish the judgments of the Constitutional Tribunal.

It must be emphasized that the above situation results in a significant drop of institutional trust expressed in the public opinion in regard to the status and role of the Constitutional Tribunal<sup>15</sup>. In 2017, threats and destructive steps covered further areas of the judiciary. The ruling majority with numerous violations of the Constitution changed the statutory status of common courts, the Supreme Court and the National Council of the Judiciary<sup>16</sup>. The parliamentary experience and extra-parliamentary practice in the 8<sup>th</sup> term of office have proved the weaknesses of the self-defence mechanisms of constitutional order.

## 2. Historical Ascendances

The changes of the constitutional system of a state can provoke a question if they can be perceived against the background of the state’s constitutional and political traditions. Such question can also be posed with regard to the constitutional changes in Poland initiated in 2015. However, constitutional traditions are generally not uniform and linear, as they have different currents and meanderings. In Polish legal and constitutional thought, the ‘glorious’ trend has been created by the Constitution of 3 May 1791<sup>17</sup> and the Constitution of March 1921<sup>18</sup>. On the

<sup>14</sup> These are currently binding laws: Ustawa o organizacji i trybie postępowania przed Trybunałem Konstytucyjnym [Act on the Organization and Mode of Procedure Before the Constitutional Tribunal] (30.11.2016). *The Official Journal of Laws Dziennik Ustaw*, 2016, item 2072; Ustawa o statusie sędziów Trybunału Konstytucyjnego [Act on the Status of Judges of the Constitutional Tribunal] (30.11.2016). *The Official Journal of Laws Dziennik Ustaw*, 2016, item 2073; Przepisy wprowadzające ustawę o organizacji i trybie postępowania przed Trybunałem Konstytucyjnym oraz ustawę o statusie sędziów Trybunału Konstytucyjnego [Provisions introducing the Act on Organization and Procedure before the Constitutional Tribunal and the Act on the Status of Judges of the Constitutional Tribunal] (13.12.2016). *Official Journal of Laws Dziennik Ustaw*, 2016, item 2074. Available: [http://eur-lex.europa.eu/n-lex/legis\\_pl/prawo\\_result\\_en?](http://eur-lex.europa.eu/n-lex/legis_pl/prawo_result_en?) [last viewed 11.02.2019].

<sup>15</sup> In regard to the dispute over the Constitutional Tribunal some parts of the article: *Szmyt, A.* Destruction..., were used.

<sup>16</sup> *Grajewski, K.* Zmiany statusu prawnego Krajowej Rady Sądownictwa [Changes of the Status of the National Council of Judiciary]. In: *Współczesne problemy sądownictwa w Republice Czeskiej i w Rzeczypospolitej Polskiej*. Z. *Witkowski, J. Jirásek, K. Skotnicki, M. Serowaniec* (eds.). Toruń, 2017, pp. 91–122; *Szmyt, A.* Ocena zgodności z Konstytucją RP projektu nowelizacji ustawy – Prawo o ustroju sądów powszechnych [Act on the System of Common Courts]. In: *Współczesne problemy sądownictwa w Republice Czeskiej i w Rzeczypospolitej Polskiej*. Z. *Witkowski, J. Jirásek, K. Skotnicki, M. Serowaniec* (eds.). Toruń, 2017, pp. 257–271; *Rytel-Warzocho, A., Uziębło, P.* National Council of the Judiciary as the guardian of the independence of judges and courts in Poland in the light of recent legislative amendments. In: *The International Conference “European Union’s History, Culture and Citizenship”*. Pitesti, 2017, pp. 231–245.

<sup>17</sup> Ustawa Rządowa. Z dnia 3-go maja 1791 roku [Governmental Act of 3 May 1791]. Available: <http://libr.sejm.gov.pl/tek01/txt/kpol/1791-r0.html> [last viewed 11.02.2019].

<sup>18</sup> Konstytucja Rzeczypospolitej Polskiej z 17 marca 1921 r. [Constitution of the Republic of Poland of 17 March 1921]. Available: <http://libr.sejm.gov.pl/tek01/txt/kpol/e1921.html> [last viewed 11.02.2019].

other hand, the Constitution of April 1935<sup>19</sup> and the Constitution of July 1952<sup>20</sup> are not esteemed. The current Constitution of 1997 should be certainly connected – although there is no long historical perspective – with the first of these trends. However, the general evaluations are too wide to be fully useful as a tool for the segmented or even short-lasting phenomena. Therefore, it seems more fruitful to refer to strictly defined constitutional structures, which in certain contexts can appear as an argumentation explaining the current reality. There are several threads of this kind.

The Constitution of 3 May 1971 – due to the imminent partition of Poland by the neighbouring countries – in practice had no chance to demonstrate its Enlightenment values. In Polish civic and national thought, however, it has become a powerful myth and symbol of the historical constitutional breakthrough. Subsequent generations recalled its provisions proclaiming that ‘all power of human society’ comes from ‘the will of the Nation’ as well as provisions establishing the division of power into legislative, executive and judicial. The provisions of the Constitution, however, ‘strengthened’ the Parliament (both chambers), exposing the Chamber of Deputies as coming from elections. The preponderance (advantage) of the *Sejm* was a fairly permanent reference point for many political forces later on. And such is the perception of constitutional issues also by the current ruling forces.

The dominance of the *Sejm* (despite the division of power as a principle) obtained real significance and was strongly emphasized on the ground of the Constitution of March 1921. At that time the concept of the system of government called ‘Sejmocracy’ obtained a pejorative meaning. ‘Sejmocracy’ combined with the instability of the party system of those times (together with the unsatisfactory level of political culture) and permanent tensions between the Parliament and the government gave rise to the coup d’état in May 1926. Its first result was the constitutional strengthening of the government. Democracy somewhat ‘anarchized’ created an easy temptation to reach for ‘disciplining’ solutions. However, the ‘supremacy’ of the *Sejm* remained in constitutional consciousness as a symbol of democratic solutions. First of all, such an assessment of the March Constitution became a permanent historical legacy. It also became a proof that “despite the programmatic apotheosis of democracy, it failed to protect itself against the enemies of democracy”<sup>21</sup>. The constitutional transformation after 1926 was significantly influenced by the individual’s authority – the charismatic legitimization of Józef Piłsudski as the creator of independent Poland.

The changes were continued and the ‘breakthrough’ was the Constitution of April 1935. It was a total axiological and institutional negation of the previous constitution. It opposed to the principle of the *Sejm*’s supremacy and favoured the strong position of the President who was granted ‘uniform and indivisible state power’ art. 2 p. 4 of the Constitution), which meant the rejection of the principle of the division of power. The *Sejm* – like other state organs – was subjected to the

<sup>19</sup> Konstytucja Rzeczypospolitej Polskiej z 23 kwietnia 1935 [Constitution of the Republic of Poland of 23 April 1935]. Available: <http://libr.sejm.gov.pl/tek01/txt/kpol/e1935-spis.html> [last viewed 11.02.2019].

<sup>20</sup> Konstytucja Polskiej Republiki Ludowej z 22 lipca 1952 r. [Constitution of the Polish People’s Republic. Adopted by the Legislative Diet on July 22, 1952]. Available: <http://libr.sejm.gov.pl/tek01/txt/kpol/e1976.html> [last viewed 11.02.2019].

<sup>21</sup> *Szymanek, J.* Tradycje konstytucyjne. Szkice o roli ustawy zasadniczej w społeczeństwie demokratycznym [Constitutional traditions. Sketches on the role of the basic law in a democratic society]. Warszawa, 2006, p. 132.

‘supremacy’ of the President, who was responsible only before the ‘God and history’ (art. 2, p. 2). These solutions accompanied the axiological mission of the ‘sanitation’ of political and constitutional system by the ruling camp which was hostile to political pluralism. The personalized ‘Caesarism’ was based on the personal authority of a specific individual. The death of Marshal Piłsudski caused in practice the decomposition of this political system which was ended by the outbreak of war in 1939. In the historical tradition, the Constitution of 1935 became a symbol of breaking with the canon of constitutional principles respected in liberal-democratic regimes.

The next Polish Constitution of 1952 received very negative assessments. In fact, it was a façade legal act, whose axiology and solutions did not coincide with reality. It petrified the rejection of political pluralism and previously established understanding of democracy. Real decision-making mechanisms were not related to legal instruments. The centres of political and constitutional decisions functioned autonomously in relation to constitutional structures. At the same time, the Constitution of 1952 introduced the principle of the unity of power and the superior position of the Parliament. The gap between the normative and political layer and the earlier constitutional traditions gave the impression that the meaning of the Constitution as an axiological foundation was non-existent<sup>22</sup>.

## Summary

The above review – signaling some political and constitutional aspects – makes us realize that in Polish constitutional tradition we can indicate elements to which – more or less clearly – the current processes of constitutional changes can be referred to. The echoes of past solutions are in a sense ‘woven into’ today’s tendencies viewed against the background of the indicated elements of the constitutional tradition.

In particular, it is symptomatic that the ruling majority emphasizes that it is legitimized by the electoral process. They point the Nation as a sovereign who created the representative body and gave the parliamentary majority a mandate to carry out reforms. However, emphasizing the role of the sovereign, the role of the representative body, the electoral investment for reforms is a considerable simplification at least for two reasons. The ruling camp obtained a parliamentary majority in elections, allowing it to form its own government and pass ordinary laws. However, they did not get a 2/3 majority of votes, the so-called ‘constitutional’ majority necessary for the legal amendment of the Constitution (art. 235 p. 4). This means that ordinary legislation must fall within the framework set out in the current Constitution, not being permitted to contradict it. By an electoral act, the sovereign did not authorize the parliamentary majority to pass laws incompatible with the Constitution. The claims about mandate obtained from the Sovereign are, in these circumstances, a false constitutional rhetoric aimed at legitimizing anti-constitutional activities. The feature of this rhetoric is – in addition – ‘reversing’ the meanings of concepts anchored in the tradition of constitutional democracy, in an unworthy manner that lowers the standards of legal and constitutional decency. This is a manifestation of the abuse of constitutional principles. Appealing to a democratic mandate does not legitimize the ‘special’ role of the Parliament in relations to the judiciary. Their mutual relations are defined by the constitutional

<sup>22</sup> See Borecki, P. Geneza Konstytucji PRL z 22 lipca 1952 r. [The origins of the Constitution of the Polish People’s Republic of 22 July 1952]. *Przegląd Sejmowy*, No. 5, 2007, pp. 75–87.

principles of the division of power and the independence of courts and judges. Without amending the Constitution, the activities of legislative and executive bodies that defy these principles have no legal legitimacy. The element of ‘democratism’ of the legislative power in a simplified manner is abused in media campaigns, especially those directed against the ‘third power’. Instrumentally, however, it is based on the elements of political and legal tradition that are deeply rooted in Poland.

The systemic decomposition of current constitutional processes is expressed precisely in locating the ‘political decision-making centre’ outside the Parliament, and even outside the structures of the state apparatus. The current constitutional practice shows that political decisions are made by the leader of the main party of the ruling camp, who manages his party in an autocratic manner. In the formal sense, he is ‘only’ an ordinary deputy who does not hold any prominent state function. We can observe the programmatic acceptance of the ‘charismatic’ legitimization of the role of the political leader and the instrumental and executive role of state organs. The ‘personal’ governments in this sense are not new in Polish constitutional and political traditions. They are favoured by both the experience of the facade of constitutional solutions and the populist ideology of the leader of the ‘good change’ camp.

The current political and constitutional processes presented above certainly do not belong to the glorious current of Polish traditions. In their assumptions they are *de facto* hostile to the Constitution in force<sup>23</sup>. *De iure* they are a distorted, manipulative interpretation of the Constitution. They are a manifestation of legal nihilism and a low level of political culture.

By law, the foundations of the rule of law, division of powers and judicial independence have been violated. Through legislative changes the Public Prosecutor’s Office was subordinated to executive power and the Minister of Justice obtained a significant influence on the functioning of the common judiciary. The present changes bring forth a question, in the light of which Polish constitutional traditions, if any, they can be perceived. There are several threads. The practice of referring to ‘supraposition’ of the Parliament fits into the long-term tradition of the ‘priority’ role of the representative bodies – still from the First Republic, then the March Constitution of 1921, and finally the times of the People’s Republic of Poland with the constitutional principle of unity (instead of division) of power and the superior position of the unicameral *Sejm*. The First Republic had a weak position of the judiciary, and in the period of the Partitions (loss of independence) the general lack of authorities imposed by neighbouring states was present. During the Second Republic (interwar period), the democratic restrictions – after the May 1926 coup – were caused by the appeal of the ruling camp to charismatic legitimization of the independence father Józef Piłsudski. A reference to this part of interwar history is an important motive for the ideology of the leader of the current ruling majority. It is supplemented by the concept of the ‘political decision-making centre’ of the state, located outside the state apparatus, anchored in the facade of constitutional solutions from the period of the socialist system. This facilitates political control, without the support of democratic procedures. In the name of the effectiveness of

<sup>23</sup> The title of the contribution of M. Wyrzykowski is symptomatic: *Wyrzykowski, M.* “Wrogie przyjęcie” porządku konstytucyjnego [“Hostile takeover’ of the constitutional order”]. In: *Wyzwania dla ochrony konkurencji i regulacji rynku. Księga jubileuszowa dedykowana Profesorowi Tadeuszowi Skoczemu*. Warszawa: Wolters Kluwer, 2017, pp. 831–853.



propagandist ‘good’ governments, it is easy to carry out measures to strengthen the executive, which was also carried out under the rule of the 1935 Constitution and in the times of the socialist system.

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