

## Poland's European Policy 2015–2019 in the Perspective of Liberal Intergovernmentalism<sup>1</sup>

### *Polityka europejska Polski w latach 2015–2019 w ujęciu liberalnej międzyrządowości*

#### **Abstract:**

The purpose of this article is to evaluate Poland's European policy during the first term of the Law and Justice party government (2015–2019) in terms of participation in the general debate on the future of the EU. The theoretical background is the liberal intergovernmentalism, and the main thought is the statement that in the analyzed years Poland pursued a policy that did not take into account the basic assumptions of liberal intergovernmentalism treated normatively. The Polish authorities did not present concepts consistent with the internal Polish “community of views”, and when selecting partners and negotiating methods, they pursued an ideological policy, focusing on one partner with little potential. Despite these shortcomings, it was possible to maintain the shape of the institutions and procedures dominating in the EU favorable from the point of view of Poland's pragmatically understood interests. Poland's non-confrontational attitude to day-to-day politics also played a positive role here.

#### **Keywords:**

European Union, Poland, liberal intergovernmentalism, European policy, Law and Justice

#### **Streszczenie:**

Celem niniejszego artykułu jest dokonanie oceny polityki europejskiej Polski w okresie pierwszej kadencji rządów partii Prawo i Sprawiedliwość (2015–2019) w zakresie udziału w generalnej debacie o przyszłości UE. Tłem teoretycznym jest liberalna międzyrządowość, a główną myślą stwierdzenie, że Polska prowadziła w badanych latach politykę nieuwzględniającą zasadniczych założeń liberalnej międzyrządowości traktowanej normatywnie. Władze Polski nie prezentowały koncepcji zgodnych z wewnątrzpolską „wspólnotą poglądów”, a przy doborze partnerów oraz metod negocjacyjnych prowadziły politykę nacechowaną ideologicznie, orientując się na jednego partnera o niewielkim potencjale. Pomimo tych niedociągnięć udało się jednak utrzymać korzystny z punktu widzenia pragmatycznie rozumianych interesów Polski kształt instytucji i procedur dominujących w UE. Dużą rolę pozytywną odegrało tu niekonfrontacyjne podejście Polski do tzw. polityki codziennej.

#### **Słowa kluczowe:**

Unia Europejska, Polska, liberalna międzyrządowość, polityka europejska, Prawo i Sprawiedliwość

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## 1. Introductory remarks

The condition of the European Union at the end of the second decade of the twenty-first century was conditioned by four interdependent phenomena. The first one was the unresolved economic crisis of some states, the second – the identity crisis related to the definition of the role of the Union in the global system, the third – the need to reform the Economic and Monetary Union, and the fourth – the partial disorganization of the integration system expressed, inter alia, in the withdrawal of the United Kingdom. Those elements created the decision-making situation faced by Poland after the Law and Justice party (PiS) took power in 2015.

The purpose of this article is to evaluate Poland's European policy during the first term of PiS government (2015–2019) in terms of participation in the general debate on the future of the EU. Therefore, the Author is not interested here in the detailed internal determinants of this policy or the facts related to the course of the migration and refugee crisis<sup>2</sup>, the reforms of the Polish political system<sup>3</sup>, or personal issues<sup>4</sup>. The theoretical background of the analysis presented below is the liberal intergovernmentalism proposed in the 1990s by Moravcsik, still being one of the leading approaches in the study of the position of states in the EU. The main idea of the article is the statement that the normative attitude to liberal intergovernmentalism leads to the recognition that Poland pursued a policy that did not take into account the basic assumptions of that theory.

In the initial part of the article three basic categories of liberal intergovernmentalism, as well as two additional contexts of interest to representatives of this theoretical stream, are briefly discussed. This leads to the presentation of three hypotheses referring directly to Poland's preferences, its negotiation policy and the assessment of the institutional results of integration in the years analyzed. Later on, these hypotheses are confronted with the real policy pursued by Poland, giving rise to the final conclusion as well as the determination of further research topics<sup>5</sup>.

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<sup>2</sup> Cf. M. Stolarczyk, *Stanowisko Polski wobec kryzysu migracyjno-uchodźczego Unii Europejskiej*, „Krakowskie Studia Międzynarodowe”, 2017 vol. 14 no. 2, pp. 15–41.

<sup>3</sup> Cf. A. Cianciara, *Strategies of the Polish Government in the Rule of Law Dispute with the European Commission*, „Przegląd Europejski”, 2018 no. 1, pp. 57–73.

<sup>4</sup> Cf. B. Stanley, *The Comparison of Two Polish Party Leaders: Jarosław Kaczyński and Donald Tusk*, in: *Party Leaders in Eastern Europe*, ed. by S. Gherghina, Cham 2020, pp. 171–195.

<sup>5</sup> The article contains some views presented in the Author's previous publications. Relevant indications are usually found in the footnotes.

## 2. Analytical categories of liberal intergovernmentalism

The liberal intergovernmentalism is based on three fundamental analytical categories resulting from its basic assumptions<sup>6</sup>. The very first idea of liberal intergovernmentalism is based on the view that the fundamental and almost exclusive role in EU political decision-making is played by the (governments) of member states. The analytical framework is built here on three categories. The first is the preferences of states whose formation is based on five conditions: (a) states behave rationally; (b) governmental preferences result from an intra-state process where important social groups articulate their interests to be aggregated by the governments, with final national preferences being shaped primarily by economic factors; (c) governmental preferences are influenced by the size of benefits from cooperation with other states and the certainty of these benefits; (d) governments are generally not willing to make concessions outside the scope of their objective interests, while the outcome of intergovernmental negotiations is determined by the relative intensity of preferences, therefore disproportionately representing the interests of the strongest states; (e) the policy sectors are not directly linked, with interlinking occurring only if other negotiation techniques of specific issues have been unsuccessful<sup>7</sup>.

The second analytical category of liberal intergovernmentalism is the negotiations between states participating in European integration. In this respect this approach is based on four assumptions: (a) supranational actors do not have much influence on the outcome of intergovernmental negotiations; (b) the governments of the largest member states play the most important role in EU decision-making; (c) procedural restrictions are not particularly important when important state interests are negotiated; (d) intergovernmental negotiations are linked to the balance of power in the EU political system<sup>8</sup>.

The third analytical category of liberal intergovernmentalism is the institutions created by negotiations between states. Moravcsik introduces the concept of the “European constitutional settlement”, defined as a stable endpoint of European integration in the medium term. This settlement is the result of the specific political objectives of the member states, which are pursued in

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<sup>6</sup> Cf. P. Tosiek, *The Prospects for Institutional Reforms of the European Union: a Liberal Intergovernmentalist Perspective*, “Serbian Political Thought”, 2020 vol. 68 no. 2, pp. 143–147.

<sup>7</sup> A. Forster, *Britain and the Negotiation of the Maastricht Treaty: a Critique of Liberal Intergovernmentalism*, “Journal of Common Market Studies”, 1998 vol. 36 no. 3, p. 350.

<sup>8</sup> D. Finke, *Challenges to Intergovernmentalism: an Empirical Analysis of EU Treaty Negotiations since Maastricht*, “West European Politics”, 2009 vol. 32 no. 3, pp. 466–473.

a context of management of different types of political and economic interdependence. Since the preferences of states are issue-specific, the institutional solutions may vary depending on the problem<sup>9</sup>.

The development of liberal intergovernmentalism led to the emergence of two additional (accessory) assumptions of this approach. The first of them is the non-existence of EU democratic deficit. According to Moravcsik, the democratic nature of the EU stems from the legitimacy chains intermediated by democratic governments of the member states. He points out that almost all views confirming the democratic deficit are based on majority, or even on populist concepts of democracy, both being unrealistic and inappropriate for modern political systems, whereas modern democracies must temper respect for the majority with at least three other fundamental values: the respect for individual rights, the epistemic quality of decision-making and the limiting of the impact of overrepresented interests<sup>10</sup>.

One of the specific ideas identified with liberal intergovernmentalism, although also present in other theories, is the concept of *demoicracy*. According to Nicolaïdis, its protagonist, in the case of the EU the assumption of the preexistence of a single *demos* created by the “constitutional moment” must be abandoned. Instead, the European democracy should be rooted in the inherently heterogeneous democratic structures of the member states (*demoi*), and the European Union is created as a new type of political community based on the enduring multiplicity of its “constituent nations”. It is more than a particularly strong version of the confederation of sovereign states, for the nations here are connected directly and not just by their leaders. However, while these nations are organized in states, it is the states that should be at the center of European construction<sup>11</sup>.

The second accessory assumption of liberal intergovernmentalism is the inevitability of differentiated integration. Schimmelfennig, the proponent of this view, believes that the actors of integration are the member states, and some of them may opt to extend or limit their participation in integration processes, while the differentiation results from decisions taken by governments in

<sup>9</sup> A. Moravcsik, *The European Constitutional Settlement*, “The World Economy”, 2008 vol. 31 no. 1, pp. 157–172; idem, *Federalism in the European Union: Rhetoric and Reality*, in: *The Federal Vision. Legitimacy and Levels of Governance in the United States and the European Union*, ed by K. Nicolaïdis, R. Howse, Oxford 2001, pp. 176–179.

<sup>10</sup> A. Moravcsik, *Preferences, Power and Institutions in 21st-Century Europe*, “Journal of Common Market Studies”, 2018 vol. 56 no. 7, p. 1669.

<sup>11</sup> K. Nicolaïdis, *The New Constitution as European Demoi-cracy?*, Paper No. 38/2003. The Federal Trust for Education and Research, pp. 5–8.

international negotiations. The diversity is therefore becoming an evolutionary requirement for further integration. The inability to differentiate would make the shape of the EU political system based on the lowest “common intergovernmental denominator”, where the scope of integration would have been the result of decision of the state with the greatest negotiating power, that is to say, the one having the most favorable option for exiting the integration system or the most vital interest in maintaining the *status quo*<sup>12</sup>.

The main and the accessory assumptions of liberal intergovernmentalism give rise to the presentation of three hypotheses concerning the features of Poland's European policy, if it were carried out normatively according to the above theoretical guidelines. The independent variable in each hypothesis is one of the assumptions of liberal intergovernmentalism. The analysis should take into account the current, although also the strategic, decision-making situation<sup>13</sup>.

According to the first hypothesis (H1) – if the aggregation of political interests of relevant social groups is of fundamental importance in building the governmental preferences – the condition for the success of the Polish vision is to obtain an intra-state agreement between the most important political forces. It is worth noting that the perception of the fundamental goals of European politics is an important element of the consensus between the political groups that held power in Poland in the post-accession period. The first feature of the intra-Polish “community of views” is the recognition of the European Union as an entity facilitating the implementation of the national interest in the field of state security and economic development, and the second – the reluctance to quickly transform the EU into a federal entity.

According to the second hypothesis (H2) – if the negotiations in the EU take place in *demoicratic* conditions of asymmetric interdependence – the condition for Poland's success is to abandon the concept that has no chance of gaining support by other important states. It should be taken into account that the current tendency in Western Europe is rather the dominance of federal concepts, which was confirmed by the results of the 2019 European Parliament elections (where the Eurosceptic groups are now isolated). Moreover, most small and medium-sized states tend to join the winning coalition, i.e. to support the concept of one of the states with the greatest influence on the final

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<sup>12</sup> F. Schimmelfennig, *Ever Looser Union? Towards a Theory of Differentiated Integration in the EU*, 2011, <https://www.researchgate.net/publication/268031326> [accessed: 1.08.2020].

<sup>13</sup> Cf. P. Tosiek, *Polska wizja międzyrządowości w Unii Europejskiej. Propozycja podejścia pragmatycznego*, in: *Polska–Niemcy–Unia Europejska w procesie zmian*, ed. by Z. Czachór, T. Marcinkowski, Gorzów Wlkp. 2019, pp. 15–30.

decision (probably France and/or Germany). Due to historical conditions, it is also unrealistic for Poland to play the role of the leader of Central and Eastern European states. The vast majority of them have strategic goals (for instance in the field of economic and monetary union) that are contrary to the goals of the current Polish authorities.

The third hypothesis (H3) is based on the assumption that – if the institutional shape of the EU is to correspond to the above-mentioned preferences of Poland – the condition of success is the awareness that far-reaching changes in the current treaties should not be sought. It should be remembered that in the event of radical changes, the ratification of a new supplementing or amending treaty by all member states would be under the current polarization very difficult. A significant part of the changes would therefore most likely be carried out without the treaty reform, with the tendency to differentiated integration. In this respect, it is worth emphasizing that it would be beneficial for Poland to participate in various forms of closer cooperation, as well as to participate – even if only as an observer – in all decision-making processes that may affect the interests of the state.

### **3. Case of Poland: preferences**

During the rule of Law and Justice no official national vision of the European Union was presented. The most important statements in this regard include the declaration presented by the Marshal of the Sejm<sup>14</sup> at the meeting of the Conference of Presidents of the European Union Parliaments held in Luxembourg in May 2016. However, this declaration was – perhaps due to the low requirements of the parliamentary diplomacy – an ideologically oriented document that did not contain any significant proposals for reforming the integration system (apart from demanding of an undefined strengthening of the role of national parliaments). It was characterized by a confrontational and out-of-date language, and in a broader sense it reflected a partisan point of view. As such, it cannot therefore be the subject of an in-depth analysis.

A more important statement in this regard was the interview with Kaczyński in June 2016. The president of the ruling party presented a position demanding a significant EU treaty reform, and the PiS authorities were to present their own version of the amending treaty or even a new constitutional treaty.

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<sup>14</sup> *Europa solidarnych państw. Bezpieczeństwo, granice, odnowione instytucje. Deklaracja zaproponowana przez Marszałka Sejmu RP, Warsaw, 15.04.2016.*

Kaczyński expressed his will to conclude a new treaty, although most of the proposed changes (clarification of the provisions of EU law and the lack of arbitrariness in decision-making; detailed description of the division of competences between the EU and the member states; reducing bureaucracy and combating overregulation; more consensual decision-making procedures) did not require treaty reforms. Some other proposals (extending the scope of issues on which a decision requires formal unanimity; increasing the qualified majority threshold; limiting the Union's competences to issues related solely to the functioning of the common market; transforming the European Parliament into a body representing national parliaments) were similar to the views of Eurosceptics from Western Europe, and thus had no chance of being implemented. Further suggestions of the PiS president (transforming the EU into a confederation; creating a joint army with a budget twice as high as the current budget of the entire Union; creating the position of the EU president and granting him extensive powers in the field of foreign and defense policy) were in turn similar to the postulates of supporters of a deepened integration. It should therefore be noted that the statements of the head of the ruling party seemed to be inconsistent. It is no coincidence that this plan has never been transformed into an official document, being most likely from the very beginning an element of a communication tactic applicable in Polish domestic policy<sup>15</sup>.

It should be added that subsequent international statements by representatives of the Polish authorities were not so radical. They did not contain any detailed proposals and – despite their ideological character – did not constitute a new quality in the debate on the state and future of the EU. An example may be the speech of prime minister Morawiecki in the European Parliament on 4 July 2018 as part of the debates on the future of Europe. The main elements of the speech included emphasizing the respect for national identities and constitutional pluralism in the EU and shaping the legal system in accordance with the traditions of a given nation, as well as the demand of a new balance between the Union and the nation-states. In his other theses the prime minister criticized the French concept of “European sovereignty”, opposed to the possible emergence of “some superstate” or emphasizes that European integration is not an end in itself<sup>16</sup>. Another example could be the speech of president Duda in

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<sup>15</sup> *Miejsce Polski jest w Unii Europejskiej*, <<http://pis.org.pl/aktualnosci/miejsce-polski-jest-w-unii-europejskiej>> [accessed: 25.06.2016]; M. Szuldrzyński, *Kaczyński: Musimy wyjść z inicjatywą zmian UE*, „Rzeczpospolita”, 27.06.2016, <<http://www.rp.pl/Brexit/160629410-Kaczynski-Musimy-wyjsc-z-inicjatywa-zmian-UE.html>> [accessed: 27.06.2016].

<sup>16</sup> *Parlament Europejski, debaty, środa – 4 lipca 2018 r. – Strasburg, Debata z premierem Polski Mateuszem Morawieckim na temat przyszłości Europy (debata)*, wersja tymczasowa, <<http://www.europarl.europa.eu/sides/>>



Zurich on 9 October 2018. Its most important elements include the definition of the three EU “pillars”: the “community of equals”, the “community of ethics” and “community of freedom”, with the view that the “respect for the will of governments elected by nations” is the basis of European democracy<sup>17</sup>.

The future of the EU was discussed in an in-depth way in the circles of researchers ideologically close to the PiS, while a journalistic book by Szczerski was widely recognized as the main component of this debate. Its author proposed there a concept of “reconstitution” of the European Union. It was defined as a profound reform of the EU that preserved the “continuity of political institutions”, but changed the “parameters of their operation”<sup>18</sup>. The following analysis of this proposal is based on four partially interdependent dimensions<sup>19</sup>.

The first dimension is geopolitical in nature and relates to the historical context. Two elements come to the fore here: the polycentricity and the Three Seas initiative. The basic assumption is that the European Union should be a polycentric entity open to enlargement, consisting of many autonomous integration subcenters referred to as “decentralized regional communities”, which independently shape the model of their operation, complying with uniform European general standards. In this system, Poland should constitute a separate center for the region of Central and Eastern Europe and a coordination core of its own integration model<sup>20</sup>.

The regional community, the tangent point of which would be Poland, is the Three Seas initiative, i.e. a group of states located in the region of the Baltic Sea, the Black Sea and the Adriatic Sea. In the broadest group of entities, this region includes not only the twelve states belonging to the EU today, but also the Scandinavian states and Italy. The purpose of the Three Seas’ existence is – according to Szczerski – to oppose the domination of Germany and Russia in Central and Eastern Europe, and one of the means is Poland’s taking over the responsibility for the EU’s eastern policy. The security of the region would be guaranteed by both the European Union and NATO. In economic terms, close

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<sup>17</sup> Wykład Prezydenta RP na Uniwersytecie w Zurychu, Tuesday, 9.10.2018, <<http://www.prezydent.pl/aktualnosci/wypowiedzi-prezydenta-rp/wystapienia/art,544,wykklad-prezydenta-rp-na-uniwersytecie-w-zurychu.html>> [accessed: 10.10.2018].

<sup>18</sup> K. Szczerski, *Utopia europejska. Kryzys integracji i polska inicjatywa naprawy*, Kraków 2017, p. 93.

<sup>19</sup> Cf.: P. Tosiek, *Polska wizja „rekonstytucji” Unii Europejskiej: nowy model integracji zróżnicowanej?*, „Przegląd Europejski”, 2017 no. 3, pp. 39–56; idem, „Demokracja międzyrządowa” – w kierunku rekonstrukcji polskiej koncepcji reformy instytucjonalnej UE, „Rocznik Integracji Europejskiej”, 2017 no. 11, pp. 369–381.

<sup>20</sup> K. Szczerski, pp. 235–239.



cooperation of the Three Seas states would include the construction of new transport and energy infrastructure, and in the dimension of domestic politics – abandoning the “imitation” of the Western European model of economic development and creating the own model taking into account the regional specificity<sup>21</sup>.

The second group of problems related to “reconstitution” consists of its institutional dimension. The main Szczerski's proposal is to introduce the principle of EU “intergovernmental democracy”, based on four pillars: the unanimity as the main method of making decisions in the European Council, the strengthening of the role of national parliaments in scrutinizing supranational institutions, the abolition of the right of the Commission and the European Parliament to interfere with the domestic law of states outside the areas of exclusive EU competence, and the strict enforcement of the principle of subsidiarity. The strategic goal here would be to eliminate the hierarchy between member states. The third group of issues is the economic dimension of “reconstitution”. The basic assumption here is a departure from the “neo-colonial model of development” of Central and Eastern Europe and creating instead of their own economic solutions adapted to their specificity and current situation. More generally, the aim would be to deregulate the economy and to move away from standardization within the EU. However, the economic liberalization would go hand in hand with maintaining the cohesion policy. The fourth group of problems covers the axiological dimension of “reconstitution”. The author of the concept presents two alternative options for the activity of the European Union in the field of values. The first is the “axiological neutrality” consisting in the complete lack of interest on the part of the EU in the functioning of the member states in this area, and the second – clearly preferred – is the “return” of the entire Union to the Christian tradition<sup>22</sup>.

Summing up, it should be stated that the preferences officially or semi-officially articulated by the Polish authorities were certainly not the same as the internal Polish “community of views”. While the Union was recognized here as an entity facilitating the implementation of the national interest in the field of state security and economic development, at the journalistic level a radical concept of transforming the EU into a classic intergovernmental international organization was presented, undermining in some areas the purposefulness of Poland's membership. The presented concepts were not only opposed

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<sup>21</sup> Ibidem, pp. 187–207.

<sup>22</sup> Ibidem, pp. 155–156, 230–239.

to the views of relevant social groups (including the main opposition parties), but even within the ruling camp they could arouse controversy among more moderate politicians. The main challenges of the near future (for instance the possibility of an in-depth discussion on joining the euro area) were absolutely not addressed<sup>23</sup>. Undoubtedly, it should be concluded that the first hypothesis (H1) has not been positively verified, which leads to the view that in terms of preferences, Poland's European policy 2015–2019 was not conducted according to the normative assumptions of liberal intergovernmentalism.

#### 4. Case of Poland: negotiations

Since the beginning of EU membership the selection of specific states, groups of states or institutions as relatively permanent or at least long-term partners in the process of political decision-making in the EU has been associated in Poland with the lack of political consensus among the main political forces. It seems that the easiest way to show the dilemmas related to Poland's coalition policy was presented by Chojan, who elaborated two previously known contradictory concepts of the general foreign policy. The first is the so-called Piast politics, and the other – the so-called Jagiellonian policy. Contemporary Piast politics is based, in a synthetic approach by this author, on the strong establishment of Poland in Western Europe in terms of politics, economy, society and culture. It is assumed here that the mainstream of European integration would be adopted, based on the alliance with Germany and France, while marginalizing the eastern policy, with the main goal to pursue the national interest aimed at developing the potential of the community of Western Europe. The Jagiellonian policy, on its part, assumes the close cooperation with the states of Eastern Europe lying in Poland's immediate neighborhood and the export of values important from the Polish point of view. The main goal of this policy is to neutralize Russia's influence in the region, while building close ties with Western Europe is being treated instrumentally<sup>24</sup>.

The internal Polish discussion on the coalition directions should be confronted with the pan-European debate on the future of the EU, which was quite lively in the first four years of PiS government. There appeared three competing visions analyzed by Kundnani. The first is Merkel's vision, which this author

<sup>23</sup> Cf. K. Kołodziejczyk, *Poland's Policy towards Membership in the Economic and Monetary Union*, "Przegląd Politologiczny", 2020 no. 2, pp. 189–190.

<sup>24</sup> A. Chojan, *Fundamenty ideowe i cele polityki zagranicznej Prawa i Sprawiedliwości z perspektywy 2005 roku*, „Myśl Ekonomiczna i Polityczna”, 2016 no. 1, pp. 213–214.

calls the neo-liberal concept of “competitive Europe”. It is based on the imposition of market discipline on the member states and on severe reforms in the eurozone. The second is the vision presented by Macron, defined as the leftist concept of “protective Europe”. It is based on solidarity between citizens and member states as well as on the redistribution and risk-sharing in the euro area. The third is Orban’s vision called the concept of a “Christian Europe of sovereign states”. Its most important elements include opposition to immigration and efforts to introduce the principles of “illiberal democracy”<sup>25</sup>.

A further analysis of these visions allows to define their main elements in more detail. In the position of Germany four components can be distinguished. The first one is the introduction of significant changes in the area of common foreign and security policy. They would consist of a gradual departure from the principle of unanimous decision-making, as well as the building of a new type of partnership with United States, expressed by the deepening of military co-operation of EU states themselves. The second component is the introduction of important changes in the EU’s economic policy, although the German proposals do not go beyond the problems resulting from the functioning of the euro area. The most politically significant issue is the creation of a special “small” budget of the eurozone within the general budget of the EU. At the same time, Germany is ready to increase its contribution to the general budget. The third component – resulting largely from the current situation – is the changes to the EU legislation on border protection and migration. Here, Germany demands deepened coordination of asylum policies, as well as a significant communitarization of the EU’s external border protection system. The fourth component is the proposal of minor institutional changes. They would consist of a not very significant reform of the electoral law to the European Parliament and a fairly rational reduction in the number of members of the European Commission. In general, it should be emphasized that the position of Germany does not provide for a significant, or perhaps even any, treaty reform<sup>26</sup>.

<sup>25</sup> H. Kundnani, *Competing Visions of Europe Are Threatening to Tear the Union Apart*, „The Guardian”, 1.07.2018, <<https://www.theguardian.com/commentisfree/2018/jul/01/three-competing-visions-of-europe-threatening-to-tear-union-apart>> [accessed: 20.09.2018].

<sup>26</sup> Based on: *Parlament Europejski, debaty, wtorek – 13 listopada 2018 r. – Strasburg, Debata z kanclerz Niemiec Angelą Merkel na temat przyszłości Europy (debata)*, wersja tymczasowa, <<http://www.europarl.europa.eu/sides/getDoc.do?type=CRE&reference=20181113&secondRef=ITEM-008&language=PL>> [accessed: 20.11.2018]; *Rede von Bundeskanzlerin Angela Merkel anlässlich der Verleihung des Karlspreises am 10. Mai in Aachen*, <<https://www.bundesregierung.de/Content/DE/Rede/2018/05/2018-05-10-rede-merkel-karlspreis.html>> [accessed: 10.09.2018]; *Europa muss handlungsfähig sein*, Interview mit Angela Merkel, Quelle: „Frankfurter Allgemeine Sonntagszeitung”, <<https://www.bundeskanzlerin.de/Content/DE/Interview/2018/06/2018-06-04-merkel-fas.html>> [accessed: 10.09.2018]; „Nationalstaaten sollten heute bereit sein, Souveränität abzugeben“, „Die Welt”, 22.11.2018, <<https://www.welt.de/politik/deutschland/article184292124/Angela-Merkel-Natio->

France's position contains seven components. The first is the media-borne concept of "European sovereignty", which, however, in its essence does not reduce the sovereignty of the member states to a significant degree, because it is understood in a functional way. The second component is the reform of the common foreign and security policy, which is expected to move towards a general elimination of unanimity and the creation of a few new organs of secondary importance. However, the complementarity of the reformed policy and the membership of certain states in NATO is emphasized here. The third component is the pursuit of deepened cooperation with Africa and the Mediterranean states, as well as the significant communitarization of the asylum and migration policy. The fourth component is the desire to deepen the convergence of the euro area states and the introduction of a separate "large" budget of this zone, the implementation of which would be subject to democratic control. The fifth component is the introduction of minor changes to the electoral law to the European Parliament, but also some more significant institutional changes to the management of the euro area budget. The sixth component is the pursuit of a far-reaching "ecological transformation" consisting of intensifying efforts to limit the climate change, and thus – also far-reaching reforms in the traditional mining industry. The seventh component of the position of France is its strong support for a permanent differentiation of integration, related to the will to introduce significant changes to the treaty<sup>27</sup>.

Hungary's position includes four components. The first is the concept of "Christian democracy" or "illiberal democracy". It is to be based on the strong rooting of political actions not so much in religious principles, but in Chri-

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nalstaaten-sollten-heute-bereit-sein-Souveraenitaet-abzugeben.html> [accessed: 23.11.2018]; H. Maas, *Wir lassen nicht zu, dass die USA über unsere Köpfe hinweg handeln*, „Handelsblatt“, 21.08.2018, <<https://www.handelsblatt.com/meinung/gastbeitraege/gastkommentar-wir-lassen-nicht-zu-dass-die-usa-ueber-unse-re-koepfe-hinweg-handeln/22933006.html?ticket=ST-11516751-oyEzcgIQjWYdbCTuM2My-ap3>> [accessed: 10.09.2018].

<sup>27</sup> Based on: *Sorbonne speech of Emmanuel Macron*, Full Text (English Version), 26 septembre 2017, <<http://international.blogs.ouest-france.fr/archive/2017/09/29/macron-sorbonne-verbatim-europe-18583.html>> [accessed: 20.09.2018]; *Parlament Europejski, debaty, wtorek – 17 kwietnia 2018 r. – Strasburg, Debata z prezydentem Francji Emmanuelem Macronem na temat przyszłości Europy (debata)*, wersja poprawiona, <<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=%2f%2fEP%2f%2fTEXT%2bCRE%2b20180417%2bITEM004%2bDOC%2bXML%2bV0%2f%2fPL&language=PL&query=INTERV&detail=2-055-000>> [accessed: 20.09.2018]; *Speech by Emmanuel Macron, President of the Republic, on Receiving the Charlemagne Prize*, 10 mai 2018, <<http://www.elysee.fr/declarations/article/speech-by-m-emmanuel-macron-president-of-the-republic-on-receiving-the-charlemagne-prize/>> [accessed: 20.09.2018]; *Rede von Staatspräsident Emmanuel Macron anlässlich der Gedenkstunde zum Volkstrauertag*, Berlin, Deutscher Bundestag, 18.11.2018, <[https://www.bundestag.de/blob/580034/08acc4cada11d97943a64a985d850377/kw46\\_volkstrauertag\\_gedenkrede\\_macron-data.pdf](https://www.bundestag.de/blob/580034/08acc4cada11d97943a64a985d850377/kw46_volkstrauertag_gedenkrede_macron-data.pdf)> [accessed: 23.11.2018]; *Emmanuel Macron: Aki lefitymalja a sokszinusgeret, az saját magat arulja el*, „HVG”, 26.10.2018 <[https://hvg.hu/itthon/20181026\\_Emanuel\\_Macron\\_interju\\_Visegrad\\_negyek\\_Orban\\_EPvalasztas\\_Franciaorszag](https://hvg.hu/itthon/20181026_Emanuel_Macron_interju_Visegrad_negyek_Orban_EPvalasztas_Franciaorszag)> [accessed: 5.11.2018].

stian culture based on a traditional approach to social structures. The second component is a strictly geopolitical approach to the regional system of Central and Eastern Europe. It is based – firstly – on the resentment related to the provisions of the Trianon Treaty of 1920, which has been present in Hungarian politics for almost a hundred years, and – secondly – on the recognition of the complete cultural distinctiveness of Central and Eastern European states from Western Europe (coupled with a radical rejection of multiculturalism). The third component of Hungary's position is the pursuit of close cooperation with Russia, the basis of which is to be based on intensive economic relations throughout Europe. In this case some elements of a geopolitical approach can also be noticed, which is reflected in the proposal to provide security guarantees to some EU member states. The fourth component is – somewhat paradoxically – a quite far-reaching pragmatism, which allows for a general support for closer military cooperation between EU members<sup>28</sup>.

An important component of the state's European policy should be the search for convergence and divergence with the positions of important partners. Assuming the validity of the second hypothesis (H2), the following four views can be presented. First, the position of Germany is to some extent identical with the possible pragmatic position of Poland. This concerns three main areas: the rejection of substantial treaty changes, the lack of support for differentiation in integration, and the rejection of major institutional changes. The contentious issues may include: the reform of the decision-making model in the area of the common foreign and security policy and the deepening of military cooperation, the establishment of the euro area budget, and a partial communitarization of the migration and asylum policy. In the context of the first controversial issue, it cannot be forgotten that in the German concept, the introduction of the qualified majority rule in the area of the common foreign and security policy is to be based on the current treaty provisions, and in the context of the second one – that Germany is ready to increase its contribution to the general EU budget (while the euro area budget proposed by them is limited to the mi-

<sup>28</sup> Prime Minister Viktor Orban's Speech at the 29<sup>th</sup> Balvanyos Summer Open University and Student's Camp, 28 July 2018, <<http://www.kormany.hu/en/the-prime-minister/the-prime-minister-s-speeches/prime-minister-viktor-orban-s-speech-at-the-29th-balvanyos-summer-open-university-and-student-camp>> [accessed: 20.09.2018]; Viktor Orbans Festrede auf der „Budapester Europa-Rede – Erinnerung an Dr. Helmut Kohl“ betitelteten Vortragsveranstaltung der Konrad-Adenauer-Stiftung und der Stiftung für ein Bürgerliches Ungarn, 16. Juni 2018, <<http://www.kormany.hu/en/the-prime-minister/the-prime-minister-s-speeches/viktor-orbans-fest-rede-auf-der-budapester-europa-rede-erinnerung-an-dr-helmut-kohl-betitelten-vortragsveranstaltung-der-konrad-adenauer-stiftung-und-der-stiftung-fur-ein-burgerliches-ungarn>> [accessed: 20.09.2018].

nimum). The main task therefore remains to define a compromise approach to the third point of dispute<sup>29</sup>.

Second, the position of France is in general a contradictory one to the possible pragmatic position of Poland. The most important points of contention are: the demanding of the substantial treaty reform, the France's unequivocal support for the systemic differentiation of integration, the creation of a eurozone budget with a high value in relation to GDP, and the rapid "ecological transformation". The following French proposals are of minor importance and can be the basis for a compromise: the changes to the electoral law to the European Parliament, the cooperation with Africa and the states of the Mediterranean basin, a partial communitarization of asylum and migration policy, and the reform of the decision-making model in the area of common foreign and security policy and deepening of military cooperation. It should be emphasized that the concept of "European sovereignty" has no real political significance, as it is a symbolic category that exists only in the sphere of social communication.

Third, in the position of Hungary there are two points of contact with the possible pragmatic Poland's position. They include: the striving to maintain a strong position of the state in the integration system, and the pragmatic approach to the negotiations taking place within this system, not resulting directly from the position, but rather from political practice of Hungary. In other cases, Hungary's position is almost entirely incompatible with Poland's interests understood as stemming from Polish "community of views". The basic threats resulting from the Hungarian concept appear in two areas. The first one is a strictly geopolitical and specifically provincial approach to the structure of the region of Central and Eastern Europe (based on the thesis on the cultural difference of Central and Eastern Europe *vis-a-vis* Western states) coupled with revisionist tendencies visible in the policy towards Ukraine<sup>30</sup> and in phraseology applied in Hungary to its immediate neighbors<sup>31</sup>. The second threat is connected with the deepening of a systemic framework for cooperation with Russia in conjunction with a strictly geopolitical proposal to provide security guarantees to some EU member states with Poland on the top.

<sup>29</sup> Cf. P. Tosiek, *Debata o przyszłości Unii Europejskiej: w kierunku odnowienia współpracy polsko-niemieckiej?*, in: *Polska polityka europejska. Wyzwania krajowe i międzynarodowe*, ed. by Z. Czachór, A. Jaskulski, Poznań 2019, pp. 55–66.

<sup>30</sup> Cf. V. Zheltovskyy, *European Integration Processes in Post-Euromaidan Ukraine: in Search for Scenarios*, "Online Journal Modelling the New Europe", 2020 no. 32, pp. 84–85.

<sup>31</sup> P. Kowal, *Orban urasta na papieża europejskiego populizmu*, <<https://www.tvn24.pl/wiadomosci-z-kraju,3/pawel-kowal-w-faktach-po-faktach-mowi-o-polityce-węgierskiej-orbana,865012.html>> [accessed: 1.09.2018].



According to the view dominating in literature and journalism<sup>32</sup> – despite the above-mentioned contradictions – Poland is practically considered to be Hungary's main ally in the European Union. On one hand, the community of views presented by representatives of these two states is based primarily on a similar ideological concept of governing the state internally. On the other, it seems that the Polish authorities have too easily ignored the geopolitical context of this closeness, placing high hopes on the cooperation of the Visegrad Group. However, treating these states as Poland's allies in the process of implementing of the Three Seas concept is, in the context of achieving the goals of stopping Russia's aggressive policy, completely counterproductive. As indicated above, the Three Seas project is widely perceived as a geopolitical (not an economic) concept aimed primarily at balancing the position of Germany. Perceiving it almost exclusively in geopolitical terms, which is currently present in circles of Polish decision-makers, is irrational for historical and functional reasons, first of all due to the close cultural and economic ties of most states in the region with Germany. Moreover, it is even worse to assume that the cooperation of the Three Seas states may balance Russia's position: after all it is EU membership that limits the independence of Hungary in its pro-Russian policy, and – in a broader perspective – in most EU states of the region the threat of Russia is not considered essential<sup>33</sup>.

A significant threat, although not directly translated into the regional stability, is also the rejection of the Western European model of democracy and the complete ignorance of its basic principles related to the existence of civil society, non-majoritarian institutions and the rule of law. It is worth emphasizing that the discussions about "European values" are in fact not so important (these discussions belong solely to the sphere of communication) as the practical day-to-day functioning of the Western European state model based on the convergence of systemic solutions. This is what enables the close cooperation of EU states in solving common problems. The rejection of the model of "liberal democracy" makes it impossible for the state to function in the Union, although the model itself allows for a multitude of solutions and interpretations.

To sum up, it should be stated that the second hypothesis (H2) was not positively verified. In the term 2015-2019 the Polish authorities pursued an

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<sup>32</sup> Cf. P. Tosiek, *The Polish Vision of EU Future: Imitation of the Hungarian Model?*, "Rocznik Integracji Europejskiej", 2019 vol. 13, pp. 283–293.

<sup>33</sup> Cf.: K. Muti, *Poland: the Missing Link in European Defence*, IAI Commentaries 18/48, September 2018, Istituto Affari Interazionali, p. 4; R. Lisiakiewicz, *Poland's Conception of European Security and Russia*, "Communist and Post-Communist Studies", 2018 no. 51, pp. 113–123; A. Lanoszka, *Poland in a Time of Geopolitical Flux*, "Contemporary Politics", 2020 (open access), pp. 12–13.



ideologically marked policy and, instead of looking for partners among states that were strong and influential, decided to implement a policy of confrontation with most EU states. The basic features of the current decision-making situation, i.e. the unflagging marginalization of Eurosceptic attitudes in most member states, as well as the objective orientation of small states (perceived by the Polish authorities as potential allies) on strong and influential players, have not been taken into account. As a result, Poland's position in EU institutions was generally weakened<sup>34</sup>. It certainly contradicts the assumptions of the policy conducted according to the normative principles of liberal intergovernmentalism.

## 5. Case of Poland: institutions

An important element of the ideological base of the state's European policy should be the definition of strategic goals related to EU membership. The basic problem is the preparation of a strategy for the functioning of the state in the integration system, and after several years of membership it is also important to embed this strategy in the experiences so far. While, according to the vast majority of representatives of the Polish political class, the membership balance is generally favorable for Poland, the politicians of the two largest camps, that is the Law and Justice and the Civic Platform (PO), have different opinions on the effectiveness of this membership. If in the case of PO the view of a very positive balance is absolutely unambiguous, there is an important stream of thought in PiS that expresses the massive criticism. In a dominant version the postulate of representatives of this stream is to strive for a better use of participation in integration processes, and only in the extreme version – a general criticism of the very fact of Poland's EU membership. According to PO politicians, the main goal of membership is the economic and social development of Poland, as well as the introduction of civilization changes bringing Polish society closer to the Western European model. In strategic terms, the main task here is also to weaken the effects of Poland's peripheral location. According to PiS politicians, one should also strive to demarginalize Poland, while membership in the EU itself does not guarantee effectiveness in this regard, and – in a more radical

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<sup>34</sup> Cf. *Siła państw członkowskich Unii Europejskiej*, Warszawa, maj 2020, Polska Fundacja im. Roberta Schumana, Fundacja Konrada Adenauera.

approach – the participation in integration may even contribute to the deepened marginalization<sup>35</sup>.

The starting point in the discussion on Poland's position in the debate on the future of the European Union must be the definition of relatively simple – dichotomous – approaches to the essence of integration processes. Two main directions can be distinguished here. The first is the “community” direction, characterized by the transfer of some powers of political authority from the level of the member states to the level of the Union, including its supranational institutions. The second is the “intergovernmental” direction consisting of suspending the process of transferring powers to the EU institutions and playing the main decision-making role solely by the member states<sup>36</sup>. According to the assessment shared by the majority of researchers, Poland's European policy during the rule of the PO-led government (2007–2015) was based on supporting the community method aimed at blocking the domination of the largest member states and preventing – even at certain costs – the differentiation of membership<sup>37</sup>. Some argue, however, that PO cabinets have evolved in their preferred method of integration, being initially advocates of the Community method, then later recognizing the advantages of the intergovernmental method and using both approaches interchangeably or in parallel<sup>38</sup>. In turn, during the rule dominated by PiS the intergovernmental method was unequivocally preferred, and the ruling party gave practical expression to the concept of “state-centric intergovernmentalism”<sup>39</sup>.

One of the most important and usually misjudged contexts is the approach of both political camps to the internal cohesion of the EU. While the main component (resulting more from practice than from ideology)<sup>40</sup> of the concept of the Civic Platform was to maintain the cohesion of the EU and to oppose to the differentiated integration, in the Law and Justice's program from the very beginning the postulate of polycentrism played a decisive role. This is reflected

<sup>35</sup> Cf.: P. Tosiek, *Polityka europejska Polski w latach 2004–2014. Próba analizy krytycznej ex post*, in: *Polska polityka europejska 2004–2014. Idee, cele, aktorzy, rezultaty*, Z. Czachór et al., Poznań 2018, pp. 101–121 (and the literature cited therein).

<sup>36</sup> T.G. Grosse, *Dwie wizje integracji europejskiej. Refleksje po szczycie UE w grudniu 2011 roku*, „Myśl Ekonomiczna i Polityczna”, 2012 no. 2, pp. 120–121.

<sup>37</sup> Ibidem, p. 134.

<sup>38</sup> This view is represented by P. Świeboda, quoted in: K. Malinowski, *Polska i Niemcy w Europie (2004–2014). Różnice interesów – uwarunkowania i konsekwencje*, Poznań 2015, p. 41.

<sup>39</sup> A. Staszczyk, *Wizja Unii Europejskiej w koncepcjach Prawa i Sprawiedliwości w świetle teorii międzyrządowych i ponadnarodowych*, „Polityka i Społeczeństwo”, 2016 no. 3, p. 176.

<sup>40</sup> Cf. Z. Czachór, *The Enlargement of the European Union – Poland's Example. Between Unity and Diversity*, “Przegląd Politologiczny”, 2017 no. 4, p. 14.

in the perception of the hierarchy of member states. In PO's view, the asymmetry is an objective feature at the present stage of integration, and therefore one should develop one's own *modus vivendi* in a system shaped in this way. In turn, the PiS approach is based on a deep opposition to this feature and completely unsuccessful practical attempts to oppose this phenomenon<sup>41</sup>.

Similarities between competing political camps can also be noticed in pre-2015 political practice, where the differences concerned rather the style of conducting European policy with generally identical definition of membership goals. It should be noted that the more assertive articulation of interests on the part of PiS did not bring about more favorable results than the policy aimed at searching for elements in contact with the interests of other states. A significant change took place after 2015, when radical internal reforms introduced by PiS in fact limited Poland's ability to pursue an active European policy at a level higher than participation in the current decision-making processes concerning specific policies (so-called day-to-day politics).

To sum up, it should be stated that, despite the fact that the preference formation and negotiation policy did not conform to the principles of liberal intergovernmentalism, Poland in 2015-2019 managed to maintain the fundamental shape of the EU institutions favorable from the point of view of pragmatically understood Polish interests. It is difficult, however, to consider this finding as the basis for a positive verification of the third hypothesis (H3). The achieved state of the art is rather the result of the lack of any systemic reforms of the EU in the analyzed period. The main players presented their positions (subject to further adjustments), but no real discussion about the future of the Union was initiated. Importantly, Poland did not play any role in this initial debate, allowing the traditional leaders (France, Germany) and a new hyperactive entity (Hungary) to take the initiative.

## 6. Concluding remarks

The basic analytical categories of liberal intergovernmentalism include shaping the preferences of states, participation in intergovernmental negotiations and deciding on the institutional structure of the EU. Additional assumptions are created by the intergovernmental concept of *demoicracy* and the conviction that differentiated integration is inevitable. When adopting a normative approach to liberal intergovernmentalism, it should be stated that in 2015–2019

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<sup>41</sup> Cf. P. Tosiek, *Polityka europejska...* (and the literature cited therein).

Poland pursued a policy that did not take into account the indicated contexts and assumptions.

First of all, in respect of the formation of preferences, the Polish authorities did not present concepts consistent with the all-Polish “community of views”. The presented positions were in many cases opposed to the views of relevant social groups (including the main opposition parties) and presented a confrontational attitude towards international partners. At the level of academic debate, the scholars close to the ruling party did not hesitate to suggest solutions that would disintegrate the EU. Importantly, the latter have never been presented as official positions. Secondly, in respect of the selection of partners and negotiation methods, the Polish authorities pursued an ideological policy, focusing on one partner with little real potential (Hungary). They did not take into account the features of the current decision-making situation, i.e. the marginal nature of Eurosceptic attitudes in most member states, as well as connection of the policies of small states with stronger players. As a result, Poland's position in the European Union was generally weakened. Thirdly, despite those shortcomings it was possible to maintain the shape of EU institutions and procedures favorable from the point of view of Polish interests as understood pragmatically. At the time analyzed no systemic reforms of the EU were undertaken, and therefore the *status quo* was maintained. Poland's essentially non-confrontational actions in most EU's day-to-day politics has also played a positive role here.

Due to the maintenance of power by Law and Justice, it is important to conduct further research on Poland's European policy after 2015. Three basic directions of this research should be distinguished. The first one is to continue observing this policy from the point of view of various theoretical approaches. It is worth remembering that liberal intergovernmentalism does not explain all aspects of EU's functioning. Secondly, an in-depth research of the dualism of states' European policies is necessary: the confrontational actions performed at the level of social communication may be accompanied by extremely pragmatic behavior at the level of specific policies. Thirdly, the general scenarios for the future of Poland in the European Union are also worth analyzing.

There are some interesting research paths appearing in the literature. One of the researchers envisages, for example, the adoption by Poland of the British scenario (treating the EU as a free trade area), a conservative scenario (weakening criticism towards the EU and orientation towards financial resources) or a pro-European scenario (participation in the mainstream integration)<sup>42</sup>.

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<sup>42</sup> A. Chojan, *Brexit and Its Impact on Poland's Policy towards Europe – an Attempt to Forecast*, “Studies in European Affairs”, 2020 no. 2, pp. 99–101.

Another scholar presents as many as four scenarios, ranging from strengthening of the system of protecting EU values, through weakening this control, to the forced or the voluntary *Polexit*<sup>43</sup>.

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<sup>43</sup> P.M. Kaczyński, *Poland in Europe: Disappointment or Merely Hiccup?*, Working Paper 3/2019, Elcano Royal Institute, pp. 20–21.

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