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**Effectiveness of the Trio Presidencies – Negotiations of the Legislative Package for the Cohesion Policy 2014-2020**

**Abstract:** In this article the formal negotiations of a legislative package for the cohesion policy 2014-2020, which were launched and advanced during the Polish-Danish-Cypriot Trio Presidencies, serve as an example of the Trio cooperation. The article's aim is to give a behind-the-scenes look at the European negotiations from the participants’ point of view as regards the joint Trio work, both before and during the negotiations. This analysis leads up to some general reflections on the Trio formula and its effectiveness.

**Introduction**

A predominating opinion on the cooperation between the Trio presidencies is that it begins with the development of the compulsory 18-month joint programme and ends with its adoption while each Presidency concentrates on its own term and its own legacy. This article presents a case study of the formal negotiations of a legislative package for the cohesion policy 2014-2020 during the Polish-Danish-Cypriot Trio, in order to prove that real, every-day cooperation between the Trio partners and even beyond is not only feasible

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1 For the purposes of this article, the term ‘cohesion policy legislative package 2014-2020’ refers to the following European Commission’s proposals: Proposal for a regulation laying down common provisions for all five funds (ERDF, ESF, CF, EAFRD and EMFF), COM(2011) 615; Proposal for a regulation for the ERDF, COM(2011) 614; Proposal for a regulation for the ESF, COM(2011) 607; Proposal for a regulation for the CF, COM(2011) 612; Proposal for a regulation for the ETC, COM(2011) 611; and Proposal for amending a regulation for the EGTC, COM(2011) 610. It is worth mentioning, however, that the Commission included some other legislative proposals in the package, i.e. Proposal for a regulation for the European Globalisation Adjustment Funds and Proposal for a regulation for the European Union Programme for Social Change and Innovation.
but can also add value to the European policy-making process. Inasmuch as I enjoyed the privilege of being an active participant in the whole policy cycle (from the informal debates on the cohesion policy’s reform up to the formal negotiations) as well as in the Trio cooperation, and in addition had the opportunity to play various roles in these processes, this article is aimed at offering a sneak-peak behind the scenes of the European negotiations.

Firstly, an overview is provided of how cohesion policy featured in the official documents of the Trio as well as of the particular Presidencies. This is followed by an analysis of the starting point for the Trio cooperation, focusing on the opportunities for bringing the Trio partners closer as well as on the threats which could have driven them apart. Next the elements of the Trio work plan for the negotiations of the cohesion policy are described, as well as how they were implemented in practice. In the final chapter I present some reflections on the factors for a successful and effective cooperation of the Trio Presidencies.

1. Cohesion policy in the official documents of the Trio

An 18-month programme was approved by the General Affairs Council on the 21 June 2011. The negotiations over the Multiannual Financial Framework 2014-2020 were at the top of the Trio agenda, with a view to concluding them by the end of 2012. A new EU multiannual budget should provide an appropriate response to the current and future challenges for the Union in line with its strategy for growth and jobs – ‘Europe 2020’ – as well as the Treaty-based objectives of economic, social, and territorial cohesion. A sub-chapter devoted to cohesion policy was included in the chapter on the General Affairs Council’s agenda. This policy was recognised as ‘an important instrument stimulating development’ across the EU and a means for ‘accelerating the potential of growth’. It underlined the need for simplification of the existing rules and procedures, in order to improve the policy’s efficiency and effectiveness. It also drew attention to the territorial dimension of that policy in terms of urban development (which has both a Community component and an intergovernmental one) as well as the implementation of the Territorial Agenda of the EU (which is an intergovernmental process).

However, it is worth underscoring that although the cohesion policy comprises one third of the EU budget, less than a page was dedicated to this pol-

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2 18 month programme of the Council (1 July 2011 – 31 December 2012), as agreed by the General Affairs Council on 17 June 2011, p. 17.
3 Ibidem.
icy in the 95-page-long document. On the other hand, the Multiannual Financial Framework negotiations took up even less space. This is because the 18-month programme’s aim is only to present the European agenda, so it mainly just lists issues which will have to be tackled. As it contains little concrete information on how these issues are going to be addressed by the Trio or particular Presidencies, this document cannot serve as the only or even the main basis to assess the performance of the Trio cooperation.

I would also posit that the three six-month programmes of each Presidency are not the most helpful documents in that respect either. If we look for similarities, we can see that these programmes mirrored the structure adopted in the 18-month Trio programme, i.e. the Multiannual Financial Framework negotiations were listed as the first priority and they provided a chapeau for all other negotiations of legislative packages for EU policies, of which cohesion policy was one of many. All these programmes underlined that the Presidencies will try to advance the negotiations over the cohesion policy’s legislative package, but that they can be concluded only after an agreement is reached on the EU budget. And there the similarities end.

The Presidencies’ programmes in the area of cohesion policy showed a variety of approaches, we can see that these programmes mirrored the structure adopted in the 18-month Trio programme, i.e. the Multiannual Financial Framework negotiations were listed as the first priority and they provided a chapeau for all other negotiations of legislative packages for EU policies, of which cohesion policy was one of many. All these programmes underlined that the Presidencies will try to advance the negotiations over the cohesion policy’s legislative package, but that they can be concluded only after an agreement is reached on the EU budget. And there the similarities end.

The Presidencies’ programmes in the area of cohesion policy showed a variety of approaches, both in terms of political linguistics as well as logistics. In the ‘Six-month programme of the Polish Presidency of the EU Council in the second half of 2011,’ and in a sub-programme prepared especially for this portfolio by the Polish Ministry of Regional Development, cohesion policy was depicted as a source of growth and investment, ‘an effective and territorially diversified response to European Union development challenges.’

The negotiations for the 2014-2020 programming period were a chance for increasing its effectiveness, efficiency and result-orientation. Apart from an intense calendar of formal negotiations – which featured the first formal meeting of ministers within the General Affairs Council in the cohesion policy’s history – Poland envisaged over 20 informal seminars, conferences and meetings, providing ample opportunity to analyse the Commission’s legislative proposal from different angles by all kinds of experts, both at the working and political levels. The ambition of the Polish Presidency reached beyond negotiations. It aimed at strengthening the territorial dimension of development processes by bringing closer the Community and the intergovernmental methods.

The Danish Presidency’s programme in the area of cohesion policy was an exact opposite of the Polish one. Cohesion policy constituted only a small part of the Multiannual Financial Framework negotiations under Denmark’s

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5 Cohesion Policy Programme of the Polish Presidency of the Council of the European Union 1 July – 31 December 2011, p. 11.
‘A Responsible Europe’ priority, which put stress on recovery from the economic crisis, fiscal reforms, consolidation efforts, and the strengthening of European economic governance. In the chapter dedicated to the General Affairs Council, cohesion policy was depicted in re-distributional terms – characteristic for net contributors to the EU budget – as having the aim of decreasing the development gap between various regions. Moreover, the programme focused solely on the formal negotiations and envisaged no informal meetings at any level, even though in recent years every presidency has organised at least an informal meeting of the relevant directors-general and an informal ministerial meeting.

The Cyprus Presidency proposed yet another narrative for the negotiations of the EU budget and the cohesion policy – a priority of ‘Europe, more efficient and sustainable’, which could be placed somewhere between the Polish and the Danish extremes. Cohesion policy was called ‘the main development policy of the EU’6 which covers the whole EU territory, while at the same time its main objective is to ‘diminish the gap amongst regions’7, and it was characterised as an ‘important financial instrument for solidarity.’8 The formal negotiations remained at the centre of the programme, with the aim to increase the quality of spending and the European added value of EU policies. The Cyprus Presidency came back to the already well-established tradition of organising an informal meeting at the level of directors-general and of the ministers. In addition, it continued the efforts of the Polish Presidency to promote an integrated territorial approach to development by bringing closer the worlds of the Territorial Agenda 2020 and of the cohesion policy.

To conclude, while the Trio’s willingness to advance both the negotiations of the Multiannual Financial Framework and of the cohesion policy’s legislative package was explicit in their official documents, there was no indication how this would be achieved or what the cooperation between the Trio partners would look like. In fact their joint work on a common methodology to manage the negotiations in a coherent and consistent manner had already started in early 2010, but the only tangible result of these efforts was a PowerPoint file on the Trio work plan, which was presented at the first meeting of the relevant working group (Structural Actions Working Party, or SAWP) of the Council of the European Union during the Polish Presidency. Nevertheless, the agreed-upon methodology was observed by the Presidencies and their teams were in touch on a daily basis. Most importantly however, the Trio delivered the declared objective in the end.

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6 Programme of the Cyprus Presidency of the Council of the European Union 1 July – 31 December 2012, p. 3.
7 Ibidem.
8 Ibidem.
2. Opportunities and threats to cooperation within the Trio at the starting point

2.1 Informal debate prepared the ground well for the formal negotiations

The informal debate on cohesion policy post-2013 was launched in 2007 and continued until the Commission issued a formal publication of legislative proposals in October 2011. This allowed for conducting an in-depth analysis of all aspects of cohesion policy by the Member States, the EU institutions, academic experts, and all other stakeholders. As a result, a common agreement was reached on the main directions of the cohesion policy’s reform, which was to affect almost every aspect of the policy: strategic programming, coordination with other EU funds and policies, its scope, and its detailed implementation structures and mechanisms.

The European Parliament, whose role in the policy-making and decision-making process was substantially strengthened by the Treaty of Lisbon, took an active part in the informal debate and commissioned a number of studies on particular issues of cohesion policy. In spring 2011 it adopted a preliminary position on the future of cohesion policy on the basis of a non-legislative report of the Member of the European Parliament (MEP), Mr Markus Pieper. Thus, before the formal negotiations over the cohesion policy started, all key European institutions (including the Committee of Regions and the European Economic and Social Committee) were fully acquainted with the issues at stake as well as the new narrative for cohesion policy (a switch from support for the poorest regions to one of the main EU instruments of investing in growth and jobs) which was being forged in the course of the informal debate.

Furthermore, Poland was taking over the role of the Presidency from Hungary, a cohesion-friendly Member State and a fellow member of the Visegrad Group. This provided ample opportunity for Polish-Hungarian cooperation just before the start of the negotiations. The Hungarian Presidency made a substantial contribution by adopting the Council’s conclusions on the future of cohesion policy in February 2011, which served as an official confirmation that the Member States embraced the reform of the cohesion policy along the lines of effectiveness, efficiency, result-orientation and thematic concentration. It also indicated the general directions how these principles should be operationalized. These were issued at the right moment, i.e. when the Commission was working on its draft legislative proposals.

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Moreover, Hungary organised several meetings at the working and political levels where strategic and operational aspects of some particular issues (such as thematic concentration or conditionality) were discussed among the Member States and the Commission. The fact that all relevant partners were in full readiness at the moment of publication of the Commission’s legislative proposals in October 2011 allowed the Polish Presidency to skip the general discussions on the package and focus straight away on the chosen negotiating blocks.

2.2 Informal debate could not prejudge the course or the final result of the negotiations

The whole picture of the new system, as well as its particular elements and intricacies, could be analysed only after the Commission’s official publication of the legislative package for cohesion policy. And as the devil lies in details, the Trio was aware that some elements of the cohesion policy’s reform might be questioned when the formal negotiations began, despite the lengthy and in-depth informal debate and the ensuing ambitious programme for reform. Or maybe because of that, as the main principles of the cohesion policy’s reform implied the assumption of greater responsibility for the results generated by the future operational programmes as well as for the regularity of applied procedures. When all the relevant local, regional, national and European stakeholders become aware of the consequences of embarking on such a reform, some of them may have wished to step back. Especially because, in the course of the informal debate, the reform’s blueprint was discussed primarily among the representatives of the Member States’ coordinating institutions, which, being rarely involved in the every-day running of programmes, overlooked the implementation of cohesion policy from the strategic point of view. It was thus highly probable that putting the reform into practice would meet with some resistance within the Member States. Firstly, it would imply making some difficult political decisions, e.g. that some types of investment would receive less support or even not receive any at all, which would surely elicit an outcry from the affected interest groups. Secondly, the reform’s advocates would have to deal with a reluctance within their own national systems of cohesion policy implementation, as many implementing institutions (which are often located in ministries other than the coordinating body) tended to be suspicious about any radical changes to the system (apart from those simplifying it). The official Member States’ positions would inevitably be a compromise between various national and regional stakeholders, which could be either outside the informal debate (as being part of other institutions), or could simply oppose these directions of the reform. Thus, the agreements already reached on reform could be undermined by influential actors who were newly admitted to the process.
Furthermore, the crisis-infused political atmosphere in Member States and at the European level could also result in changes to the national positions already presented. As a result, the well-prepared groundwork could not give the Trio any kind of reassurance about the final positions of the Member States, which were to be presented during the formal negotiations. This made any kind of predictions dubious.

2.3 De-politicisation and the portfolio’s inherent complexity as a source of opportunities

The cohesion policy’s provisions are always divided into two distinct groups during the formal EU negotiations over the future programming period. The first group covers issues which have financial consequences for the Member States’ allocations. These include all issues related to the methodology of distributing the resources to the Member States and regions (categories of regions, capping, etc.), co-financing rates, VAT eligibility, and rule of automatic decommitment and pre-financing. For this reason they are separated from the rest of the package and are decided within the highly politicised negotiations on the EU’s multiannual budget. These issues, however, constitute less than a dozen articles of the legislative package, which includes over 230 articles in more than 250 pages.

The second group, comprised of the vast remainder of the provisions, deals with all aspects of the cohesion policy’s strategic programming – scope of interventions, eligibility rules, evaluation and reporting, management and control, financial management, repayable assistance (financial instruments), technical assistance, information and communication, major projects and the revenue-generating ones – to name but the most important issues.

These are negotiated in a completely different manner, i.e. their shape depends on power of argument and ability to convince the relevant actors (other Member States, the Presidency, the Commission, and the European Parliament) of the pertinence of a given idea, rather than on political power and influence. Thus a particular discursive space for a debate on substance can be created, during which the participants can learn from each other and cooperate. This makes it possible to search for solutions which are not only acceptable to the co-legislators, but which can actually improve the current practices in effect. If we take into account the wide scope of the regulations and the length and intensity of negotiations, what we can observe is a continuous forging and dismantling of various, sometimes exotic, alliances between the key participants in the negotiations, which might defy the traditional divisions of ‘rich’ vs. poor’, ‘old’ vs. ‘new’, ‘big’ vs. ‘small’, ‘Member States’ vs. ‘Commission’ or ‘Council’ vs. ‘European Parliament’. There is also time and space for doing favours and performing acts of good will in addition to
the trade-offs. As a result there are better chances of arriving at a solution which is actually a good one from the European point of view, and not only from the national or other purely particular point of view.

These phenomena are highly unlikely to emerge during the Multiannual Financial Framework negotiations – their politicisation produces rigid positions which are primarily dictated by particular interests, leading to deadlocks which are only solved because it is difficult to imagine (and take political responsibility for) a failure to agree on a multiannual budget for the EU. On the other hand, the EU budgetary negotiations attract much more public attention than any other EU negotiations. Irrespective of the quality of the national public debates or the EU and national media coverage of the budget negotiations, the substantial attention of the so-called ‘fourth power’ opens up the possibility of engaging a wider public in the negotiation process. But the negotiations of a legislative package for cohesion policy remain hermetic and take place within a specialised circle of experts from the Member States and the EU institutions.

2.4 De-politicisation and the portfolio’s inherent complexity as a source of threats

The number of experts involved, directly or indirectly, in the negotiations of the cohesion policy’s package varies widely between particular Member States. It is usually directly proportional to the Member State’s national allocation from this policy. Some attachés\(^{10}\) have to take care at the same time of other portfolios. Yet, in order to make well-informed decisions during negotiations, it is necessary to acquire at least a general understanding of numerous areas of expertise, while keeping track of the other Member States’ positions, actions, relations with the Commission and the European Parliament, and possible alliances in order to send reports back to the capital about them and participate in them. So on one hand the attachés depend on the instructions and expertise of their counterparts located in the capital, while on the other hand they can influence the content of their negotiating mandate by suggesting to the capital what is possible and what is not.

As a consequence, the formal negotiations are based on an enormous structure of communication and data management and the more complex it becomes, the greater is the possibility of systemic failure, such as unjustifi-

\(^{10}\) Attachés are the Member State’s representatives who work in the Permanent Representations to the European Union in Brussels, which usually take part in the Council’s meetings at a working level, present national positions, and take actions in accordance with the instructions sent by the capitals and within the limits of the official and unofficial national positions to a given portfolio.

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able sudden changes or inconsistencies in the Member States’ positions, or an inability to forge strong alliances (to form either a qualified majority or a blocking minority). For this reason, during the formal negotiations of such complex and time-consuming packages the Commission usually has an advantage over the Member States in terms of overall and in-depth knowledge of its own proposal, and thus all it has to do is convince a sufficient number of Member States that it is better to stick with its original ideas than tinker with them too much.

2.5. Composition of the Trio – a not-so-obvious cooperation

Poland and Cyprus were both debutants in the Presidency’s role, and during the entire preparation process they had to undergo a steep learning curve in order to be successful. On the other hand, Denmark is an old hand – the 2012 Presidency would mark its sixth, and it had already had a set of proven structures in place and a well-experienced staff for managing the EU agenda. The fact that the Trio was to handle the crucial stages of the negotiations of the EU budget for the 2014-2020 programming period in parallel with the negotiations of cohesion policy made the stakes even higher, especially for Poland and Cyprus.

The negotiations of the Multiannual Financial Framework have priority over any other EU policy negotiations. This arises from the fact that the budgetary point of view is narrow and it is very difficult to broaden it to include policy considerations – and if such considerations are taken into account it is usually only because they support claims made primarily on the basis of calculations of national envelopes. In addition, all policy elements which do not have a direct impact on the size and distribution of the EU budget are outside the scope of the budgetary divisions and alliances among the Member States.

Bearing the above in mind it is important to identify the positions of the Trio partners as regards both the EU budget and cohesion policy. Poland – the biggest beneficiary of the cohesion policy – was one of the driving forces behind the group ‘Friends of Cohesion Policy’ (or Friends of Cohesion). Cyprus was and still is participating in this group, as it has benefited substantially from this policy. This was also reflected in the in-depth expertise of the portfolio. Yet, Cyprus became a net contributor to the EU budget, which might bring it closer to the fellow net contributors – of which Denmark is one. In fact some net contributors formed a ‘Friends of Better Spending’ group as a counterbalance to the ‘Friends of Cohesion’. However, in comparison to the previous budgetary negotiations of the 2007-2013 programming period, the discourse of the 2014-2020 negotiations was unable to draw such a distinct line between beneficiaries and contributors. In fact Poland – and probably many of the Friends of Cohesion – could easily sign on to some pro-
posals of the Friends of Better Spending.\textsuperscript{11} This was because they were in line with the principles of cohesion policy reform set out in the Commission’s legislative proposal.

Nonetheless, having such a conceptual common ground did not provide a guarantee of a close and effective cooperation between the Trio partners as regards the negotiations of the cohesion policy’s legislative package. While the chances were high that Poland and Cyprus would invest all their resources into the negotiations, it was not so obvious for Denmark – its cohesion policy envelope is miniscule and so is its national interest in the policy. But if Poland and Cyprus imposed an intensive calendar of works and attached high political importance to the negotiations, suspending them or slowing them down by Denmark might not be well received by either the other Member States or the Commission. Nonetheless, the threat of widespread dissatisfaction might not be sufficient to convince Denmark to invest its resources into the negotiations over cohesion policy, and in fact the history of the EU negotiations contains a number of such examples. Furthermore, each Presidency has its own clientele (other beneficiaries of cohesion policy or net contributors, new and old Member States, big and small Member States etc.), which could press them to further their particular interests. The internal differences within the Trio might incite the Commission to play off the Presidencies against each other.

Thus, such a mixture of conflicting national interests and uneven expertise could either divide the Trio partners or draw them closer together and facilitate cooperation on the basis of each other’s strengths and weaknesses.

\textsuperscript{11} The first meeting of the Friends of Cohesion Policy took place in November 2004 in Brussels, and it comprised the 10 New Member States plus Spain, Greece and Portugal. Their aim was to support the Commission’s proposal for the 2007-2013 EU budget, which envisaged a substantial envelope for this policy. Back then it was a response to the so-called ‘letter of six’ (the United Kingdom, France, Germany, the Netherlands, Sweden and Austria), which called for substantial cuts to the Commission’s proposal, often pointing at cohesion policy as one of the sources of possible savings. The ‘Friends of Cohesion’ group was revived amidst the negotiations of the EU budget for 2014-2020 on the 15 May 2011 during a ministerial meeting in Warsaw of the ministers responsible for the negotiations of the Multiannual Financial Framework of 13 Member States: Bulgaria, Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Slovenia and Spain. It was then joined by Cyprus, Malta and Croatia (the latter as an observer until it becomes a full-fledged EU Member State on 1 July 2013). Their common aim was to ensure that the cohesion policy’s allocation will not be cut in comparison to its current 2007-2013 one. As a response, in April 2012 the net contributors to the EU budget formed a Friends of Better Spending group. It consisted of Austria, Germany, Finland, France, Italy, the Netherlands and Sweden at its inception. Denmark could not officially join in due to its Presidency role but it sympathised with the initiative. In its declaration it advocated a number of reforms to EU spending in order to make it more effective by increasing ‘impact of EU funds sustainable growth and employment’ and ensuring that ‘spending is planned, programmed, controlled and evaluated in a more efficient way’.
Embarking on a real cooperation gave all three partners a valuable opportunity to gain an insiders’ view on their partners’ position as regards not only cohesion policy, but also some aspects of the Multiannual Financial Framework negotiations as well. However, since the cohesion policy’s negotiations could enjoy the luxury of being less politicised and much more expertise-based, the reformatory zeal among the Member States – including the Trio partners – was real. Close cooperation within the Trio was essential if the ideas for reform were to be translated into practical measures and concrete, legally binding provisions.

2.6. The human factor

The intensive informal debate on the future cohesion policy between 2007 and 2011 has led to development of a European social network consisting of its participants coming from the Member States and from the Commission at the expert level, and to some extent on the political level as well. Joint discussions on the best ways to reform cohesion policy has created an atmosphere of cooperation and fostered mutual understanding of particular positions and specific circumstances. These have provided many opportunities to go beyond the skin deep, stereotypical roles, as well as to step outside the formal process in the Council’s premises. This has created a substantial social capital, which proved to be especially important during the most difficult moments of negotiations, when extraordinary levels of sensitivity, good will, awareness of each others’ limitations, and keeping negative emotions at bay were required. It also fostered clear communication of the flexibility margins and their justifications and informal exchanges of information, and in addition it fortified the tentative, often difficult compromises once they were established.

Moreover, since the European Parliament was to play a much bigger role in the formal negotiations, it was also a great advantage that the former Commissioner for Regional Policy and the current Polish MEP, Professor Danuta Hübner became the Chair of the REGI Committee. Her in-depth knowledge of the portfolio, as well as of European affairs in general, guaranteed a high quality and constructiveness in the trilogue meetings. The rapporteurs for the legislative package, i.e.: Mr Lambert van Nistelrooij, Mr Jan Olbrycht and Mrs Constanze Krehl, were all renowned for their expertise in the field as well as their involvement in the informal debates.

2.7. Time pressure

Hopes were high that since the formal negotiations were preceded by an extensive informal debate – on both cohesion policy as well as on the next multiannual EU budget – the Commission would be able to prepare and pub-
lish its proposals on time and maybe even earlier than last time round. When the Trio’s preparations were launched, it was assumed that the package would be published and maybe even presented to the Council during the Hungarian Presidency. The Polish Presidency could then carry on and focus on particular negotiating blocks. Unfortunately, as the publication of the Commission’s proposal of the next Multiannual Financial Framework was moved further and further into the summer 2011, the date of publication of the cohesion policy legislative package became a moving target as well. Eventually the Communication on the Multiannual Financial Framework was tabled at the very end of the Hungarian Presidency, and the legislative proposals for cohesion policy until as late as October 2011. These delays did not affect the shape of the Trio’s methodology, but they decreased the chances of arriving at the desired objective.

Because of the substantial delays in starting the implementation of the 2007-2013 operational programmes and the negative consequences this entailed for the Member States, as well as for the policy as a whole, the Presidencies were determined to ensure that it would be possible to launch implementation of the next round of cohesion policy at the beginning of 2014. In order to give enough time for negotiations and adoption of the Partnership Agreements and operational programmes¹² before the end of 2013, the new regulations – agreed upon by the co-legislators and proofread and translated into all EU languages – should be published in Spring 2013 at the latest. It should be underscored that it took two years to negotiate the 2007–2013 legislative package. Having October 2011 as a starting point for the 2014–2020 negotiations meant that even if a very intensive calendar of works was applied at the working level, each issue could be discussed only four times on average before the Council adopts its position.

The time pressure experienced by the attachés, the Commission, and the European Parliament was immense, and this induced them to take a more flexible approach during the negotiations. In fact, since the 2014–2020 package was much more complex (as it was to bring about the much-anticipated reform and improve the quality of regulations, and in addition covered not three but five European funds), the time allotted for negotiations was in prac-

¹² In each Member State the cohesion policy has to be translated into two kinds of strategic documents: one at the national level which presents an overall strategy for using the EU support by the Member State, and the second being the operational programmes. In the case of the federal Member States, the operational programmes are usually elaborated first and then they are summarised in that overall national document. During the 2007-2013 programming period these national documents were called National Strategic Reference Frameworks, while in the 2014–2020 period they will be called the Partnership Agreements (the Commission’s initial proposal was the Partnership Contract but it was changed in the course of the negotiations).
tical terms shorter than that devoted to the 2007–2013 regulations. Hence prolonging the negotiations was in nobody’s interest.

The late publication of the Commission’s proposal had yet another disadvantage – it was only afterwards that the Member States could develop, consult and adopt their national positions with reference to each element of the package. Of course, as is always the case with such proposals, the drafts elaborated by the Commission were circulating unofficially among the Member States earlier. The Commission was regularly informing the Trio on the current developments as regards its internal works and the structure of the package. This allowed for internal reflection among the Member States’ experts on the directions adopted by the Commission when drafting particular provisions, but this process could not include the other relevant actors which are usually involved in the preparation and adoption of official national positions.

Moreover, shortly before the planned publication of the package, the Commission decided that the harmonisation of rules should cover not only ESF, ERDF and CF, but also EAFRD and EMFF and put all the common provisions in one regulation (which from then on was called the Common Provisions Regulation). By that time the Member States had lost hope that such a harmonisation was possible, so the Commission’s decision was a big and positive surprise. On one hand this opened new possibilities for combining support from all the five European funds, but on the other it generated new challenges for the Trio Presidencies – as well as for other participants of the negotiations – in terms of coordination of negotiations across the three portfolios. The regulations for the EMFF and the EAFRD are negotiated in other working groups of the Council and committees of the Council, and thus they have their own well-established networks covering the ministries responsible for fisheries and rural development. As those networks were not familiar with many ideas which were imposed on them by the Common Provisions Regulation – because they originated from the informal debate on the cohesion policy, such as the performance framework and reserve or ex ante conditionality – the surprise met with less enthusiasm on their part.

13 There is a broad conviction – repeated during some Presidency-oriented seminars and confirmed by some experts in the field – that the Commission’s common practice is to provide the Presidency with its draft regulatory proposals some time before their official publication. However, this did not happen for the Polish Presidency, and so the Trio depended on the draft versions which were obtained unofficially. One of the reasons for the Commission’s reluctance in this case could be that after the leakage of the draft Commission’s Communication on the results of the EU budget review in autumn 2009, the Commission’s relevant internal procedures and practices have been strengthened. Secondly, Poland’s stake in the cohesion policy’s negotiations was high, and disclosing the drafts could put some issues at risk – especially those which would run against Poland’s position and interest.
Apart from the every-day negotiations with the Presidency, the Commission and European Parliament, the Member States’ attachés had another difficult task on their shoulders: to receive constructive instructions from their capitals and indicate what is possible to achieve and what is not, and to communicate clearly should the capital let go of some of its postulates if it decides that reaching an imperfect agreement on time will bring more benefits than a belated agreement which is only a little bit improved. Inevitably, the time pressure increased the probability of taking the wrong decisions or simply making mistakes, which might then burden the managing and implementing authorities as well as the beneficiaries of the new operational programmes.

3. The Trio work-plan to manage the formal negotiations of the cohesion policy’s legislative package

3.1. Preparation

Between February 2010 and September 2011 more than a dozen different kinds of Trio meetings took place to discuss the formal negotiations of the cohesion policy’s legislative package. The configuration of participants varied: within the Trio, with the preceding Hungarian Presidency, the Commission and with the European Parliament. It soon became clear that in order to make the best of the above-mentioned opportunities and anticipate and counteract the threats, the Trio partners should make an attempt to develop a common approach to the formal negotiations. Poland was a particularly proactive participant in these efforts, because it was up to the Polish Presidency to launch the negotiations and try out the elements of the Trio’s methodology. When elaborating the methodology, the Trio partners were taking stock of the past experience of those members of the Presidencies’ teams who took part in the previous negotiations. They were also taking into account the recommendations of the past Chairs of the Structural Actions Working Party (which is dedicated to cohesion policy), the Council’s representatives, as well as conclusions drawn from the professional training sessions, courses, and seminars on the Presidency-related issues.

The Trio’s work plan was presented by the Polish Presidency at the first meeting of the Structural Actions Working Party (SAWP) on 4 July 2011. At that moment the Commission’s proposal was still not published, and eventually the Trio had to wait to see the regulations until 6 October. However, the Trio decided to provide assurance at the very beginning of its term that it was ready to start the negotiations, and at the same time it hoped that such a declaration would put pressure on the Commission to publish the legislative package as soon as possible. Still, all members of the Trio had both doubts
and hopes whether and if the good cooperation they had had so far would be continued in practice during the next one and a half years. It’s no surprise then that the Trio work plan materialised only in the form of a few slides, and there were no special structures or formal documents. Indeed these were never even discussed among the Trio, because it was believed that instead of helping they might become a hindrance to the Trio cooperation or limit the leading Presidency’s prerogatives, which was undesirable in the case of such negotiations as they might require more flexibility than rigidity. What the Trio had at the beginning of the Polish Presidency was a commonly developed working method plus a lot of good will – and it was assumed that if the method proved appropriate during the Polish Presidency, the Danish and the Cyprus Presidencies would follow it as well.

3.2. The Trio work plan – content and delivery

3.2.1. The Trio’s objective

The Trio’s common goal was to ensure a swift and effective management of the negotiation process of the legislative package for the cohesion policy’s next programming period in order to allow enough time for the preparation of the national strategic documents, which in turn would allow the implementation to be launched right at the start of the 2014-2020 programming period. According to the Trio’s assessment, the negotiations of the Council’s position to the whole package would take at least one year, and the negotiations with the European Parliament another six months. In order to put more pressure on all participants of the process and minimise any possible delays, the Trio decided to consciously adopt an over-ambitious goal to reach the final agreement between the Council and the European Parliament by the end of 2012.

However, the negotiations of the Multiannual Financial Framework are of paramount importance over any other legislative package, and in addition they would decide on several issues of strategic importance for cohesion policy. For this reason the Trio agreed that the cohesion policy negotiations would be concluded only after an agreement on the Multiannual Financial Framework is reached.

At the end of the Cyprus Presidency, which also marks the end of the Poland-Denmark-Cyprus Trio Presidency, there is still no deal on the Multiannual Financial Framework, while almost all negotiating blocks of the cohesion policy legislative package have been agreed upon within the Council. The expectations are high that under the Irish Presidency the Council will adopt its position on all issues in the legislative package, except for those which are not included in the Multiannual Financial Framework negotiations by the end of January 2013.
Moreover, the Cyprus Presidency started the so-called informal trilogues with the Commission and the European Parliament, and it has facilitated a provisional agreement between the three institutions on the strategic programming block – as confirmed by the Committee of Permanent Representatives in the European Union (COREPER II) during the meeting on 19 December 2012. This gives the national authorities much more assurance and allows them to push forward the programming process, which has already started in the Member States. This methodology – which is presented below – was observed during the whole process.

3.2.2. The split of the package between the cohesion policy negotiations and the Multiannual Financial Framework negotiations

As mentioned before, some elements of the package were transferred to the negotiations on the Multiannual Financial Framework, because of their financial influence on the structure and disbursement of the EU budget (such as the co-financing rates, VAT eligibility, the automatic de-commitment rule and the macroeconomic conditionality). But any other issue can be transferred there as well (to the so-called Negotiating Box) if the Presidency decides so.

The experience from the previous negotiations has shown that when a cohesion policy issue is transferred to the Multiannual Financial Framework negotiations, the budgetary negotiators focus solely on its financial aspects and tend to disregard its strategic importance for programming and the implementation of operational programmes. This is why the Polish and the Cyprus Presidencies pressed for allowing SAWP to provide expert opinions on issues which will be included into the Negotiating Box for the Multiannual Financial Framework. The Trio agreed that the leading Presidency

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14 In accordance with the ordinary legislative procedure, the Council and the European Parliament adopt their positions during the first reading of the Commission’s legislative proposal. If they are divergent, a second reading is initiated. When the Council adopts a general approach to the Commission’s proposal, it thus gives the Presidency a mandate to negotiate with the European Parliament during the second reading. These negotiations take place within the formal trilogues between the three institutions in order to reach a common agreement. Any changes in the mandates of the Council or that of the European Parliament have to be confirmed by those institutions, i.e. in case of the Council, the Presidency proposes to the Member States some amendments to the previously agreed positions and asks them for their consent, which has to be confirmed at least by COREPER. The same goes in fact for both the European Parliament and the Commission. However, the vast majority of legislative proposals are agreed between the institutions in the first reading or in an early stage of the second reading. This is only possible thanks to the informal trilogues and consultations which take place still during the first reading in order to bring the positions of those institutions as close as possible before their formal adoption.
may organise a joint meeting of the Council’s working parties responsible for the two negotiation processes, or that the SAWP may provide a contribution to the budgetary negotiations. Moreover, the leading Presidency will regularly inform the SAWP on the state of play of the budgetary negotiations. While neither of the two options has ever been used in practice, it seems nevertheless that this time round SAWP exercised much more influence than during the negotiations with respect to the 2007-2013 period. It should be noted that:

- despite the fact that the Common Strategic Framework is also in the negotiating box for the Multiannual Financial Framework, the SAWP has agreed on the scope and content of that document;
- despite the fact that the country-specific recommendations\(^\text{15}\) are an important reference point for the macroeconomic conditionality, the SAWP has defined the scope of their application to the cohesion policy;
- despite the fact that the thematic concentration, especially the shares of the ESF within a national allocation, was a natural candidate to be included into the deal on the Multiannual Financial Framework, the SAWP adopted a position on that issue.

Moreover, the Danish Presidency used the budgetary Negotiating Box to insert issues which could not be resolved quickly and were standing in the way of reaching an agreement within the SAWP – as was the case of the performance reserve (which was blocking negotiations of the performance framework) or the Common Strategic Framework (which was blocking the strategic programming block). The Cyprus Presidency, on the other hand, has only strengthened the cohesion policy’s political profile by adding paragraphs into the negotiating box on strategic reporting with respect to progress in implementation to the Council, the European Council, and the European Parliament.

3.2.3. Division of the package into thematic negotiating blocks

The Trio announced that there would only be a short overview of the whole package and that it would go straight into the negotiations, because the preceding informal debate was intensive and in-depth, so the Trio assumed that all three co-legislators were already well-prepared. As soon as the package was published, it was divided into manageable thematically organised negotiating blocks. A given block would in general consist of several chapters, a chapter, or even a part of a chapter, but sometimes it also included articles from more than one draft regulation.

\(^{15}\) These are issued annually on the basis of Articles 121 and 148 of the Treaty on the Functioning of the European Union, OJ 2012 C 326.
The Presidency would open a few blocks at a time (four or five on average),\textsuperscript{16} which would be discussed alternately in the SAWP, in order to allow enough free time between subsequent meetings on the same subject, while at the same time maintaining high speed. Striking the right balance between giving and limiting time was crucial to the leading Presidency. The Member States have to be given enough time to analyse the Commission’s or the Presidency’s proposal, as well as to consult changes in their national positions for the sake of a broad compromise. The Presidency also needs time to analyse the Member States’ positions in order to come up with a compromise that can be acceptable to a qualified majority in the Council, will not be vetoed by the Commission\textsuperscript{17} and is well-written from the legal point of view (a representative of the Council Legal Service provides support to the Presidency).

Dividing the whole legislative package into thematically-organised negotiating blocks ensured that the focus on solving concrete issues is maintained during the negotiations and provided a clear, transparent system of mini-deals within the blocks – instead of one big overall deal on the entire package. However, this also made trade-offs across the blocks impossible, which greatly affects the dynamics of negotiations in terms of bargaining power, especially during the trilogues, where an agreement has to be found among the three institutions.

This structure, once adopted, was maintained to a large extent. The only exceptions were:

- strategic programming – two issues had to be taken out during the Danish Presidency in order to reach an agreement on the rest, i.e. the Common Strategic Framework and the country-specific recommendations, which were finally resolved by the Cyprus Presidency;
- financial management – this block had to be divided into two sub-blocks, because some provisions depended on the final results of the Financial Regulation Recast, which was taking place in parallel. Similarly as with strategic programming, the first sub-block was agreed by the Danish Presidency, and the second by the Cyprus Presidency.

\textsuperscript{16} At the beginning of its term the Danish Presidency opened more blocks at one time, but soon came back to the established rhythm.

\textsuperscript{17} The Commission can put a veto on a Council’s position when the Council’s changes go too far from the original Commission’s proposal. Such a veto can be overturned by the Council only by the unanimity of the Member States’ votes. Of course such situations are extremely rare, but still the threat of political complications encourages the Council to search for a solution which can be acceptable for the Commission as well.
3.2.4. A partial general approach and the role of the General Affairs Council

The negotiations of the cohesion policy’s legislative package were to take place solely in the Structural Actions Working Party – one of the over 160 working groups of the Council. The formal confirmation of an agreement achieved on a working level or the final resolution of any outstanding issues takes place in the COREPER II, and then the Council’s position is usually acknowledged in the General Affairs Council.\(^{18}\)

The general rule of thumb applied to EU negotiations is: ‘nothing is agreed until everything is agreed’, and this was repeated several times during the cohesion policy’s negotiations by the Presidency, the Member States, and the Commission. But in fact the Trio wanted to limit its practical application and decided to apply an unusual method of adopting the Council’s position in stages, thus discouraging the reopening of any provisionally closed blocks. The Council would adopt the so-called ‘partial general approach’ to each block, except for those provisions which were transferred to the Multiannual Financial Framework’s Negotiating Box. As soon as the agreement on the EU budget is reached, the SAWP would take over negotiations of those remaining articles along the lines defined by the European Council. Only when the Council develops a full position towards all of the articles of the legislative package will it adopt a general approach to the Commission’s proposal which would – hopefully – re-confirm the previously adopted partial general approaches.

It is worth underscoring that cohesion policy – which accounts for one third of the EU multiannual budget – has only one working party in the Council and does not have its own Council formation, i.e. all the meetings of ministers responsible for cohesion policy were informal. This has two important consequences: first of all, any formal decisions concerning this policy are taken in the General Affairs Council, were usually the ministers responsible for European affairs, who have nothing to do with this policy on a daily basis, meet. Secondly, the ministers responsible for this policy are outside of the Council’s debates. For example, when almost all ministers were discussing the new strategy for growth and jobs – ‘Europe 2020’ – within their own Council formations, the cohesion policy ministers – responsible for such

\(^{18}\) In accordance with Article 16(6), Treaty on European Union, OJ 2012 C 326 and Article 2(2), Annex to the Council Decision No. 2009/937/EU adopting the Council’s Rules of Procedure, OJ 2009 L 325/35, the General Affairs Council has the responsibility for the conduct of the work on cohesion policy. But if no discussion is envisaged in the Council on a given issue, it can be an A-point on the agenda of any Council’s formations.
a large share of the EU budget – were unable to provide their own contributions to this debate.

I will try to briefly explain the reasons behind this paradox. The history of cohesion policy dates back to 1957, when the European Social Fund (ESF) was established. However, the ESF as well as the subsequently created European Regional Development Fund and Cohesion Fund were considered to be financial instruments and did not form a coherent, overall policy. The European cohesion policy as such was established in the early 90s, when the issues of internal social and economic cohesion of the Union were gaining prominence in the European debates. The accession of 12 new Member States, who became the primary beneficiaries of these funds, added another push to the policy-forming processes. In parallel, growing attention was given to the common European development challenges, which gave rise to the Lisbon Agenda. While the 2007-2013 edition of cohesion policy made a substantial but still only partial contribution, in the case of ‘Europe 2020’ it became one of its key delivery instruments. One of the essential features of the European debate on the post-2013 future of the Union was the redefinition and re-branding of European policies. As a result, the so-far well-established distinction between the traditional, re-distributional, convergence-oriented policies and the forward-looking, growth-oriented policies became outdated.

Despite the practical enhancement in importance of the newly named European Structural and Investment Funds, it was still very difficult to find reflection of that change in the works of the Council formations. The Council’s structure was developed throughout the long history of the EU and represents the sectoral divisions of the Member States’ governments. While in such Member States as Poland or the Czech Republic ministries dedicated to regional development were established, in other Member States this policy is coordinated by various institutions, such as the Ministry of Finance, Ministry of the Economy, or the Prime Minister’s Office.

This is due to the fact that the scope of interventions of the cohesion policy covers many different areas which are managed by various appropriate ministries, and in addition it involves authorities from national, regional, and local levels. So cohesion policy is not a self-standing sector. But what is particular about it is its method of addressing development challenges in a multi-level manner, of taking the best and reconciling the top-down and the bottom-up approaches. As a result, the heterogeneity of cohesion policy’s

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\(^{19}\) Apart from the cohesion policy’s funds – the ERDF, the ESF and the Cohesion Fund – the EAFRD and the EMFF are also covered by this denomination, which was a part of the provisional agreement between the Council and the European Parliament on the strategic programming block, adopted by COREPER II on 19 December 2012.
political decision-makers is difficult to fit into a rigid, simplistic structure of the Council. Furthermore, the variety of interests of all kinds of stakeholders of cohesion policy is difficult to manage or to organise in a strong lobby – in contrast with, for example, the Common Agriculture Policy, where stakeholders are much more homogenous and form a strong political clientele in many Member States. Finally, cohesion policy is in fact a new and still evolving policy concept and many decision-makers and academic experts tend to treat it as a bundle of financial instruments used for the implementation of other policy objectives rather than a policy in its own right. The raison d'être of this policy is still under construction, and it is not being created in a void but it has to fit somehow into the already existing policy structures.

Coming back to the Trio cooperation, Poland managed to convince its Trio partners to include in the Trio work plan the possibility to organise a formal meeting of the ministers responsible for cohesion policy within the General Affairs Council. This idea was first proposed by Poland during the informal meeting of ministers in Maribor in 2008. In the course of the informal debate, this idea gained more and more support from the Member States and the Commission. Poland’s being at the helm of the Council at that moment thus created a perfect opportunity to see how this idea could work in practice. Unsurprisingly, Poland included the goal of raising the political relevance of this policy among its objectives in the area of cohesion policy.

When the decision was taken to organise the first formal meeting of ministers on cohesion policy during the Polish Presidency, the practical side of the event had to be managed in such a way as to maximise its chances for success. After all, it would surely constitute a make-or-break moment for the idea for the future. The first task was to bring the right ministers to the meeting, i.e. to convince the Member States not to send the ministers responsible for European Affairs (as was usually done), but those responsible for cohesion policy (and as we all know politicians don’t like to share their once-acquired competences with others). However, the general principle which rules the Council’s proceedings is that ‘the Council is one’, which means that a Presidency cannot oblige the Member States to send particular ministers to the meeting – it can only indicate what topic will be tackled and it is up to

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20 This has some advantages as well, because it makes this group more open to reform initiatives and to the sharing of experiences across various policy areas.
21 If we look into the European Council’s conclusions, it refers rather to the Structural Funds than to cohesion policy – which depicts a rather instrumental approach to this policy area.
22 Poland didn’t press for the establishment of a new Council formation because during the negotiations over the Treaty of Lisbon there was a general opinion among the Member States that no more Council formations should be created, as it is already a robust and expensive structure.
the national governments to send the representatives they deem appropriate (or available). In addition, the agendas of the General Affairs Council’s meetings are usually heavily loaded with issues from various portfolios, because this Council formation deals with horizontal coordination and preparation of the European Summit.

Taking the above into account, the Polish Presidency tried to ensure the perfect environment for such an innovative meeting by putting only cohesion policy issues on the agenda and scheduling the General Affairs Council meeting at the very end of its Presidency, on the 16 December, which was after the December European Council summit. It was aimed at having an orientation debate of the ministers on a few carefully selected issues. On the basis of the discussions conducted previously in the SAWP on strategic programming and thematic concentration blocks, three issues were identified as requiring guidance at the political level in order to proceed further with the negotiations at the working level.23 The choice of the issues put up for a debate and the clear message sent out in the early stages of the Presidency contributed to the success of the meeting: the conclusions of the ministerial debate prepared afterwards by the Polish Presidency were often referred to by the representatives of the Member States during subsequent stages of the negotiations.

On the other hand, such a meeting was not repeated by the Danish or Cyprus Presidencies. But while the partial general approach could be adopted only at the COREPER level, the Danish Presidency decided to put it also on the General Affairs Council agenda and that practice was continued by the Cyprus Presidency. So far all outstanding issues were resolved at the level of the SAWP and the partial general approach has always been adopted by COREPER almost univocally (some Member States occasionally expressed their dissatisfaction with some elements of the partial general approach, but their dissatisfaction was never transformed into any blocking minority). And so it can be argued that in fact there was no need to for Denmark and Cyprus to summon the ministers responsible for cohesion policy because they had

23 The Presidency’s questionnaire was the following: Question 1: Do you agree with the need to have the CSF approved by the Council and the European Parliament? If this is the case – could it be the annex to the Common Provision Regulation? Questions 2: Do you agree that the most adequate way to assure proper linkage between ‘Europe 2020’ and development needs of specific countries, regions and territories is to use Country Specific Recommendation as the main reference point? Or should there be a stronger focus on National Reform Programmes? Question 3: Do you think that the Commission’s proposal on concentration gives sufficient flexibility in programming and realization of Cohesion Policy? Do you agree that the proposed ring-fencing (which one?) could be treated as the European benchmark (a reference point for negotiations) which could be at the level of MS or regions subject of negotiations with the Commission as a part of the Partnership Contract?
nothing to discuss.

To sum up this section, the application of the method of partial general approaches and the involvement of high political level to adopt it ensured not only the visibility of the negotiation process, but most of all a stronger political commitment and sense of ownership of the deal when adopted, and even if a given partial general approach was in fact a compromise (i.e. not all its elements received an ideal shape) it was still respected by all partners as the best deal they could get. During the formal negotiations, the legislative package for cohesion policy featured eight times\textsuperscript{24} on the agenda of the General Affairs Council. The Polish formula for regular formal meetings of the ministers responsible for cohesion policy is now promoted by the Commission for the 2014-2020 programming period. The Cyprus Presidency has also contributed to strengthening the cohesion policy’s political profile by including, in the negotiating box for the Multiannual Financial Framework, two paragraphs with respect to annual reporting on the progress in the implementation of the new operational programmes, which creates a good reason for organising another formal meeting of the relevant ministers in the future.

3.2.5. Organisation of the every-day work in the Council

The Trio work-plan identified three major stages of works in the SAWP: (1) a fact-finding stage, which should take up one SAWP meeting during which all the Member States’ questions and doubts should be clarified by the Commission in order to achieve a common understanding of the proposals and all its consequences; (2) a negotiating stage, where the Presidency will strive for narrowing the gap between the Member States’ positions; (3) a concluding stage, where the final decisions should be taken. In addition, the Trio agreed that there would be no minutes from the SAWP meetings because this would only slow the process of negotiations while having no added value. As

\textsuperscript{24} The list of the relevant General Affairs Council meetings: 11 October 2011 (the presentation of the legislative package by the Commission), 15 November 2011 (cohesion policy as a part of the orientation debate regarding the Multiannual Financial Framework), 16 December 2011 (the first formal meeting of the ministers responsible for cohesion policy), 24 April 2012 (partial general approach to strategic programming, eligibility, ex ante conditionality, major projects, management and control, and monitoring and evaluation), 29 May 2012 (again, as a part of an orientation debate on the Multiannual Financial Framework), 26 June 2012 (partial general approach to thematic concentration, financial instruments, performance framework and review, revenue-generating projects and public-private partnership), 16 October 2012 (partial general approach on the country-specific recommendations (as a part of the strategic programming block), instruments for territorial development, financial issues which were not put into the EU budgetary negotiations, indicators, information and communication, technical assistance, elements of the European Territorial Cooperation), and on 20 November 2012 (partial general approach on the Common Strategic Framework (as a part of the strategic programming block) and financial management.
the SAWP meetings were to be dedicated first and foremost to the negotia-
tions – at the expense of the fact-finding stage – the Trio envisaged the pos-
sibility to organise a technical seminar outside of the Council in order to have
an in-depth, expert analysis of a given block. In the course of the negotia-
tions, the Polish Presidency organised three such technical seminars – on
strategic programming, instruments of territorial development, and ex ante
conditionality – and the Cyprus Presidency organised one seminar on indica-
tors. In practice the fact-finding stage often took place via written exchanges,
whereby the Member States sent in questions and the Commission provided
an answer to them in a written form as well.

The Trio made it clear that it intended to get down to negotiations as soon
as possible and handle them with a high speed, and thus it urged the Member
States to develop their official positions as soon as possible and communicate
clearly what changes they wanted to be introduced into the package. From
the very beginning all Trio Presidencies imposed an intensive calendar and
maintained it: during the Polish Presidency 15 SAWP meetings took place, during the Danish Presidency 28 meetings, and during the Cyprus Presi-
dency, a further 32 meetings. Altogether then 76 SAWP meetings were held
during a year-and-a-half. As a result, the partial general approach of the
Council was adopted regarding the following negotiating blocks:

- strategic programming,
- thematic concentration,
- ex ante conditionality,
- performance framework,
- eligibility and major projects,
- management and control,
- monitoring and evaluation,
- financial instruments,
- revenue-generating projects,
- public-private partnerships,
- instruments for territorial development,
- financial issues which are not included in the Multiannual Financial
  Framework Negotiations (i.e. additionality, the non-transferability of
  resources and modulation of the co-financing rate),
- indicators,
- information and communication,
- technical assistance,

25 The Commission published its package on the 6 October 2012, then on the 11 October it
was presented at the General Affairs Council meeting, and this marked the start of formal nego-
tiations.
3.2.6. Relations with the European Parliament

The Trio was aware that the strengthening of the European Parliament’s role in the negotiations (as a consequence of the Treaty of Lisbon) would delay the entire negotiation process, because all parts of the package would have to be agreed to by the co-legislators. The Trio was also apprehensive of the European Parliament’s zeal to exercise its newly acquired powers to the fullest. Therefore the Trio decided that the informal trilogues should start as soon as possible in order to bring the positions of the Council, the European Parliament and the Commission closer, and by doing that to avoid any further unnecessary and detrimental delays.

When the REGI Committee of the European Parliament adopted its preliminary position on 11 July 2012 (containing over 3000 amendments to the legislative package), the informal trilogues could be launched by the Cyprus Presidency regarding those negotiating blocks to which the Council had adopted its own partial general approach. The Cyprus Presidency aimed at reaching a provisional agreement between the Council and the European Parliament on the strategic programming block, as this would facilitate works in the Member States on developing the draft Partnership Agreements and operational programmes. On the basis of the discussions in the trilogues, the Cyprus Presidency proposed amendments to the initial Council’s partial general approach to the block in the SAWP, which could also be supported by the European Parliament. This meant that a tentative agreement between the Member States had to be reviewed and modified in order to include some of the European Parliament’s amendments. This created a difficult situation for the Presidency, which had to re-open the once-established compromise and convince the Member States to agree on some changes – even some which were not much welcomed – for the sake of reaching an agreement with the European Parliament and moving the formal negotiations forward. It took several meetings and long discussions in the Council with the European Parliament and the Commission as well as a lot of good will to finally seal the deal. It was confirmed on 19 December 2012 by COREPER.

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26 During the previous negotiations, the general regulation and the regulation for Cohesion Fund were adopted in accordance with the assent procedure (i.e. the European Parliament could not propose its own amendments; it could only reject or accept the Council’s proposal), while only the regulations for the ERDF, ESF and EGTC were adopted according with the co-decision procedure (which is similar to the current ordinary legislative procedure, i.e. the European Parliament can propose amendments).
3.2.7. Cooperation within the Trio during negotiations

As indicated above, the Trio did not create any formal structures of cooperation, coordination or exchange of information. Its work plan was implemented only because all three Presidencies were determined to advance the formal negotiations of the cohesion policy’s legislative package, and it proved to be effective in arriving at that objective. If the cooperation was to be formalised in any way and confirmed at a high working or a political level, its scope would inevitably be a limited one – the more higher ranks would be involved in the process, the less substance such an agreement would contain, since none of the Trio partners would want to tighten their hands. Moreover, a strong, independent, sovereign Presidency is a necessary prerequisite for well-managed negotiations. There must be one decision-making centre, which is respected by all participants. Any rivalry in this respect would only add confusion and chaos to the already highly complex negotiations. Therefore, the leading Presidency was holding the steering wheel and its Trio partners did not expect to be consulted on any of its decisions, not to mention seeking their approval. Moreover, there were no regular debriefings and the leading Presidency was not obliged to invite the fellow Presidencies to meetings with the Commission or with the European Parliament.

The cooperation between the Trio partners during the Polish-Danish-Cypriot term consisted thus of providing each other expert advice on a daily basis on how to deal with a given issue, and ad hoc exchanges of key information. For example, when the Cyprus Presidency launched the informal trilogue with the European Parliament and strived for an agreement on the strategic programming block, the representatives of the Danish and the Polish Presidency debriefed their Cyprus colleagues on the intricacies of the work on the partial general approach on that block, since they were directly involved in this process. In fact, the Trio partners prepared a set of concise fact sheets regarding the negotiations of some of the most sensitive blocks.

The Trio cooperation has actually outlived the Trio – the Trio partners prepared a set of concise fact sheets describing the key negotiations issues of some of the most sensitive blocks which were transmitted to the Irish Presidency and they presented their common proposal regarding all the recitals. During their term, the Irish will aim at adopting the Council’s partial general approach to the still open issues (such as the final provisions and the remaining provisions of the regulation for the European Territorial Cooperation). Then, as soon as there is an agreement on the Multiannual Financial Framework, the Irish Presidency will translate it into the relevant outstanding provisions in order to facilitate the adoption of the Council’s general approach to the whole legislative cohesion policy package. Simultaneously it will continue the trilogues with the European Parliament in order to reach a final deal.
by the end of the first half of 2013. Since the Council’s preliminary positions to the vast majority of the cohesion policy’s negotiating blocks were adopted during the Danish and the Cyprus Presidencies (and with an active role played by the Polish team), it is highly probable that the so-far intensive cooperation of the Polish, Danish and Cypriot experts with the Irish Presidency will continue during its term.

Some conclusions on the effectiveness of the Trio cooperation

The Trio Presidencies of the Council of the European Union are deliberately constructed in such a way as to ensure a balance of power within the six-month-long cycles. They are always composed of small and big, and old and new Member States. The internal diversification of the Trio partners is a given, and actually what it aims at is preventing a particular group of Member States with similar interests from dominating and shaping the European agenda. And yet, the case presented in this paper – concerning the formal negotiations of the legislative package for cohesion policy 2014-2020 – shows that in spite of those differences, or maybe thanks to them, real cooperation is possible and can bring tangible benefits to the European Union as whole.

This example suggests that such cooperation is more probable in portfolios which are less politicised (i.e. less driven by national, particular interests), where expertise and providing convincing arguments can prove decisive. The internal complexity of the legislative package strengthened the interdependence of the Trio partners, such that their experience, capacity and knowledge in given policy areas complemented each other. This is especially important in the case of a lengthy negotiating process which spreads across the whole term of the Trio or even beyond.

The Polish-Danish-Cypriot experience also shows that it is important to strike the right balance in setting the terms of cooperation, so that it will be respected by all partners of the Trio. All Presidencies have to be convinced about the added value of establishing some common principles of cooperation. But at the same time it should not be overdone – the Trio cooperation has to leave room for manoeuvre for each Presidency and not limit its competencies. That is why soft cooperation is much more promising than any formalised structures. While they could be more eye-catching, they tend to remain on paper only.

A good, close cooperation within the Trio also allows for more balanced negotiations of the Commission’s legislative proposals. As mentioned before, usually when such complex regulatory packages are discussed in the Council or with the European Parliament, the Commission’s overall in-depth knowl-
edge of its own proposals gives it a privileged position. It may thus dominate the entire negotiations, because the co-legislators are unable to agree upon and propose substantial changes to the Commission’s proposals. And yet, during the Polish-Danish-Cyprus Trio Presidency, the Council introduced many amendments of strategic and practical value.

Furthermore, good cooperation increases the chances for ensuring the longevity of each Presidency’s legacy, and thus can bring about some long-term political profits for the Trio partners. Especially bearing in mind the specific feature of European negotiations: it’s an on-going process which intensifies and slows down, but never stops.

The cohesion policy case may also demonstrate how difficult it is to analyse the effectiveness and the means of the Trio cooperation, especially for an outsider. The official Trio documents show no indication of the close cooperation which took place. In fact they were mostly elaborated within an altogether different process, with other authorities involved. While the cohesion policy was only a small point in the 18-month programme of the Trio Presidency, by the end of 2012 Poland, Denmark and Cyprus managed to fulfil the declared objective and significantly advanced negotiations of a challenging legislative package which amounts to over 250 pages of six regulations. The results speak for themselves.
POLISH DEVELOPMENTS
Sławomir Dudzik and Nina Półtorak*

‘The Court of the Last Word.’
Competences of the Polish Constitutional Tribunal in the Review of European Union Law

Abstract: In its judgment of 16 November 2011 in case SK 45/09, the Polish Constitutional Tribunal (CT) called itself ‘the court of the last word.’ This self-determination aptly characterises the entire hitherto delivered line of jurisprudence of the Tribunal in European matters. In spite of the persevering doubts as to the scope of its jurisdiction at the juncture of EU and Polish law, eventually the CT has always come to confirm its competence to review the conformity of challenged EU law provisions with the Polish Constitution. The approach of the CT reflects the way the Court understands the constitutional principle of the primacy of the Constitution as the supreme law of the land in Poland. The aim of this article is to present and analyse the legal views of the Constitutional Tribunal regarding the review in Polish courts of European Union law. Firstly the article concentrates on the review of primary EU law as to its compatibility with the Polish Constitution, and then on the review of secondary EU law. The article also tries to answer the question whether the position taken by the Constitutional Tribunal and its argumentation is consistent with both EU law and Polish constitutional law, and what the consequences are for the jurisdiction of the CT and constitutional claims.

Introduction

The aim of this work is to present and analyse the legal views of the Polish Constitutional Tribunal (CT) regarding Polish judicial review of European Union law. In the first instance this article concentrates on the review of primary EU law as to its compatibility with the Polish Constitution, and then on the review of secondary EU law. The article also tries to answer the question whether the position taken by the Constitutional Tribunal and its argumentation is consistent with both EU law and Polish constitutional law.

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The Constitutional Tribunal is one of the key organs of judicial power in Poland,\(^1\) whose autonomy and independence from other authorities is established directly by the Constitution itself.\(^2\) Moreover, the CT is not only independent of the legislative and executive powers, but also of other organs of judicial power, including the Supreme Court, the Chief Administrative Court, and the Tribunal of State, as well as the constitutional organ responsible for safeguarding the independence of courts and judges – the National Council of the Judiciary.\(^3\) The primary function of the CT is to review the hierarchic conformity of norms, and thus to examine the conformity of normative acts and international agreements with the Polish Constitution, supplemented by the power to annul norms that are not in conformity with higher order norms.\(^4\) The review of norms carried out by the Tribunal is of an abstract character, i.e. it is performed irrespective of any specific factual background in which a given norm is applied. It does not preclude the possibility of initiation of an abstract review before the CT in connection with a specific case adjudicated by other courts. A ‘specific investigation’ of this kind may take place as a consequence of a legal question referred to the CT by a court,\(^5\) or a constitutional complaint initiated by an individual.\(^6\)

In the light of Article 188 of the Constitution, the abstract review of norms carried out by the CT consists of an investigation into: a) the conformity of statutes and international agreements to the Constitution, b) the conformity of statutes to ratified international agreements, the ratification of which required prior consent granted by statute, c) the conformity to the Constitution of legal provisions issued by central organs of State, ratified international

\(^1\) See Art. 10, para. 2 of the Constitution and Art. 1 para. 1 Ustawa o Trybunale Konstytucyjnym (The Act of 1 August 1997 on the Constitutional Tribunal), Dziennik Ustaw (Journal of Laws) of 1997, No. 102, Item 643 as amended.

\(^2\) Art. 173 of the Constitution.


\(^4\) Moreover, the CT is competent to investigate the constitutionality of the purposes or activities of political parties (Art. 188 para. 4 of the Constitution), to settle disputes over authority between central constitutional organs of the State (Art. 189 of the Constitution) as well as to determine whether there exists a temporary impediment to the exercise of the office by the President of the Republic of Poland (Art. 131 para. 1 of the Constitution).

\(^5\) Art. 133 para. 2 of the Constitution.

\(^6\) Art. 79 and Art. 188 para. 5 of the Constitution.
agreements, and statutes. Additionally, Article 79 paragraph 1 of the Constitution pertaining to constitutional complaints provides for the adjudication of the CT ‘on the conformity to the Constitution of a statute or another normative act.’ This adjudication is basically of a subsequent nature (a posteriori), so it is performed with reference to norms adopted by an authorized organ (such as the legislature) and already introduced into the legal order. Nevertheless, a prior investigation (a priori) is also possible in special cases, however only the President of the Republic of Poland (RP) is vested by the Constitution with the right to initiate such an investigation. It may refer either to an act before it is signed by the President and published in the Journal of Laws, or to international agreements prior to their ratification by the Head of State.

1. The Constitutional Tribunal and EU primary law

1.1. The Treaty of Accession

As has been pointed out before, the CT competences include in particular adjudication in matters pertaining to the conformity of international agreements to the Constitution. Since the Constitution does not differentiate between international agreements when defining this competence, it should be understood as referring to all international agreements, i.e. both those agreements requiring ratification and those which are not subject to ratification (i.e. unratified agreements). Nevertheless, it has to be emphasised that only ratified international agreements are, in the light of the Constitution, a source of universally binding law in the Republic of Poland. The competence to ratify

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7 Art. 122 para. 3 of the Constitution.
8 Art. 133 para. 2 of the Constitution.
9 See Art. 146 para. 4 point 10 of the Constitution, which, when defining the competences of the Council of Ministers, indicates both the power to conclude international agreements requiring ratification, as well as to accept and renounce other international agreements. In addressing unratified agreements, the Constitutional Tribunal admittedly concluded in one of its judgments referring to unratified agreements that ‘it cannot be assumed that such agreements have ever constituted an element of the Polish internal legal order’ (the CT judgment of 19 December 2002, K 33/02, Z.U. 2002/7A/97), yet this statement may not be understood as depriving unratified agreements of any effectiveness whatsoever. Although unratified agreements do not constitute sources of universally binding law in the Republic of Poland (Art. 87 para. 1 of the Constitution), they bind the State in external relations (Art. 9 of the Constitution) and may produce indirect legal effects in internal relations, creating e.g. legitimate expectations on the part of individuals. See: A. Wyrozumska, Umowy międzynarodowe. Teoria i praktyka (International Agreements. Theory and Practice), Warszawa 2006, pp.599–607; M. Masternak-Kubiak, Glosa do wyroku TK z 19 grudnia 2002 r. K 33/02 (Commentary to the judgment of 19 December 2002, K 33/02), “Państwo i Prawo” No.6/2003, pp. 119–123.
international agreements is vested by the Constitution in the President. At the same time, the Constitution differentiates between a ratification requiring consent granted in a statute 10 or in a nationwide referendum, 11 and a ratification that does not require such consent. 12 A special ratification procedure is provided for by the Constitution with reference to an agreement specified in Article 90 paragraph 1 of the Constitution, i.e. an agreement which grants a delegation ‘to an international organisation or international institution of the competence of organs of State authority in relation to certain matters.’ Both during the course of work on the draft of the Constitution and after its entry into force in 1997, it was clear that this provision referred, first of all, to Poland’s accession to the European Union, and thus constitutes the systemic foundation for Poland’s membership in this organisation. 13 The constitutionally specific character of the ratification of the Accession Treaty, referred to in Article 90 paragraph 1 of the Constitution, manifests itself both in the special requirements pertaining to the statute granting consent to such ratification 14 and in the possibility of replacing the statutory consent with a consent granted in a nationwide referendum 15. It should be noted that the referendum procedure was used to obtain Poland’s consent to ratification of the Accession Treaty of 2003. 16 Prior to Poland’s accession to the EU, there were opinions expressed in Polish legal publications that, due to the contents of the Accession Treaty, the legal consequences of its conclusion, and the special procedure for granting consent to its ratification, the only acceptable form of verification of its constitutionality was a ‘preventive review’ (in accordance with Art. 133 paragraph 2 of the Constitution) initiated by the President before the ratification process (in a weaker version, this was presented as a desirable

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10 Art. 89 para. 1 and Art. 90 para 2 of the Constitution.
11 Art. 90 para. 3 of the Constitution.
12 Art. 89 para. 2 of the Constitution provides only that in the case of such an agreement the President of the Council of Ministers must inform the Parliament of the intention to submit it to the President of the Republic for ratification.
13 See, e.g. K. Działocha, Podstawy prawne integracji Polski z Unią Europejską w pracach nad nową konstytucją (Legal Bases of Poland’s Integration with the European Union in work upon the New Constitution), “Państwo i Prawo” No. 4-5/1996, pp. 5–14.
14 Pursuant to Art. 90 para. 2 of the Constitution, ‘A statute granting consent for ratification of an international agreement referred to in para. 1, shall be passed by the Sejm by a two-thirds majority vote in the presence of at least half of the statutory number of Deputies, and by the Senate by a two-thirds majority vote in the presence of at least half of the statutory number of Senators’.
15 The choice between the statutory or referendum procedure of granting consent to the ratification of an agreement referred to in Art. 90 para. 1 of the Constitution (i.e. the Accession Treaty) is made by the Parliament in the form of a resolution passed by an absolute majority vote taken in the presence of at least half of the statutory number of Deputies (Art. 90 para. 4 of the Constitution).
solution). They ruled out therefore, or at least questioned, the legality of subsequent review (Art. 188 point 1 of the Constitution), which could take place after ratification and Poland’s obtainment of membership in the EU. The President of the Republic of Poland, however, decided not to submit to the CT a motion for investigation into the constitutionality of the Accession Treaty by way of preventive review. Nevertheless, such motions were submitted after the Treaty’s entry into force by three groups of MPs. In its judgment issued on the 11 May 2005, the CT concluded that its competence to adjudge in matters pertaining to the conformity of international agreements to the Constitution, granted by virtue of Article 188 paragraph 1 of the Constitution, ‘does not differentiate between the Tribunal’s relevant competences depending on the mode of granting consent to ratification. [...] The Constitutional Tribunal thus remains competent to investigate the constitutionality of international agreements ratified upon the prior consent granted in the form of a nationwide referendum. For neither Article 188 paragraph 1 of the Constitution nor any other provision excludes such type of agreements from the scope of the Constitutional Tribunal’s jurisdiction.’ Thus the Constitutional Tribunal ruled in this judgment that neither the special subject matter of the Accession Treaty, which delegated to a particular type of international organisation (i.e. the EU) the competences of organs of State authority in relation to certain matters, nor the special procedure for granting consent to the ratification of such a treaty limited, and even less so excluded, the Tribunal’s competence to examine the constitutionality of its contents.

The grounds for the CT’s adjudication with respect to the constitutionality of the Accession Treaty was the assumption that although, in the light of the Constitution, an international agreement delegating competences has precedence over the provisions of statutes that cannot be reconciled with it, ‘in no respect’ may such precedence be considered to pertain to the Constitution.

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19 At the same time the CT differentiated between reviewing the constitutionality of the Accession Treaty and reviewing the validity (including lawfulness) of the referendum (the Supreme Court remains competent in this matter) as well as reviewing the constitutionality of the procedure itself for obtaining consent to the ratification (the resolution of the Parliament). The latter issues remained outside the scope of the CT’s adjudication in the case pertaining to the Accession Treaty of 2003.

20 Pursuant to Art. 91 para. 2 of the Constitution, ‘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’.
itself. According to the CT, ‘the Constitution thus remains – due to its special force – the supreme law in the Republic of Poland’, including in relation to all international agreements binding the Republic of Poland. The above also refers to ratified international agreements delegating competences in ‘certain matters.’ Due to the superior legal force resulting from Article 8 paragraph 1 of the Constitution, it has the primacy of binding force and application in the territory of the Republic of Poland.\(^{21}\) If, despite the use of a ‘friendly interpretation’ towards the application of European law, the constitutional norm cannot be reconciled with the EU law norm, it would be necessary, according to the CT, for the sovereign (the Polish People) or for the organ of authority empowered by the Constitution to represent the sovereign to take the decision to either change the Constitution or to cause changes in the EU regulations. A solution described by the CT as the last resort would be withdrawal of the Republic of Poland from the EU.\(^{22}\) Thus the recognition of the primacy of the Constitution enabled the CT to examine the constitutionality of the Accession Treaty with reference to the specific objections raised in the motion submitted by the petitioners. The CT’s examination confirmed the conformity of the aforementioned treaty to the systemic norms remaining in force in the Republic of Poland. The Tribunal was guided by the principle, explicitly expressed in its jurisprudence, of ‘favourable disposition towards the process of European integration and cooperation between Member States’, as well as by the need to apply an EU–friendly interpretation.\(^{23}\)

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\(^{22}\) Point III.6.4. of the judgment in case K 18/04. See also: S. Biernat, Członkostwo Polski..., op.cit., pp. 79–83.

\(^{23}\) See point III. 2.2., III. 6.4., III. 8.3. and III. 13.1. of the judgment in case K 18/04. The principle appeared already in an earlier judgment by the CT, i.e. in the judgment of 27 May 2003 in case K 11/03 pertaining to the constitutionality of certain provisions of the act on the nationwide referendum. In this judgment, the CT clearly stated that ‘Such interpretation of the law that serves the purpose of realisation of the indicated constitutional principle is constitutionally correct and preferred’ (point III.16.). CT Judgments ZU No. 5/A/2003.
The objection raised by the petitioners in case K 18/04, that there is a contradiction between the principle of primacy of the Constitution resulting from Article 8 paragraph 1 of the Constitution and the principle of primacy of the Community (Union) law, was resolved in practice by the CT by diminishing the significance of the latter principle. It was treated by the CT not as a foundation of the EU legal order resulting *implicité* from many provisions of the Treaty, but as a judicial principle enunciated by the European Court of Justice (ECJ), aimed at guaranteeing the uniform application and execution of EU law. Judicial statements of the ECJ, according to the CT, do not fall within the scope of its jurisdiction.\(^\text{24}\) It may be assumed that the CT did not see, in the principle of the primacy of Community (Union) law, the characteristics of a legal norm listed among the EU legislation, but regarded it merely as a relatively stable method of argumentation, out of many employed by the ECJ in individual cases, justified by the purposes of European integration and the need for creating a common European legal space. At the same time, the statement by the CT saying that this principle does not ‘*determine the final decisions taken by sovereign Member States in the situation of a hypothetical collision between the Community legal order and a constitutional regulation*’ may be viewed as challenging the normative character of the principle of the primacy of EU law.\(^\text{25}\) According to the CT, such a collision should be resolved by the norms of the constitutions in the countries in question.

In its judgment in case K 18/04, the CT included in its examination the constitutionality of both the Accession Treaty *sensu stricto* and the act pertaining to the conditions of accession (as may be guessed, together with all its appendices and protocols). This solution does not raise objections at present, as these documents – of identical legal status – jointly constitute the international agreement (the Accession Treaty *sensu largo*) which is referred to in Art. 188 paragraph 1 of the Constitution. It should be noted, however, that the CT included in its jurisdiction not only the Accession Treaty but also the Final Act to the Treaty of Accession to the European Union 2003,\(^\text{26}\) regarding it as an integral part of this Treaty and as a legally binding act.\(^\text{27}\)

Yet, the Tribunal practically failed to substantiate its position in any way. Neither did it avail itself of the opinions of representative scholars in the Polish doctrine of international and European law, who, even before the judgment was issued, pointed out that the Final Act was not an integral part of the Accession Treaty and was not of a legally binding character (although some

\(^{24}\) See more in point 2.4. of this article.

\(^{25}\) Point III.7. of the judgment in the case K 18/04.

\(^{26}\) OJ 2003 L 236/957.

\(^{27}\) Points III. 1.4.–1.5., III. 9.1., and III. 19. of the judgment in the case K 18/04.
of its provisions may have some legal significance). Moreover, in the case of another EU act of non-binding legal character – the Charter of Fundamental Rights, existing at the time in the form of an inter-institutional agreement – in the same judgment the Tribunal adjudicated that a non-binding instrument of such type may not be subject to an investigation into its constitutionality. It should be noted that in the end the CT found that the Final Act did not infringe upon any of the provisions of the Constitution that had been indicated by the applicants.

1.2. Treaties constituting the foundations of the European Union

More serious controversy arose over the CT’s position with respect to the possibility of investigating the constitutionality of the Treaties constituting the European Union and European Communities. In its judgment in case K 18/04 pertaining to the Accession Treaty, the CT stated, in its introduction to its considerations of the subject and scope of investigation into the constitutionality of the Accession Treaty, that ‘the Constitutional Tribunal is not authorised to issue an autonomous assessment as to the constitutionality of European Union primary law. It is, however, vested with such competence in relation to the Accession Treaty as a ratified international agreement (Art. 188 paragraph 1 of the Constitution).’ Even if we disregard the awkward formulation implicitly excluding the whole of the Accession Treaty from the scope of primary law, this statement might be deemed to entail a far-reaching self-limitation on the part of the Tribunal, which seemed to consider itself not competent to investigate the constitutionality of the Treaty on the European Union as well as the Treaty founding the European Community (at present: the Treaty on the Functioning of the European Union – TFEU). This conclusion appears false, however, in the light of the CT’s further considerations. The CT’s use of the

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29 Point III.1.2. of the judgment in the case K 18/04.
word ‘autonomous’ in the above quotation seems to be of key importance. It may be inferred that CT was talking about an independent opinion on the Treaties constituting the foundations of the EU, i.e. an opinion formulated directly, without the necessity of referring to links to a given provision of the Accession Treaty. This is further indicated by another statement of the CT, which says that ‘[o]ther acts of the Communities and the European Union primary law which are appendices to the Accession Treaty are also subject to investigation, although indirectly’ (emphasis by the Authors).30

In a different passage of the judgment in case K 18/04, the CT explains that the treaties founding and modifying the Communities and the European Union may be subject to an investigation into their compatibility with the Polish Constitution ‘only to the extent to which they are inseparably bound to the application of the Accession Treaty and the Act on the Conditions of Accession, which is its integral component.’31 In this manner the CT, by concluding (unjustifiably) that the Final Act is an integral part (an appendix) to the Accession Treaty, opened the way for itself to conduct an indirect examination of the constitutionality of the Founding Treaties, since they were attached to the Final Act.32 As a consequence, in its judgment in case K 18/04, the CT investigated the constitutionality of several provisions of the EC Treaty and the EU Treaty that had been objected to by the applicants, addressing them ‘with reference’ to the Accession Treaty. In spite of its partly ill-grounded substantiation, such action must be considered correct. It is difficult to accept that examination into the constitutionality of such an important act as Poland’s accession to the European Union should be limited to a review of the provisions of only the Accession Treaty **sensu stricto** and the act pertaining to the conditions of the accession. An examination into the contents of these documents alone (to a considerable extent of a ‘technical’ and transitional character) does not answer the fundamental questions on the character, structure, and operating principles of the EU or the consequences of Poland’s accession to this organisation. Since the President of the Republic did not avail himself of the possibility of subjecting the Accession Treaty (and indirectly also the treaties founding the EU and the EC) to a preventive review, the Tribunal did not have sufficient constitutional grounds for conducting such an examination by way of subsequent investigation. Its competence to include the EU and the EC Treaties in its scope of investigation should have been derived from Article 1 paragraph 1 of the Accession Treaty itself, according to which the acceding Member States ‘hereby become mem-

30 Point III.7. of the judgment in the case K 18/04.
31 Point III.11.3. of the judgment in the case K 18/04.
32 Point III.C. of the Final Act.
bers of the European Union and Parties to the Treaties on which the Union is founded, as amended or supplemented.’ Such an effect of the Accession Treaty justifies the conclusion that not only is the Accession Treaty itself an international agreement as referred to in Article 188 paragraph 1 of the Constitution, but so too are the treaties founding the EU and the EC, to which the Accession Agreement is clearly linked.

1.3. Treaties amending the Treaties on which the EU is founded

The CT also had the opportunity to adjudicate upon the matter of conformity to the Polish Constitution of an amending treaty, i.e. the Lisbon Treaty.33 Selected provisions of the Treaty were referred to the CT for a ruling by some groups of MPs and Senators. In its judgment of 24 November 2010 (K 32/09), the CT repeated the thesis, already known from its judgment in case K 18/04 pertaining to the Accession Treaty, that its jurisdiction comprises all international agreements, including those whose ratification requires consent granted by statute, as well as those entered into by statute passed in compliance with the requirements referring to delegation to an international organisation of competences of organs of State authority in relation to certain matters (Article 90 of the Constitution).34 It stated at the same time that the Lisbon Treaty enjoys ‘a special presumption of conformity to the Constitution.’ Two circumstances were invoked by the CT as the grounds for this presumption. Firstly, it derived from the fact that granting consent to ratification of the Lisbon Treaty by the Polish Parliament was done in the form of a statute, the passing of which required fulfilling conditions which surpassed even those needed for amending the Constitution itself (Art. 90 paragraph 2 of the Constitution). Secondly, the CT pointed out that the President of the Republic, as the authority obliged to safeguard observance of the Constitution, did not initiate a preventive review of the constitutionality of the aforementioned Treaty, which could be deemed as an expression of his conviction that it conformed to Poland’s Basic Law. According to the CT, refutation of the presumption of the constitutionality of the Treaty is possible ‘only after it has been determined that there is no such interpretation of the Treaty and no such interpretation of the Constitution that would allow a finding of the conformity of the provisions of the Treaty with the Basic Law.’35

34 Point III.1.1.1. of the CT judgment in the case K 32/09.
35 Point III.1.1.2. of the CT judgment in case K 32/09. Nevertheless, the CT excluded the possibility of an implied amendment of the Constitution via the delegation of competences to the EU and finding an interpretation that was friendly towards European integration (point III.2.5. of the CT judgment in case K 32/09).
Although the CT referenced its presumption of constitutionality directly to the Lisbon Treaty, it should undoubtedly be all the more referenced to the Accession Treaty, which was adopted by way of a nationwide referendum, and in consequence also to the Founding Treaties of the EU, to which the Accession Treaty was directly linked.

Referring to the amendments to the Founding Treaties, the CT concluded importantly that the special procedure for delegating competences of organs of State authority to the EU, as set forth in Article 90 of the Constitution, is not exhausted by a single application. Thus each subsequent amendment of the Treaties which involve the delegation of competences (via an expansion of the catalogue of delegated competences) requires fulfilment of all the conditions specified in the aforementioned provision (including granting consent to ratification by way of statute passed by a qualified majority vote or a vote or in a nationwide referendum). This also refers to any delegation of competences which takes place in the course of a procedure other than an international agreement, i.e. via the EU’s simplified procedure. As the CT pointed out in the last paragraph of its statement substantiating its ruling in case K 32/09, ‘modification of treaty provisions without amending the treaty, which involve the delegation of competences to an international organisation or an international organ on the basis of an international agreement, although not via an amendment of its provisions by revision of the treaty, requires fulfilment of the same conditions as the ones indicated in Article 90 of the Constitution for an international agreement.’ The Tribunal thus ruled that basically the same requirements that refer directly to international agreements resulting in a delegation of competence should be applied to the simplified amendment of the EU Founding Treaties by decision of the European Council (Article 48 paragraphs 6 and 7 of the TEU). Indeed, in certain passages of its statement substantiating its ruling in case K 32/09, the Tribunal seems to identify relevant decisions of the European Council taken on the grounds of Article 48 paragraphs 6 and 7 of the TEU with international agreements within the meaning of the Polish Constitution, and the requirement that Member States should approve them in accordance with their respective constitutional requirements, resulting from Article 48 paragraph 6 of the TEU, with the ratification of an international agreement in the Polish constitutional order. In referring to the simplified procedure of

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36 The petitioners argued that the procedures for amending the treaties, as specified in Art. 48 of the TEU, did not guarantee participation of the Parliament as the preliminary condition of amending the EU primary law.

37 Point III.4.2.14. of the CT judgment in the case K 32/09.

38 Point III.2.1. and III.2.6. of the CT judgment in the case K 32/09. It must be noted that Ustawa o umowach międzynarodowych (the Polish Act of 14 April 2000 on international agreements), Dziennik Ustaw (Journal of Laws) of 2000, No. 39, Item 443, as amended, also extends
amendment resulting from Article 48 paragraph 6 of the TEU, the CT pointed out that an amendment in compliance with this latter provision ‘may not increase the competence conferred on the Union in the Treaties.’ As a consequence, according to the CT, this procedure cannot pertain to the delegation of competences of organs of State authority in certain matters, as referred to in Article 90 paragraph 1 of the Constitution. Nonetheless, even while assuming that the special procedure for the ratification of international agreements prescribed by Article 90 of the Constitution applies to the simplified revision procedures specified in Article 48 of the TEU, the CT finally concluded however that it does not apply to Article 48 paragraph 6 of the TEU.

The CT’s position on the simplified procedure of amendment resulting from Article 48 paragraph 7 of the TEU also requires a closer look. It should be recalled that, apart from the requirement of unanimity in the European Council and the consent of the European Parliament, the above provision contains the requirement that there should be no objections from any national parliament to the initiative of amending the Treaties presented to them (such objection(s) may be voiced within 6 months of the presentation of such an initiative to the national parliament). The absence of any such objection enables the European Council to adopt the relevant decision amending the Treaty/ies. Such decision, as it appears, will enter into force on the date indicated in it or, if there is no such date indicated, on the twentieth day after its publication in the EU Official Journal (Art. 297 paragraph 2 section 2 of the TFEU). After referring to the above provisions of the Treaty, the CT concluded however that the principles of delegating competences specified in Art. 90 paragraphs 1-3 of the Polish Constitution will also be applicable to a ‘potential delegation of competence on the grounds of an international agreement, yet not in the procedure of amending an international agreement, but in the procedure of executing its provisions, which is referred to in the challenged paragraph 7 of Article 48’ (the CT did not question the constitutionality of this last provision, by the way). \(^{39}\) The Tribunal concluded at the same time that ‘only by comparing the decision adopted by the European Council with the scope of competence conferred in the Treaties may a premise be formulated for assessing its conformity to the Constitution in its present form.’ \(^{40}\) The CT’s standpoint is

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39 Point III.4.2.10. of the CT judgment in the case K 32/09.

40 Point III.4.2.14. of the CT judgment in the case K 32/09.
no clearer when it comes to its consideration, in the light of the Polish Constitution, of initiatives for replacing the unanimity formula with the formula of qualified majority voting in the European Council, and replacing the special legislative procedure with the ordinary legislative procedure, both of which are referred to in Article 48 paragraph 7 of the TEU. On the one hand, the CT states that Article 90 paragraph 1 of the Constitution does not regulate these issues (which might mean that this provision is not applicable to them), while on the other hand it assumes that changes of such a type as provided for in Article 48 paragraph 7 of the TEU may affect the sphere of competence of organs of State authority, which again directs the discussion on decisions specified in Article 48 paragraph 7 of the TEU towards the problem of delegating competences of organs of State authority in certain matters as understood in Article 90 paragraph 1 of the Constitution. In other words, according to the CT, the simplified procedure of amending the Treaties, as specified in Article 48 paragraph 7 of the TEU, is subject to the same constitutional requirements as an ordinary revision of the Treaties involving delegation of competences of organs of State authority. Although we are dealing here with a revision of an international agreement ‘by way of executing its provisions,’ the decision of the European Council would need to be qualified as an international agreement, because only this category of acts is referred to by the provisions of Article 90 of the Constitution. As may be inferred, any examination of the constitutionality of such an act will be performed by the Constitutional Tribunal.41

If the above described position of the CT is correctly understood by the Authors (the CT’s argumentation is capable of various interpretations), it raises some doubts. In fact the procedure of revision, as specified in Article 48 paragraph 7 of the TEU, in essence excludes ratification within the meaning of the Polish Constitution. Even if we disregard the question of the qualification of the European Council’s decision as an international agreement, such ratification is not possible in terms of presenting a relevant initiative to the national parliament, because what we have at that moment is not a finally formulated text of a normative act (a concluded international agreement within the meaning of the Polish Constitution), but a mere draft of such an act. It is also doubtful whether the period of six months would be enough for the Parliament to choose the mode of granting official consent to ratification, and subsequently either pass the appropriate act or organise a nationwide referendum. On the other hand, ratification after the decision has been adopted by the European Council (in the absence of objections raised by a national parliament) would be too late, since the decision amending the Treaty has

41 On the subject of the position expressed by other Member States’ constitutional courts on the matter of the modification of treaty provisions, see, e.g. M. Wendel, op.cit., pp. 114–120.
already entered into force. Finally, serious doubts arise as to the question whether the change of decision-making procedures, as specified in Article 48 paragraph 7 of the TEU, may actually entail an increased delegation of competence(s) of organs of State authority to the EU. In our opinion, this procedure does not involve revision of the principles of division of competences between Member States and the European Union, but merely a revision – within precisely defined limits – of principles governing the execution by the EU institutions of those competences previously conferred to the Union level.\footnote{The CT itself, while settling in its judgment of 20 May 2009 Kpt 2/08 a competence dispute between the President of the Republic and the President of the Council of Ministers on Poland’s representation in the meetings of the European Council, pointed out that ‘the competence of a constitutional organ of the State is authorisation of such organ by the constitution-maker or lawmaker for action that produces consequences specified by the law in a relevant sphere; the undertaking of such an action may be a legal obligation or a right of a given organ’ (point III.1.4. of the judgment). See also: K. Wojtyczek, op.cit., pp. 107–111.} Article 48 paragraph 7 of the TEU gives no grounds for receipt by the EU of any new competences or for increasing the scope of competences previously conferred on it by the Member States. By ratifying the Treaty of Lisbon, which introduced, \textit{inter alia}, the simplified procedure of revision under Article 48 paragraph 7 into EU primary law, Poland \textit{a priori} granted its consent to possible modifications of the principles, precisely delineated in this provision, governing the decision-making process. If the European Council, availing itself of these possibilities, adopts a relevant decision, such an act should not therefore entail the necessity of initiating one of the procedures for granting consent to ratification referred to in Article 90 of the Polish Constitution.\footnote{A similar opinion is expressed in the dissenting opinion of judge M. Granat to the CT’s judgment in the case K 32/09. See also: K. Wojtyczek, op.cit., p. 121.} It is worth noting that the CT presented a similar view in its judgment of 18 February 2009 in case Kp 3/08 pertaining to the constitutionality of the act authorizing the President of the Republic of Poland to submit a declaration accepting the competence of the Court of Justice on the grounds of Article 35 paragraph 2 of the TEU (in the version prior to the Lisbon reform). In this case, the President of the Republic argued that the aforementioned declaration results in conferring competences of Polish courts (thus diminishing the scope of their competence) on a Union institution, which would lead to the necessity of passing an act in accordance with the procedure specified in Article 90 of the Constitution, i.e. in a procedure applicable to delegating competences of organs of State authority in certain matters to an international organisation. In addressing the President’s objection, the CT pointed out that ‘the competence to submit to a prejudicial procedure under the third pillar of law of the European Union was received by the Republic of Poland together with the whole Treaty on the European Union through the medium
of the Accession Treaty. A declaration submitted on the grounds of Article 35 paragraph 2 of the TEU signifies merely an update of this competence, and not its creation.’ Similarly, in the case of Article 48 paragraph 7 of the TEU, it could be argued that the modification specified therein of the principles for adopting decisions by the Union institutions was accepted by Poland together with the whole Treaty of Lisbon, and any decision of the European Council issued in the aforementioned simplified procedure for amending the Treaties is merely an update of one of the modes of proceeding – acceptable in the light of the Treaties – at the Union level.

It may be inferred that the CT, in suggesting that the requirements of Article 90 of the Constitution applied to both simplified procedures for amending the Treaties (Article 48 paragraphs 6 and 7 of the TEU), was aiming first of all at securing for itself the future possibility of examination of the constitutionality (under Polish law) of relevant decisions of the European Council. Although the CT states that Article 48 paragraph 6 of the TEU does not give grounds for delegating any competences of organs of State authority in certain matters, at the same time it more or less clearly assumes that in this case we are, or may be, dealing with an international agreement with respect to which the CT’s competence to review, as specified in Article 188 paragraph 1 of the Constitution, may be fully applicable. Thus the CT would investigate whether a decision of the European Council does not in fact lead to conferring any competences of organs of State authority in certain matters within the meaning of Article 90 paragraph 1 of the Constitution, and in consequence whether the ‘approval’ required by Article 48 paragraph 6 of the TEU was in compliance with the requirements of Article 90 paragraphs 2-4 of the Constitution. So in a case where a transfer of a competence of this kind would be out of the question, the CT would have the possibility to investigate the conformity of the decision taken by the European Council with the existing Polish constitutional patterns. It seems that the CT has adopted a similar approach to the decisions of the European Council taken on the grounds of Article 48 paragraph 7 of the TEU. In this case as well, the requirements specified in Article 90 of the Constitution are invoked, and as a consequence the possibility of a full examination of the conformity to the Constitution of such decisions taken at the Union level.

As has been stated previously, the CT’s position on the simplified procedures for amending the Treaties is not expressed in a sufficiently clear manner. It may not be thus completely ruled out that the CT’s reference to the requirements pertaining to ratification of an international agreement resulting in delegating to an international institution or an international organ of competence of organs of State authority in certain matters (Article 90 of the Constitution) encompasses its jurisdiction only with respect to those decisions of
the European Council, adopted on the grounds of Article 48 paragraphs 6 and 7, which have been adopted in essence *ultra vires*. In other words, the problem may concern only those decisions which, against the clear ban specified in Article 48 paragraph 6 section 3 of the TEU, lead to an increase of EU competences, or decisions that, under the pretence of replacing the requirement of unanimity with the requirement of qualified majority voting (excluding military or defence matters) or replacing the special legislative procedure with the ordinary procedure (Art. 48 paragraph 7 sections 1 and 2 of the TEU) contain a different normative content, modifying the hitherto binding provisions of the Treaties. If this in fact is the position of the CT, it would not raise objections other than the ones related to the exclusive character of the competence of the ECJ to review acts issued by the Union institutions (discussed further in section 3.5. of this article), including the acts of the European Council intended to produce legal effects *vis-à-vis* third parties (Article 263 of the TFEU). It seems significant, however, that the CT in its argumentation on the simplified procedures of revision of the Treaties, does not clearly indicate that it is referring exclusively to those cases involving such a serious infringement of Article 48 paragraphs 6 or 7 of the TEU that they could be qualified as acting *ultra vires*.

It is also important that in the judgment in the Lisbon Treaty case, the Tribunal extended its previous position, as expressed in its judgment in the Accession Treaty case, on the precedence of the Constitution with respect to the possibility of delegating competences. It emphasised that the grounds for Poland’s membership in the EU had been created in the Constitution itself, and that membership in the EU does not mean a loss of sovereignty (point III. 2.1.). Poland’s sovereignty is guaranteed by the Constitution hence, as the CT concluded, there must be certain competences that are banned from delegation, i.e. those that determine constitutional identity (reflect its fundamental values). The catalogue of such competences is not clearly specified, but they must comprise ‘the chief principles of the Constitution as well as the provisions, pertaining to the rights of individuals, that determine the identity of the State including, in particular, the requirement of securing the protection of human dignity and constitutional rights, the principle of statehood, the principle of democracy, the principle of a legal state, the principle of social justice, the principle of subsidiarity, as well as the requirement to provide for better implementation of constitutional values and the ban on delegating the constitution-making power and the competence to create competences.’ (point III.2.1.).

1.4. General Principles

The CT also did not clearly express its opinion on the admissibility of examining the constitutionality of the general unwritten principles of the
Union legal order that have been ‘discovered’ by the ECJ in its jurisprudence.44 In addressing the petitioners’ objections directed against the jurisprudence of the Court of Justice, it concluded that ‘it cannot, on the other hand, make the judicial statements of the Court of Justice of the European Communities subject to its direct examination of constitutionality.’ This pertains both to individual judgments and also to the ‘stable line of the jurisprudence of the European Court of Justice derived from individual judgments, which line is referred to by the applicants.’45 Review of the jurisprudence of any organ of jurisdiction, either of the EC or the EU, remains outside the scope of the CT’s jurisdiction specified in Article 188 of the Constitution. At the same time, the Tribunal pointed out that the interpretation of EU law issued by the Union courts should be contained within the scope of the functions and competences conferred by Member States to the Union level. It goes on to indicate the connection of such an interpretation to the principle of subsidiarity, as well as the principle of mutual loyalty between the EU institutions and the Member States. This, in consequence, acknowledges the existence of an obligation on the part of the ECJ ‘to be favourably inclined towards national legal systems,’ and on the part of the Member States of an obligation to show ‘utmost respect in approaching the Community norms.’46 The CT assumes at the same time the necessity of acceptance by the Member States (in an explicit or implicit manner) of the interpretation of EU law norms issued by the ECJ, which acceptance would go beyond the strict framework of the Treaties.47

Excluding the CT’s direct jurisdiction over the judgments of Union courts does not mean, however, that the general unwritten principles of EU law remain beyond the reach of any review from the CT. Since Article 188 of the Constitution does not mention in this context any sources of international law other than international agreements (disregarding e.g. the common law, or the practice opinio iuris sive necessitatis), the Tribunal could not include such general principles into its jurisdiction in a straightforward manner. Although ‘a direct examination of the constitutionality of judicial statements’ of the Court of Justice was ruled out, an indirect examination was not. It seems, therefore, that the CT will have the competence to examine the constitutionality of a given principle in an indirect way, i.e. in the first place addressing the specific provision of the Treaties from which the binding force of the general principle(s) is derived in the Union legal order (Article 6 paragraph 3 of

45 Point III.9.1. of the judgment in the case K 18/04.
46 Point III.10.2. of the judgment in the case K 18/04.
47 Point III.10.3. of the judgment in the case K 18/04.
the TEU, Charter of Fundamental Rights). Taking into account the practice of the CT’s operation in domestic matters, it could be assumed that in such cases a given provision of the Treaty could be deemed unconstitutional to the extent to which it allows for the construction of a legal norm which challenges a general principle of the Polish legal order.48 The results of such a negative outcome of an examination of the constitutionality of a general principle should be the same as in the case of the unconstitutionality of a given norm of a Founding Treaty.

2. The Constitutional Tribunal and EU secondary legislation

2.1. Early jurisprudence pertaining to EU secondary legislation

The question of examination of the conformity with the Polish Constitution of EU secondary legislation has appeared in the CT jurisprudence several times, starting from the judgment in the Accession Treaty case. Yet the CT did not formulate a straightforward position in this matter until as late as in 2011. Previous positions were only expressed on the margins of rulings pertaining to EU primary law or the review of Polish law, and they were neither of a straightforward nor comprehensive character. Such was the case in the investigation into the Accession Treaty, when the CT had to address the European arrest warrant (EAW) Framework Decision, which was referred to it (implicitly) for a ruling.49 The CT did not reject the possibility of reviewing the conformity of the EAW Framework Decision to the Constitution, but it concluded that due to its ‘general and merely directional character’ it was not subject to examination. In such a situation, an examination may only take place in relation to an act implementing the Framework Decision.50 At the same time the CT concluded that the Framework Decision will create an inter-governmental obligation addressed to the Polish government, and thus may not be regarded as a source of law that is binding on the territory of Poland (this position was not repeated in subsequent judgments and can


50 Point III.18.9 of the judgment K 18/04.
hardly be considered correct).\textsuperscript{51} It seems, therefore, that the CT rejected the possibility of reviewing a framework decision, treating it as a directional act that is not directly a part of the legal order in the Republic of Poland. A further characteristic of framework decisions was presented by the CT in 2009 in another judgment pertaining to the constitutionality of the act authorizing the submission of a declaration on accepting the competence of the ECJ in the former third pillar.\textsuperscript{52} It emphasised, first of all, the obligation to implement framework decisions into the domestic order as well as the role of the ECJ jurisprudence in providing a uniform and consistent interpretation of the secondary legislative acts in the Union third pillar, thus securing a comparable level of protection of individual rights in the territory of the entire European Union.

In another case in which the CT adjudicated on the conformity to the Constitution of the national provisions implementing the aforementioned Framework Decision on the EAW, it did not limit in any way its competence to adjudicate on the constitutionality in question by the fact that the examined provisions were in execution of EU law.\textsuperscript{53} It concluded at the same time that the obligation to implement the framework decisions is a constitutional requirement, and the fundamental constitutional function of the Constitutional Tribunal is examination of the conformity of normative acts to the Constitution, including in situations in which the allegation of unconstitutionality pertains to an act serving to implement European Union law.\textsuperscript{54} In this judgment, the CT finally ruled that the Polish provisions implementing the Framework Decision did not conform to the Constitution, as the Constitution did not admit the extradition of a Polish citizen, which was allowed under the provisions implementing the Framework Decision. By virtue of this judgment, Polish provisions permitting the surrender of a Polish citizen were declared invalid. The CT perceived further that the simple invalidation of those provisions did not secure a state of conformity to the provisions of the Constitution, because the Framework Decision remained in force and still

\textsuperscript{51} The ECJ states for example that ‘The national court is required to take into consideration all the rules of national law and to interpret them, so far as possible, in the light of the wording and purpose of the Framework Decision’. See: C-105/03 Maria Pupino [2005] ECR I-5285, para. 61.

\textsuperscript{52} Judgment of 18 February 2009, case ref. No. Kp 3/08.

\textsuperscript{53} See A.Łazowski, op.cit., p. 512.

had to be implemented into Polish law by virtue of EU law as well as Polish constitutional obligations. In order to achieved correct implementation, the CT did not rule out amending the Constitution so that it permitted the extradition of Polish citizens on the grounds of the EAW. This is indeed what happened after the judgment.

In the CT jurisprudence, we may also find considerations upon the nature of EU Regulations in the context of the Constitution. In its judgment of 2009, the CT concluded that, pursuant to Article 92 paragraph 1 of the Constitution authorizing the issuance of executive acts on the basis of a statute, the meaning of the term ‘statute’ does not include Union regulations. As a consequence, a Union regulation may not be the basis for the direct issuance by Polish lawmakers of an executive act. Consistently, the CT was of the opinion that authorisation for the issuance of an executive act, which has to be contained in a statute and cannot be of a blanket nature, may not be supplemented by a Union regulation. Therefore the CT investigates only the statutory authorisation, even if the statute is issued for the purpose of implementing a Union regulation. Additionally, the entry into force of a Regulation that, by virtue of direct effect and primacy, may affect the scope of application of a statute under examination, does not revoke the competence of the Constitutional Tribunal to adjudicate on the conformity to the Constitution of the statutory provision referred to it for ruling. Such a ruling may also be understood as indirectly contesting the possibility of limiting constitutional rights and freedoms directly in EU law – the Constitution admits such a limitation exclusively by virtue of a statute.

2.2. Review of EU secondary legislation

For the first time the Polish CT addressed the question of reviewing secondary legislation in a direct manner only on the margins of a ruling of 2009, in which it concluded that the ‘absence of EU secondary legislation

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55 The CT derived this obligation from Art. 9 of the Constitution, which stipulates that ‘the Republic of Poland shall respect international law binding upon it’.
56 See S. Biernat, Członkostwo Polski..., op.cit., p. 76.
57 Order of 24 March 2009, Case ref. No. U 6/07. Art. 92 para. 1 provides: ‘Regulations shall be issued on the basis of specific authorisation contained in, and for the purpose of implementation of, statutes by the organs specified in the Constitution’.
58 Judgment of 13 October 2010, case ref. No. Kp 1/09 (point III.5). Four dissenting opinions were submitted to this ruling, pointing out that in the process of an adjudication on the constitutionality of a statute, the EU regulation which affected the scope of its application must have necessarily been taken into account.
59 Cf. the dissenting opinion of judge S. Biernat to the judgment of 13 October 2010. Case ref. No. Kp 1/09 (point III.5.).
in the enumerative catalogue contained in Article 188 paragraphs 1-3 of the Constitution makes it impossible for the Tribunal to adjudicate on the question of its conformity to the Constitution. The lack of the Tribunal’s competence in this respect means that the allegations raised in a matter relating to the conformity of Community secondary legislation with the Polish Constitution may not be investigated by the Tribunal.” It concluded, therefore, that the national provisions regulating the Tribunal’s jurisdiction stand in the way of an investigation into the constitutionality of EU secondary legislation, yet it did not address the arguments pertaining to the EU law itself or the hierarchy of EU law and the national law.

The CT did not issue a judgment addressing this problem directly or substantiate its position in an exhaustive manner until November 2011. On the basis of constitutional arguments, the CT basically recognised its competence to review EU secondary legislation within the framework of a constitutional complaint. It repeated its earlier standpoint that the Constitution is the supreme law in the Republic of Poland, from which it derived the right to also review the conformity to the Constitution of acts of EU secondary legislation. The case that led to the issuance of this judgment pertained to a constitutional complaint filed by an individual person against Council Regulation no 44/2001 on the jurisdiction and recognition and enforcement of judgments in civil and commercial matters. In her complaint, the complainant claimed that the provisions of the Regulation are inconsistent with Article 45 of the Constitution, i.e. with the right to a fair trial in court. The main issue concerned the absence of the possibility for a debtor to make any submissions in court of first instance proceedings aimed at establishing the enforceability of a judgment of a foreign court.

2.3. The constitutional complaint as an instrument for review of EU secondary legislation

The fundamental question that had to be ruled upon by the CT was whether a constitutional complaint may refer to EU secondary legislation. Doubts resulted from the provisions of the Constitution which define the competence of the CT as review of conformity to the Constitution of statutes, international agreements and provisions issued by central organs of State (Article 188 points 1-3). The above catalogue does not include acts issued by an international organisation, which are referred to in Article 91 paragraph 3 of the Constitution. While this question was addressed in the

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judgment of 2009 cited above, the previous case pertained to so-called abstract review, whereas the 2011 case pertained to a constitutional complaint filed by an individual in a specific case. This procedure gave the CT the possibility to apply the provisions of the Constitution with reference to constitutional complaints, contained in Article 79 of the Constitution, which provisions indicate that the subject of such a complaint may be a ‘statute or another normative act’. At the same time, the CT resolved the controversy pertaining to the relation between both constitutional provisions and came out in favour of the autonomous interpretation of the provisions referring to the constitutional complaint. In consequence, the CT concluded that a constitutional complaint may refer to a normative act understood not only as an act issued by Polish organs but also as an international agreement or acts issued by organs of an international organisation, i.e., first of all to EU secondary legislation. Moreover, a constitutional complaint may refer to a normative act on the basis of which a final court ruling was issued concerning the complainant’s rights or obligations. Quoting from the ECJ jurisprudence, the Tribunal concluded that an EU Regulation may be the basis of such a ruling. It seems that the same should be assumed with reference to EU decisions as long as they are of a general character (compare Article 288 paragraph 4 of the TFEU), thus they may constitute a normative act within the meaning of the provisions of the Polish Constitution. The CT did not address the issue of directives, i.e. whether they too may be subject to a constitutional complaint as normative acts on the basis of which a court or administrative decision is issued. It mentioned only that it will not always be easy to ascertain whether a court issued its ruling on the basis of EU law or on the basis of Polish law implementing or executing an act of EU law – above all a directive, but also a Regulation. It seems to be suggested that in a situation when the basis for a decision are the provisions of a directive, i.e. as directly applicable in a situation of non-implementation or incorrect implementation thereof, it is also possible to file a constitutional complaint against the directive. It is unclear, however, whether according to the CT such a complaint will be admissible if the decision has been issued on the basis of Polish law which correctly implements a directive. Such a complaint would have to refer indirectly to the directive as the source of inconsistency with the Polish Constitution. It seems, however, that the CT would consider such a complaint as a complaint against an act directed against Polish law, and not EU law. The ECJ states in its jurisprudence that the con-

62 The CT had ruled earlier that a constitutional complaint might refer to an international agreement, such as the European Agreement (judgment of 18 December 2007, ref. No.SK 54/05).
stitutional review of national provisions implementing directives may infringe upon the competence of the ECJ. As stated by the ECJ, ‘... the Court could thus, in practice, be denied the possibility, at the request of the court’s ruling on the substance of cases in the Member State concerned, of reviewing the validity of that directive in relation to the same grounds relating to the requirements of primary law, and in particular the rights recognised by the Charter of Fundamental Rights of the European Union, to which Article 6 TEU accords the same legal value as that accorded to the Treaties.’

Contrary to this position, the CT admits the possibility of review of the constitutionality of provisions implementing directives, and also, as it appears, of the directives themselves when they directly constitute the basis for a ruling.

The CT’s judgment pertained to one of the modes of reviewing constitutionality, and it ascertained its procedural competence by quoting from the special provisions in the Constitution specifying this mode. There is no doubt that EU secondary legislation may not be subject to an abstract review, yet it is not clear whether it may be referred to in a legal question of a court adjudicating a given case. Pursuant to Article 193 of the Constitution, each court may refer a question to the Constitutional Tribunal on the conformity of a normative act with the Constitution if the adjudication of a case pending before such court depends on the answer to such legal question. Similarly to the provisions on constitutional complaint, this provision uses the term ‘normative act’, which, according to the CT, includes EU secondary legislation. Yet the competence to decide a legal question is not listed among CT competences as separate from other competences, as in the case of the constitutional complaint, which served as a basis for the CT to substantiate the autonomy of regulations in such a complaint as comprising normative acts. This argumentation may not be transferred directly to legal questions, so the term ‘normative acts’ with reference to those questions should be interpreted as referring only to acts enumerated directly within the competences of the CT – i.e. statutes, international agreements and provisions issued by central organs of State. Such an interpretation would also enable achievement of at least a partial compliance with the EU law requirements, as it would rule out the possibility of a court referring to the CT a legal question on the conformity to the Constitution of EU secondary legislation, and as a consequence it


64 Such review pertains to statutes, provisions of law issued by central organs of the State, as well as international agreements, and the latter term, used in Art. 188 of the Constitution, is not extended by the CT to include acts issued on the basis of international agreements (cf. the CT judgment 45/09, point III. 1.2.).
would not limit the court’s options to refer such a question to the ECJ for a preliminary ruling.65

2.4. Competences of the CT and the principle of primacy of EU law

The ruling on the CT’s procedural competence to adjudicate a constitutional complaint concerning EU secondary legislation was of a preliminary nature. The CT had to address the principle of primacy and the consequences resulting there from for its constitutional review. In this respect, the CT repeated its previous position that EU law has no precedence over the Constitution (in this case, however, it recognised the principle of primacy not only as a principle of ECJ jurisprudence, as was the case in its judgment referring to the Accession Treaty, but also as resulting indirectly from the provisions of the Treaties). Since the Constitution is the supreme law in the Republic of Poland, according to the CT, it is admissible to revise EU secondary norms in order to conform to it.

The thesis is derived, first of all, from the principle of the supremacy of the Constitution. This principle has a broad scope and refers to any constitutional norm, not only to the rights and freedoms of individuals. Yet, the CT reserved its right to review the constitutionality of secondary legislation by way of a constitutional complaint to the investigation into infringements of constitutional rights and freedoms. Thus the CT will not be able to use the procedure of the constitutional complaint for the purpose of investigating the conformity of EU secondary legislation to other principles of the Constitution. By virtue of this limitation, it will not be able to examine whether a given act is or is not an ultra vires act, i.e. whether it remains within the scope of competence conferred by Poland on the EU etc. If, however, an ultra vires action resulted in an infringement of Polish constitutional rights and freedoms, the complaint would have to be considered admissible. Nevertheless, if the CT claimed the right to review EU law also within the framework of legal questions referred to it by Polish courts, such a review would not be, pursuant to the Constitution, limited to individual rights and freedoms, but it could pertain to other constitutional principles. As has been pointed out above, the right to review within the framework of legal questions has no grounds in the provisions concerning the CT’s competence, and thus it is not very likely.

65 As recognized by the CT, the national procedure, including that for reviewing the conformity to the Constitution, may not limit the competence of the court to refer a question for a preliminary ruling. Cf. C-188/10 Melki, op.cit., para. 56.
2.5. Competences of the CT and competences of the ECJ

The CT also addressed the issue of division of jurisdiction between the constitutional court and the ECJ. It pointed to the necessity of distinguishing between constitutional review and review of conformity to EU primary law. The latter is obviously reserved for the ECJ, while constitutional review is performed by the CT. Review is thus of a parallel-track character, and the tribunals should not be viewed as competing with each other. Yet, the CT perceived that some situations might lead to a potential collision between the rulings of both tribunals, which would result in ‘a dysfunctionality in the relations between the EU legal order and the Polish one’ (point III.2.4.). It was thus necessary to maintain ‘due caution and restraint’ (point III.2.5). By invoking both the principle of sincere cooperation on the part of the Member States as well as respect for national identity on the part of the EU, the CT indicated that it sees the above obligation as bilateral. In consequence, the constitutional review of Regulations should be regarded as independent, yet subsidiary, in relation to the jurisdiction of the ECJ. This means that before declaring the non-conformity to the Constitution of an act of EU secondary legislation, the CT must refer a question to the ECJ for a preliminary ruling to be certain as to its interpretation of, or the validity of, those provisions that raise doubts. As a result of a ruling of the ECJ, it may turn out that the content of the challenged act is consistent with the Constitution. The ECJ may also rule that a challenged provision does not conform to EU primary law, which would render the CT’s constitutional review moot. It is worth noting that the CT reserved the obligation to refer a question to the ECJ to a situation ‘before declaring the non-conformity of an act of secondary legislation to the Constitution.’ It did not perceive such an obligation in a situation when the CT would issue a ruling finding a challenged provision in conformity with the Constitution. The question remains open whether the CT accepts the principles of EU law resulting from Article 267 of the TFEU, i.e. basically that being a court against whose decisions there is no judicial remedy, it falls under an obligation to bring a matter before the ECJ. In the case in question, the CT did not refer the matter to the ECJ, stating that ‘it had no doubts as to the conformity of the challenged regulation to EU primary law,’ (point III.8.1.), and invoking the judgment in the Foto-Frost66 case, it concluded that there was no need to refer a question to the ECJ. The CT did not, however, address the question of interpretation – and not just the examination of validity – of an EU law. Recognizing the competence of the ECJ as to the inter-

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pretation of EU secondary legislation, it should establish whether, in the light of the *acte claire* and *acte éclairé* doctrine, there is a need for such interpretation.

As far as the division of jurisdiction between the CT and the ECJ is concerned, the judgment accepts the conclusions made by Bundesverfassungsgericht – the German Federal Constitutional Tribunal (‘FCT’), especially those from the Honeywell case, which was cited several times by the CT in the substantiation statement to its judgment. In the Honeywell judgment, the FCT ruled that insofar as the ECJ had no possibility of examining the validity or interpretation of an act of EU secondary legislation, the FCT may not adjudicate such an act to be unconstitutional.67

The CT therefore recognised the necessity of some mechanism limiting the competitive character of rulings issued by both courts, which mechanism consists in the subsidiarity of the CT’s review (conducting it only after a review done by the ECJ, which is performed on the basis of a different review pattern). Yet it unequivocally reserved for itself the position of the court of the last word. This position results from the hierarchy recognised by the CT, i.e. the supremacy of the Constitution over EU law. The consequence of this hierarchy is the supremacy of the review of constitutionality exercised by the CT over the review of conformity to EU primary law exercised by the ECJ. Yet, should the consequences of this principle reach as far as secondary legislation? In its previous jurisprudence, the CT admitted its right to examine EU primary law, which is a consequence of the supremacy of the Constitution. Since the CT may examine the primary law, and it leaves to the ECJ the adjudication on the conformity of secondary legislation to the primary law, the review of the constitutionality of secondary legislation may be seen as actually superfluous. It will always be reduced to the situation in which it is the primary law that violates the Constitution. If secondary legislation does not conform to the primary law, the review by the CT will be useless, because, according to the CT’s declaration, the ECJ will have done such a review prior to the CT’s adjudication. If, on the other hand, it is compliant with EU primary law, the review will have to – albeit indirectly – refer to the primary law. Dismissing the possibility of reviewing secondary legislation by the CT would not deprive the Tribunal of any important competences resulting from the supremacy – established and recognised by the CT – of the Constitution. It would still be able to examine ‘the source of incompatibility with

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67 Judgment of the FCT of 6 July 2010, Honeywell 2 BvR 2661/06, point 60. The CT emphasized, however, the different character of the Honeywell case as consisting in the fact that the subject of the review was not an act of the secondary legislation, but a judgment issued by the ECJ, and the constitutional allegation did not concern fundamental rights, but an *ultra vires* action.
the Constitution,’ which will arise from the primary law. Nevertheless, from
the point of view of individuals, this would in practice exclude the possibility
of filing a constitutional complaint, as the grounds for a final ruling of a court
or an organ would necessarily be an act of secondary legislation issued on the
basis of the primary law. It has to be added, however, that the constitutional
complaint is an extraordinary legal remedy and its availability is limited by
the restrictive jurisprudence of the CT. The basic form for reviewing the con-
stitutionality of the primary law, due to the consequences of such review,
should be an abstract examination exercised ex ante.

It thus appears that the CT may retain its competence stemming from the
supremacy of the Constitution without the need to review secondary legisla-
tion, which would entail interference in the competence of the ECJ.

2.6. The EU standard and the constitutional standard

This issue has to be examined in light of the CT’s further statements con-
cerning the comparability of the EU standard and the constitutional one
within the scope of fundamental rights. As recognised by the CT, non-con-
formity to the Constitution would occur if the EU law implemented a lower
level of protection than that provided for in the Polish Constitution. A higher
standard of protection, as it seems, would be admissible and compliant with
the Constitution. This is a risky conclusion to a certain degree since granting
certain rights a higher level of protection may entail lowering the level of
protection of other rights. Such situation would probably be considered by
the CT as inconsistent with the Constitution to the extent to which it leads
to a decrease in the protection provided for in Polish legislation. Thus EU
law is to guarantee a comparable scope of protection for all the rights and
freedoms guaranteed in the Constitution (as referred to in the catalogue
of these rights and the scope of admissible interference). This issue refers
to a general standard, and not to the necessity of identical protection of
each right.

But is this general standard in the EU law identical to the constitutional
standard, according to the CT? There is an ‘important common axiology’
between these legal systems (point 2.10), which the CT substantiated by
referring to the significance of fundamental rights in EU law and Article 6 of
the TEU, the Charter of Fundamental Rights, as well as the planned accession
of the EU to the European Convention on Human Rights. Nevertheless, the
CT did not conclude that the common axiology is guaranteed by the EU law
or the ECJ. The CT’s judgment does not contain a statement which would
directly confirm that the EU standard of fundamental rights conforms as
a whole to the Polish constitutional standard. The Tribunal invoked the state-
mements of the FCT’s judgment in the Case Solange II and Bananenmarktord-
nung, in which the FCT confirmed that a constitutional complaint or a legal question may concern an infringement of fundamental rights by secondary legislation only when its grounds state that the evolution of European law since the Solange II decision, including the rulings of the ECJ, has resulted in a decline of protection below the necessary standard required by the (German) Constitution.68

The CT also cited the jurisprudence of the European Court of Human Rights (ECtHR) in the Bosphorus case, and the thesis stemming there from on the comparability of protection provided for by the Convention and by the EU.69 Yet, the CT did not itself formulate a statement similar to the opinions expressed by the FCT and the ECtHR. The judgment of the CT does not contain a thesis that the EU law generally guarantees a level of protection comparable to the constitutional one, or that the ECJ guarantees the protection of such fundamental rights.70 Such a thesis would have to lead, as it did in the case of the FCT and the ECtHR, to the refusal to examine the constitutionality of secondary legislation unless and until the EU standard of protection has decreased below the constitutional standard. Yet, the CT did examine the constitutionality of the regulation which was the ground for the constitutional complaint and did not, as a principle, rule out such future examinations in situations concerning comparable standards.

Despite the statement of the CT that there are premises for adopting a similar approach to the examination of the constitutionality of EU law in Poland to the approach adopted by the FCT and the ECtHR, its approach in fact is not completely similar. Bundesverfassungsgericht limits its jurisdiction, to a certain extent, in matters concerning the conformity of EU law to the German Basic Law. It formally presents the position of the supremacy of the Basic Law over EU law, yet it recognises that legal questions referred by courts or a constitutional complaint may be grounded on the allegation of infringement of fundamental rights by EU secondary legislation only when it has been demonstrated that the level of protection guaranteed in the EU law (including the jurisprudence of the ECJ) does not correspond to the standard of protection provided for in the Basic Law of Germany and, in fact, that it has decreased since the Solange II judgment, in which the German Tribunal concluded that the Communities provide protection of fundamental rights that is equal to the protection resulting from the German Con-

68 Judgment of 7 June 2000, 2 BvL 1/97210; similarly, the decision of 9 January 2002, 1 BvR 1036/99211.
70 As it was stated by the FCT, whose role is limited to general safeguarding of the permanent standard of the rights – judgment of 12 October 1993, 2 BvR 2134, 2159/92172.
stitution. In consequence, the German Tribunal does not examine the conformity to its Basic Law of acts of EU secondary legislation, including directives as well as the domestic law implementing them. The French Conseil d’État has expressed a similar view.

The FCT and the ECtHR concluded that the present levels of protection under EU law, both in the Basic Law of Germany as well as the European Convention on Human Rights (ECHR), are comparable. The CT, on the other hand, merely acceded to a presumption of conformity to the Constitution. At the same time, it cited its previous judgment in the Lisbon Treaty case and the substantiation of the presumption contained therein, stemming from the fact of Treaty ratification. Such a presumption may be overcome only after determining that ‘there is no such interpretation of the Treaty and no such interpretation of the Constitution which would allow to state the conformity of the provisions of the Treaty to the Constitution.’ (point 8.4.).

According to the CT, such presumption has consequences in the form of procedural limitations in accepting a constitutional complaint concerning EU secondary legislation. In filing such a complaint, the complainant must ‘show probable cause that the challenged act of EU secondary legislation causes a considerable decline in the standard of protection of rights and freedoms in comparison with the standard of protection guaranteed by the Constitution’ (point 8.5.). This is a different requirement from the one indicated by the FCT or the ECtHR. It does not require an indication that the level of protection in the EU law overall has declined in comparison to the standard guaranteed previously and considered by the FCT and the ECtHR as compliant with the standards of the German Constitution and the ECHR respectively. In the Pol-

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72 Judgment of 13 March 2007, 1 BvF 1/05.
73 See X. Groussot, EU law principles in French public law: Un Accueil Reserve, “Review of European Administrative Law” No. 1/2007, pp. 14ff, as well as the opinion of the Advocate General Maduro in the case C-127/07 Arcelor [2008] ECR 9895, para. 11. Conseil d’État is not, of course, a constitutional court, but its viewpoint is relevant for the relations between EU law and constitutional law, especially considering the initial firm refusal of the Conseil d’État to recognise the precedence of EU law. The Conseil Constitutionnel adopted a similar argumentation to the one presented by the Conseil d’État in the Arcelor case, and concluded that only the European Court of Justice might examine the conformity of a directive to the EU provisions, including the fundamental rights guaranteed by virtue of Art. 6 of the TEU – Decision of 10 June 2004, 2004–496 DC and of 1 July 2004, 2004–497 DC.
ish procedure, the complainant has to present probable cause that an act of the EU law infringes the Constitution by ‘a considerable decline in the standard of protection’ as compared to the constitutional standard. In each constitutional complaint, the complainant has to present probable cause that to a certain extent the challenged act infringes the Constitution, i.e. has to substantiate the infringement of the constitutional principles by the act in question, and the complaint itself is subject to preliminary examination and may be refused adjudication on the grounds that it is ‘obviously unfounded.’ Does this condition introduced by the CT really grant special guarantees to EU law? This will depend on the practical interpretation of the condition of presenting probable cause concerning the considerable decline in protections vis-à-vis the protection guaranteed in the Constitution. If this condition is interpreted in a restrictive way – as a necessity to refute the presumption of consistency between the standards of the Constitution and the EU law and requiring the necessity to indicate in practice that the EU law as such grants a considerably lower standard of protection, then perhaps this condition will come close to the conclusions of the FCT and the ECtHR concerning their basic refusal to review constitutionality. The formulation of this condition, however, also gives grounds for adopting a different interpretation, leading basically to acceptance and adjudication by the CT of constitutional complaints based on the formal allegation of the non-conformity of EU legal acts to the Constitution.

The CT emphasised the analogy between its ruling and the standpoints of the FCT and the ECtHR and invoked numerous arguments in favour of finding comparable standards of protection, yet given the absence of a clearly formulated thesis on the existence of a comparable standard at present, it in fact left the door open for finding constitutional complaints concerning EU law admissible. It is true that the admissibility of such complaints has been limited by an additional procedural condition, but this condition has been formulated in such broad terms that it leaves the CT considerable room as to its application. Meanwhile, since the rulings of the FCT and the ECtHR, the standard of protection of the fundamental rights in the EU has been additionally confirmed in the Treaty of Lisbon by Article 6 of the TEU, including granting the Charter of Fundamental Rights the force of primary law. The status of the ECJ as an institution guaranteeing the observance of these rights has been strengthened by giving it the power to adjudicate on the conformity of acts of secondary legislation to the Charter.74 The identical character of the

74 In case C-92/09 (one of joined cases C-92/09 and C-93/09) Volker und Markus Schecke GbR v. Land Hessen [2010] ECR I-11063, the ECJ for the first time ruled some provisions of secondary legislation invalid on the grounds of their non-conformity to the Charter.
EU standard of fundamental rights and the same standard in the Constitution has also been confirmed indirectly in the CT jurisprudence concerning EU primary law (the judgment in the Accession Treaty case, and in particular in the Treaty of Lisbon case). Yet by emphasizing the common axiology of the Constitution and the EU and at the same time declining to formulate a direct thesis on the present identical character of the protection of fundamental rights, the CT appears to reserve for itself the role of ‘the court of the last word,’ not only in the future but also at present in the event it deems that the fundamental rights guaranteed in EU law acquire, especially due to ECJ jurisprudence, a content inadequate to the Polish constitutional standard. This is most probably the consequence of its thesis on the non-transferable competences creating the constitutional identity, which identity comprises, first of all, fundamental rights.

2.7. Consequences of a negative review of the constitutionality of EU secondary legislation

It is also necessary to examine the effects of a CT judgment adjudicating that an act of EU law does not conform to the Constitution. Pursuant to Article 190 of the Constitution, the effect of such a finding of non-conformity in a judgment of the CT is that the challenged provision loses its legally binding force. Taking into consideration that, with respect to acts of EU secondary legislation such a result would be impossible on an EU wide basis, as it is not the organs of the Polish state that decide whether such acts are legally binding or not, the CT stated that the consequence of a finding of non-conformity by the CT with respect to EU secondary legislation would have to be ‘ruling out the possibility that the acts of EU secondary legislation would be applied […] and would have any legal effects in the territory of the Republic of Poland.’ According to the CT, this means ‘suspending the application of the unconstitutional norms of EU law in the territory of the Republic of Poland’ (point III.2.7.).

A fundamental doubt arises whether the Constitution admits such an effect of a CT judgment. In light of the Constitutional provision stipulating that the only effect of a judgment declaring a normative act in non-conformity with the Constitution is that the act loses its binding force (Article 188 and Article 190 paragraph 3 of the Constitution), it is, to say the least, doubtful the Constitution itself permits the specially-crafted effect that the CT outlined. It should be noted that with respect to CT judgments declaring the non-confor-

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75 Reference to this standard was also made in the draft of the amendments to the Constitution, which eventually were not adopted. The draft spoke of Poland’s membership in the EU, an organisation which does not infringe fundamental rights.
mity of an international agreement to the Constitution, it is indicated that their effect is only of a declarative character, and does not result in the agreement losing its binding force. However, the CT did not recognise acts of EU secondary legislation as elements of an international agreement with respect to the requirements for adjudicating on a constitutional complaint. Therefore, as it seems, the consequence of such a judgment for EU secondary legislation must that a given provision loses its binding force, but of course only on the territory of Poland. The CT also has the option of deferring the date on which the provision is to lose its binding force for twelvemonths (Article 190 paragraph 3 of the Constitution), and such deferral is required, according to the CT, by the constitutional principle of friendly disposition towards European integration and the principle of loyalty. The deferral, however, may only refer to the loss of binding force by the normative act in question (Article 190 paragraph 3 of the Constitution), and not to the declarative adjudication on the non-conformity to the Constitution itself, which confirms the fact that a CT judgment finding an act of EU secondary legislation in non-conformity to the Constitution will have the effect of the act in question losing its binding force (with the option of deferring this loss). It would thus be necessary, during the deferral period, to undertake actions to eliminate the inconsistency, i.e. measures aimed at either amending the EU law or the Constitution. The CT seems to realise that a judgment by the Court which gives grounds for depriving an act of secondary legislation of its legally binding force in the territory of Poland would constitute an infringement of Poland’s obligations under the Treaties and result in initiating proceedings under Article 258 TFEU, and thus considers any finding of non-conformity of the EU law with the Constitution to constitute an *ultima ratio* ruling.

Considering the reference the CT made, within its line of argumentation, to its ruling in the EAW case, which resulted in amending the Constitution, a constitutional complaint filed against EU secondary legislation may in certain cases contribute to the review of the conformity of the Constitution to EU law rather than the other way around, and result in adjusting the constitutional standard to the EU standard.

**Conclusions**

In its judgment of 16 November 2011 in case SK 45/09, the CT called itself ‘*the court of the last word*.’ This self-determination characterises well the whole hitherto delivered line of jurisprudence of the Tribunal in European matters. In spite of the persevering doubts as to the scope of its jurisdiction at the juncture between EU and Polish law, eventually the CT has always
come to confirm its competence to review the conformity of the challenged EU law provisions to the Constitution. This pertains not only to the EU founding Treaties or the Amending and Accession Treaties, but even to the Final Act to the Treaty of Accession to the European Union 2003 and to the decisions of the European Council issued using the simplified procedures of amending the Treaties. The CT also considers itself competent to examine the conformity of EU secondary legislation to the Constitution, by way of a constitutional complaint, insofar as the norms of such legislation infringe on constitutional freedoms or rights of individuals. It has not been determined yet whether the review of EU secondary legislation by the CT is possible by virtue of questions referred to it by Polish courts.

The above-described approach of the CT to the question of its jurisdiction seems to be motivated, first of all, by the CT’s understanding of the principle of the primacy of the Constitution as the supreme law in the Republic of Poland. The CT seems to perceive this principle in a conservative way. There is an impression that the CT is somehow unwilling to recognise the full consequences, in the constitutional sphere, of Poland’s accession to the EU as well as of the recent changes within the EU itself, including, first of all, the changes in the field of protection of fundamental rights (i.e. the legally binding status of the Charter of Fundamental Rights and the intended accession to the European Convention on Human Rights). Although the CT will always remain the guardian of the Constitution, its primacy does not necessarily have to lead to the inclusion of EU secondary law within the scope of its constitutionality review. As far as the application of EU law is concerned, constitutional freedoms and rights of individuals are at present fully protected, including at the level of the EU. Although the CT indicated that the Charter of Fundamental Rights, the European Convention on Human Rights, as well as Member States’ constitutional traditions set a high standard of human rights protection in the EU, and also that there is ‘a common axiology’ in this respect between the Polish and the EU norms, the CT refrained from stating clearly that the level of protection of such rights and freedoms in EU law corresponds, in principle, to the Polish constitutional standard of protection thereof.

We should not, however, forget about certain limitations regarding the scope of review of EU law review that were self-imposed by the CT. They refer, first of all, to the principle of friendly disposition towards the process of the European integration and cooperation between Member States, derived by the CT from the provisions of the Constitution. From these stem the postulate of a pro-EU interpretation, the presumption of constitutionality of EU primary and secondary legislative acts, and also the postulate of maintaining caution and restraint when examining the conformity of these acts to the Con-
stitution. A declaration of non-conformity to the Constitution of an EU norm is perceived by the CT as an *ultima ratio* solution, which should be applied only in extraordinary situations.

The CT also seems relatively open to dialogue with the European Court of Justice. It mentions the possibility that, in the future, it might refer questions to the ECJ for a preliminary ruling, concerning both the interpretation of EU law and the validity of acts of secondary legislation, limiting, however, this possibility (at least *explicité*) to situations involving adjudication of the non-conformity of an act of secondary legislation to the Constitution. While admitting the possibility of reviewing EU secondary law by way of constitutional complaint, the CT strives to introduce certain procedural limitations. It imposes upon the complainant the obligation of presenting probable cause that the challenged act considerably lowers the level of protection of rights and freedoms in comparison to the constitutional standard. Failure to present probable cause will result in a refusal by the CT to proceed with the complaint. All these efforts on the part of the CT, which are aimed at ensuring that Poland observes its legal obligations resulting from the Treaties and limiting the area of potential conflict of jurisdictions between the CT and the ECJ, are certainly worthy of praise. Yet the key question is how, in the future, these generally defined requirements will be implemented in practice by the CT – to what extent will the Polish Constitutional Tribunal, having marked out very broadly its jurisdiction in the matter of the EU acts, decide to implement the aforementioned limitations and to engage in dialogue with the ECJ? At present it is difficult to predict the direction of the CT’s future jurisprudence in this respect.
POLICY DOCUMENTS
Mr President, honourable Members,
six months have passed since we met at the beginning of the Polish Presidency. On that occasion, I gave an assurance of the great importance which Poles attach, and which I personally attach, to the idea of a united Europe. I declared our attachment to the European Union, conscious of the fact that we were assuming the Presidency during a profound crisis. Not just a financial crisis, but – as we could already see then – also a crisis of confidence; while today, and I think we ought to say this unequivocally, it is perhaps also a crisis affecting our politics and the way we are governed.

Despite the fact that we were making our debut in the role of the Presidency, and perhaps precisely because of this, ours has been a Presidency of people determined to carry out their European assignment as well as we can. It is not just goodwill that we have invested in this Presidency, but also the efforts and the abilities of the hundreds of young Poles who have worked here in Strasbourg, in Brussels, in Warsaw and in many other places across Europe, and we have taken up the tasks – mindful of our limitations – which are the routine duty of every Presidency, including work on legislative matters. I will not give a list of everything we have done over these last six months.

I have heard many warm words in the last few days about our commitment and the effectiveness of our work. This may not sound very modest, but I do think the Poles have earned this praise, and they have done so precisely because it was with a belief in the reason for having a united Europe that they took on the challenges which fell to the Polish Presidency. Whether this was work on the ‘six-pack’, the accession of Croatia, the Eastern Partnership, energy security or other legislation, such as the single European patent, in all
of these areas we have managed to achieve what we undertook to do and to complete our work. It was mainly because the Polish Presidency has been led by people who really do treat Europe seriously as a community and who – in spite of the crisis, or perhaps I should put that the other way round, precisely because we have been hit by the crisis, including the crisis of confidence – wanted to show that the responsibilities which rest with Europeans at such a time mean their commitment should be even more clear and unwavering.

I want to say that I would like to turn this review into a serious reflection in a political sense, a reflection which is the fruit of these six months of experience of the Polish Presidency, but I am sure that you, too, have reached similar conclusions and have a similar need to talk frankly about what is happening in Europe at the moment. This is because in spite of my satisfaction with the work which has been accomplished, I cannot say that Europe at the end of 2011 is a Europe which is more united than it was six months, a year or five years ago. Today, at the close of the Polish Presidency, I cannot say we have succeeded together in averting what may, in fact, be the most serious crisis to have afflicted our continent in the history of the united Europe. In fact, I would say quite the contrary. Today, we have to say very openly that we are at a parting of the ways. We face a very serious choice: during this crisis, and in looking for ways and means to exit the crisis, should we take the Community approach, and are we going to search for a European way to lift ourselves out of the crisis, or should we take the route of national and state egoism, looking selfishly for a way out on our own and considering the Union to be a burden rather than the best way for Europeans to overcome the crisis?

I want to remind you that the real source of the crisis, the financial crisis, was not the EU institutions. It was not in the European Parliament, the European Commission or other EU institutions that the crisis was born. European integration is not the source of the financial crisis, and so it is not the source of the political crisis either. These six months have shown with full force that it is exactly the opposite – that the crisis is feeding and growing fat on the threat of the Union falling apart, and that if today we cannot say we have succeeded in managing the crisis, it is because when responding to the crisis, Europe has not always acted as a community.

Why are we also talking about a political crisis today? It is because too many people in Europe, too many politicians in Europe, want to persuade us and to persuade Europe that the way out of the crisis is to abandon our work together as a community. I would like to say, however, that in my opinion, and in that of the Polish Presidency, this is a symptom of a kind of illness. The current crisis is undermining the sense of community. If we are hearing opinions in Europe today about how we need to reconsider the bases and the
foundations of the Union, this is very clearly a symptom that the crisis exists not just in our banks, but also in our hearts. The last European Council meeting showed very clearly that some of us are searching for tools not only to rescue the euro, but also, in the long term, to strengthen the Union, but that there are others who think that the way to rescue the euro or the financial situation of the Member States and the institutions is a relaxation of the Union, and its eventual destruction. I am not accusing anyone, because these are points of view which are equally entitled to exist. We are all entitled to have our own vision for the future of Europe, but we cannot hide the fact that today, somewhere beneath the surface, there is in fact now a debate going on not about the future of the euro, but about the future of the Union.

At the last European Council meeting, we made decisions which are only a first step. Both in Brussels and in my own country, I have tried to persuade everyone that if we are not fully satisfied with this summit, it is because we have only taken a single step, and that we still continue to lack the single-minded determination necessary to take the next steps quickly and decisively acting as the Union and for the Union. When I hear some of the comments which are being made – they are, I am sure, being made in good faith, I am not accusing anyone of ill will – but when I hear comments full of satisfaction that Great Britain has become an island again and that the English Channel has suddenly become wider in comparison to several weeks ago, I have to say frankly that I do not understand this satisfaction.

We may not accept the decisions of politicians of one or another country, but we must not make a public display of delight that the distance between the Member States is growing before our eyes – in this case, the distance between the United Kingdom and the European Union. However, I would also like to say that other comments have also been made, such as that one capital has won against other capitals. We know that Europe, not only during the current crisis, but also for the future, needs strong political leadership. At the last European Council meeting, and over the last six months, I have witnessed this great European dispute, which has not yet been given a specific title: is the political leadership of Europe going to be the result of cut-throat competition between nation-states, and is the result of this competition going to be the domination of one, two or three capitals over the others, or, on the contrary, is the political leadership of Europe going to be the leadership of the Union and is it going to be working for the good of the whole Union? It is very important that we should be able to sum up each further meeting with the conviction that the Union has won against egoism, and not that someone has won against someone else in a disintegrating Union.

I would also like to say after these six months that Europe needs to examine its conscience together. We must not point the finger today and say: ‘there is
the source of the crisis’ or ‘oh, it is that poor country in the south which has made problems for all the rest of us’. We also need a shared responsibility for the future. Northern Europe, which boasts about its discipline, must also come to a better understanding of the need for solidarity. Southern Europe must also understand that shared responsibility also means more discipline. We also have to say very clearly that the source of the crisis, not only the financial crisis, but also the political crisis, is to be found in breaches of our mutual obligations, including those which result from the Treaties, and that these breaches are not a question of the last few months. We should all examine our consciences. Each one of us should think about when we started to violate what had been agreed under the Maastricht Treaty. Each of us should think about whether we are really ready to uphold the Schengen arrangements.

We who are supporters of a truly integrated European Union have to say very clearly today that we need greater determination to protect the foundations of Europe, and not constant discussion of revision of these foundations. Therefore, I would like to conclude the Polish Presidency with an appeal to all the leaders of Europe without exception to undertake this effort to strengthen the Union, starting with themselves, and not to look for a way to break up, exclude or divide Europe. So today, let us say this yet again: we are for integration and against disintegration.

We are against divisions into better and worse, and we want to see increasing political unity in Europe. We are for responsibility, shared responsibility, in the face of selfish irresponsibility. We are against exclusions, because the Union must also be based on solidarity at times when some of us are in a worse situation and others are in a better situation. We need genuine political leadership, because Europe deserves prompt decisions – decisions about the immediate financial crisis, but also about the future. The crisis has proved to be a great test of the EU’s fitness. We have to start a serious debate about greater political fitness for Europe. Other crises and other conflicts will arise in the future. This crisis has shown us – and it is indeed a good thing that this has happened – that the European Union does not always react quickly, because there is a lack of trust – so fundamental a factor – in the institutions we have established. We cannot allow this leadership to be a leadership of one, two or three Member States, not even the strongest of them. Neither can it be a leadership of technocrats, because they do not have a democratic mandate. This leadership has to be political in nature, it has to have a democratic mandate, and it has to be accepted by all, in order to be able to force everyone to meet their responsibilities. It has to be a leadership based on the European institutions.

I would like to say that just as we need swift decisions in the next few hours, days and weeks to rescue the euro and stabilise the euro area, we also
need honest and intensive discussion about a new political system for Europe. Not everyone accepts the EU order and we must not pretend any longer – today we do not know how to enforce the rules which we ourselves once set. Today, when it is convenient for us, we evade the responsibilities which the Treaties lay on us. So let us be honest with ourselves: we need a very profound and serious debate about a political system for Europe which will give us EU-based leadership. Therefore, the motto of our Presidency, ‘More Europe in Europe’, does, in fact, also have a political aspect. I think that the European Parliament is exactly the right place for this, and you should not allow anyone to deprive it of this clear historic and political mandate. This is the place that should become Europe’s constituent assembly. Nothing will be the same as it was before the crisis.

The status quo from before the crisis is out of the question. It is certain that Europe will be different after the crisis. The question is only will it be divided or will it be more integrated? It certainly will not be the same. It is you who have the democratic mandate and you, I think, should take on this great responsibility, this great challenge, and therefore the European Parliament should become the modern constituent assembly for this re-emerging Europe – because another Europe, a new Europe, is emerging as we watch. Let us do everything for it to become a united Europe, not a divided Europe.

This profound reflection must not be window dressing, as has been the case in the past. We have had groups of ‘Wise Men’, we have had task groups and committees. Everyone knew this reflection had to be carried out to prepare for the future, but the framework of a new political order has never come into being, and the crisis has made this fully and very forcibly clear. It is not a matter of thousands and tens of thousands of new pieces of legislation; it is about restoring the balance between what belongs to the realm of the Member States and what belongs to that of the Union, and of rebuilding trust based on a number of clear rules – rules which we all accept and which we are able to enforce in the case of those who want to break them. This is a crucial task, and I think it also falls to the European Parliament as the modern constituent assembly which is building the framework of a new political order. It is not a matter of frightening each other – the crisis is frightening people enough already – but if we do not succeed in this task, future generations will curse not only the crisis, but us too. Either today we take up the struggle for the Europe of the future, or tomorrow we grieve for the Europe we have now.

Thank you.
Trio Presidency Declaration  
Poland, Denmark and Cyprus  
Cracow, 21 October 2011

Whereas

- Equality between women and men is a fundamental value of the European Union enshrined in the Treaties and is one of the objectives and tasks of the European Union, and mainstreaming the principle of equality between women and men in all its activities represents a general aim for the Union.
- Ensuring equal opportunities in practice is an urgent priority in a broad range of policy areas. Gender equality needs to be part of horizontal strategies as well targeted policies in specific areas. Also, it is a prerequisite for ensuring growth, prosperity and welfare; in particular, gender equality is a prerequisite for meeting the headline targets of the Europe 2020 Strategy, especially in the field of employment.
- There is a need to ensure that both women and men can make full use of their abilities and qualifications, in order for gender equality to become a win-win situation for all.
- The European Union cannot afford to waste its human capital. Too many women and men are still denied the chance to realise their full potential and face barriers and difficulties in their work life and in the educational system.
- There is a need to think innovatively if Europe is to compete successfully on the global stage. The contribution of all European women and men is needed, regardless of their racial or ethnic origin, religion or belief, age or sexual orientation, and whether or not they have a disability.

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1 The Member States holding the Presidency during the 18-month period from July 2011 to December 2012, hereby present this joint declaration at the informal meeting of the Ministers for Gender Equality and Family Affairs on 21.10.2011 in Cracow.
• It is necessary to make further progress on gender equality, including by ensuring equal access to the labour market, equal pay and quality jobs for all, as well as by encouraging boys and men to enter and remain in education. Efforts are needed to break down gender stereotypes that lead to horizontal and vertical segregation. Encouraging both women and men to participate fully in the sharing of domestic responsibilities will also help families to reconcile work and private life, which will raise the birth rate and thus contribute to meeting the demographic challenges.

Recalling

• The Commission’s Strategy for equality between women and men 2010-2015, which suggests a wide range of activities to promote gender equality in regard to equal economic independence; equal pay for equal work and work of equal value; equality in decision-making; dignity, integrity and an end to gender-based violence; and gender equality in external relations; and which highlights horizontal issues such as the importance of gender mainstreaming as a working method and the role of men in the promotion of gender quality.

• The European Pact for Gender Equality (2011-2020) in which the Council acknowledged that ‘equality between women and men is a fundamental value of the European Union and that gender equality policies are vital to economic growth, prosperity and competitiveness’. The Council also stated that five years after the adoption of the first European Pact for Gender Equality, a new impetus is needed, particularly in order to reaffirm and support the close link between the Commission’s Strategy for equality between women and men 2010-2015 and the Europe 2020 Strategy.

• The Beijing declaration and Platform for Action and the twelve critical areas of concern identified therein.

Stressing that

• A gender perspective is needed in the Europe 2020 Strategy. Women represent 60% of university graduates; however they are not yet able to make a corresponding contribution in the labour market. Smart growth needs to be based on the contribution by both women and men. The ambitious headline target of aiming to raise to 75% the employment rate of women and men aged 20-64 cannot be reached without significantly boosting women’s participation in the labour market.
Allowing women to fulfil their potential is also a prerequisite for strengthening competitiveness and social cohesion, including in the context of the Europe 2020 Strategy. Over the last decade, studies have shown the positive impact of gender equality on economic development. Gender equality can be a productive factor and female participation in the labour market is beneficial both for economic and social development. Indeed, studies suggest that, if the labour market participation of women equalled that of men, economic growth would be boosted, increasing GNP by as much as 27%.

It is crucial to promote innovative work-life balance policies in order to facilitate the reconciliation of work and family life for both women and men and to reduce labour market segmentation. In line with the Commission’s Annual Growth Survey and Joint Employment Report adopted in January 2011, a number of issues require immediate attention at EU and national level, including the lack of care services for children and other dependants; the unequal sharing of child care responsibilities and domestic chores between women and men; and the need for flexible working arrangements for those returning from parental leave.

The Trio Presidency:

Underlines

- That the strong correlation between gender equality and economic competitiveness should be brought to the attention of policymakers, the social partners, the EU institutions, decision-makers and civil society organisations, with a view to helping them to incorporate gender equality into their local, regional, national and EU priorities.
- The need to pursue a dual approach: gender mainstreaming by integrating the gender perspective into all policy areas, combined with specific measures.
- The need to ensure the effective dissemination of information relating to the rights and responsibilities of employers and employees in matters concerning gender equality.

Emphasises the need to ensure progress in the following areas

- Tackling educational choices predetermined by gender, combating gender stereotypes and reaping the benefits of increased gender diversity in all spheres of life. In the European Union, education and career
choices are still unduly influenced by gender stereotypes. Although women generally have attained high levels of education, they still face a gender-segregated labour market and barriers on the way to management positions. In Europe today, women represent only 30 percent of all scientists. Although men still have a higher employment rate, they are largely confined to traditional male jobs. Boys face difficulties within the school system; indeed, across Europe, an increasing number of boys are dropping out of the education system altogether. In order to utilise the full potential of both women and men, there is a need for further awareness-raising and for action to combat stereotypes in education, the media and public life. In order to ensure equal opportunities for men in the education system it is essential to promote targeted policies and programs as well as the exchange good practice. Gender sensitive goals for education should be set, in order to ensure that the gender dimension and equality of opportunity in all areas of life are emphasised as part of the school curriculum, since gender equality is a principle that needs to be implemented from an early age. Increased gender diversity will also help to create a more flexible and competitive labour market.

- The need to ensure equality at all levels of decision-making. It is necessary to increase the number of women in top management and public life, including in order to reflect the increased complexity and diversity of the global economy.
- Promoting work-life balance in order to allow both women and men to participate in the labour market. A better sharing of care responsibilities, including through concrete measures to promote the reconciliation of work, family and private life, will give women a better chance to participate in the labour market; this is necessary if Europe is to reach the goal of a 75% employment rate for both women and men, which in turn will contribute to economic growth and social progress. Encouraging more fathers to make full use of paternity and parental leave will allow women to better balance their work, family and private life, and will help to challenge the misconception that having children is women’s responsibility alone.
- Including a gender perspective when addressing the demographic challenges in the EU. The European population is ageing and this will affect women and men differently, including within health and security systems. A gender perspective should hence be applied when addressing the demographic challenges in the EU.
Activities to be carried out during the Polish, Danish and Cyprus Presidencies

The Trio Presidency will encourage discussion and ensure the exchange of good practice in the above-described areas.

New knowledge and new indicators for monitoring progress will be presented at the EU level, and political discussions on the way forward will take place in all appropriate fora, including the EPSCO Council.

Poland

- As part of the follow-up to the Beijing Platform for Action, Poland has taken up the critical area ‘Women and the economy’, with a specific focus on gender equality and the reconciliation of work and family life. A background report on the situation in the Member States prepared by the European Institute for Gender Equality based on existing EU indicators has been presented and a set of Conclusions will be adopted by the EPSCO Council on 1 December 2011.
- To ensure the continued cooperation between the Member States and the Commission, Poland hosted a meeting of the High Level Group on Gender Mainstreaming on 5–6 September 2011 in Warsaw.
- To enrich EU discussion on gender equality, during the Third European Congress of Women on 17–18 September 2011 in Warsaw, a special EU Ministerial Round Table on ‘Women in the labour market’ was organised. The discussion focused on the reconciliation of work and family life for women and men, closing the gender pay gap and increasing the number of women in decision-making positions, including company boards.
- At an Informal Meeting that took place on 21 October 2011 in Cracow, Ministers for Gender Equality and Family Affairs held a political discussion on the issue of reconciliation policy. An expert conference was organised in parallel on 20–21 October, which focused on ‘Mechanisms for reconciling work and family life for women and men as a chance to actively participate in the labour market’.
- The Equality Summit will be held in Poznań on 14–15 November 2011. Strong support for the European campaign against domestic violence will be given at the Conference: ‘I love, I do not hit – Europe without domestic violence’ in December 2011 in Warsaw.
Denmark

- Gender segregation within education presents a challenge for many countries. Too often, girls and boys are unable to choose their education freely, based on their competences, interests or talents, as they are under pressure to meet outdated gender-based expectations. Best practices on how to widen the choices available to each girl and boy will be developed during the Danish Presidency and shared with partners.

- Specifically: women often shy away from science, technology, engineering and mathematics (STEM), disciplines which are the basis for the skills of the future, as we seek to make our economies greener and more sustainable. In order to design more targeted and diverse policies on climate change and the green economy, there is a need to recruit more women into the sector. The Danish Presidency will facilitate political discussions on future EU measures and priorities. In addition, the question of how to increase the number of women in green jobs will be addressed through concrete examples and the exchange of good practice at seminars and conferences.

- As part of the follow-up to the Beijing Platform for Action, Denmark will take up the critical area ‘Women and the environment,’ with a specific focus on gender equality and climate change. A report on the situation in the EU Member States will be prepared and indicators will be presented in a set of Conclusions to be adopted by the EPSCO Council.

- In close cooperation with the European External Action Service, the Danish Presidency will ensure a strong EU commitment at the 56th Session of the UN Commission on the Status of Women.

- To ensure the continued cooperation between the Member States and the Commission, Denmark will host a meeting of the High Level Group on Gender Mainstreaming on 26-27 January 2012.

Cyprus

- As part of the follow-up to the Beijing Platform for Action, Cyprus will take up the critical area ‘Violence against Women’, with a specific focus on victim support. The report on the situation in the Member States and the review of the existing EU indicators will be presented as part of a set of Conclusions to be adopted by the EPSCO Council.
• To ensure the continued cooperation between the Member States and the Commission, Cyprus will host a meeting of the High Level Group on Gender Mainstreaming in Nicosia, in September 2012.
• A Conference on Violence Against Women, aiming at the review of progress at the EU level and the exchange of good practice between the Member States in this field, will be organised in Nicosia, in November 2012, with the participation of all stakeholders.
• A tripartite Conference will be organised for the exchange of good practice with respect to reducing the gender pay gap. Governmental officials, trade unions and employer organisations will be participating. ‘Challenging gender stereotypes in occupations by eliminating segregation’ will be the thematic priority of the Conference.

Mdm Jolanta Fedak  Mr Manu Sareen  Mr Loucas Louca
Minister of Labour and Social Policy  Minister of Gender Equality and Ecclesiastical Affairs  Minister of Justice and Public Order
Poland  Denmark  Cyprus
Declaration of Cooperation among
the Houses of the Parliaments of Poland,
Denmark and Cyprus in connection with
the Preparation and Accomplishment
of the Parliamentary Dimension of the Presidencies
of the three European Union Member States
1st July 2011 – 31st December 2012
Stockholm, 15 May 2010

Taking into consideration:
− the active role of national parliaments in contributing to the correct functioning of the European Union,
− the significance of the Presidency of the European Union, the potential and challenges it presents for each of the EU Member States,
− the Houses of the Parliaments of Poland, Denmark and Cyprus declare their resolve to cooperate and to give mutual support to one another during the preparation and accomplishment of the Presidency of the European Union, falling on the period of 18 months, starting 1st July 2011 through 31st December 2012.

Referring to the principle of respect for the autonomy of each parliament involved in interparliamentary cooperation, the Houses pledge:
− mutual support during the preparation and accomplishment of the parliamentary dimension of the Presidency, at the level of the speakers of the Parliaments of the Trio, committees of European Union affairs and other parliamentary agencies if it is essential for the implementation of the Presidency’s programme;
− to exchange information on programmes, subjects and formula of the meetings to be held during the Presidency;
− to coordinate their cooperation within the European Parliament on the questions connected with the accomplishment of the parliamentary
dimension, taking into consideration the systems of exercising Presidency over the Conference of Speakers of European Union Parliaments and the COSAC Conference of Community and European Affairs Committees.

The accomplishment of this Declaration provides for:

- working meetings of representatives of the Houses and/or meetings organised on the occasion of EU interparliamentary meetings aimed at discussing current issues connected with the accomplishment of the Presidency’s parliamentary dimension;
- working meetings of representatives of the Houses’ administrations in order to consult one another, exchange best practices and prepare political-level meetings;
- closer cooperation among representatives of national parliaments in Brussels;
- a possibility to establish standing working teams on political and/or administrative level.

The Secretaries General of the Parliaments of the Trio Member States will take all the necessary measures to implement the provisions of this Declaration.

Signed in Stockholm on 15th May 2010 in four identical copies.

Bronisław KOMOROWSKI
Marshal of the Sejm

Bogdan BORUSEWICZ
Marshal of the Senate

Thor PEDERSEN
President of the Danish Parliament

Marios GAROYIAN
President of the House of Representatives
1. Legislative dossiers

1.1 Overview

(...) 

1.2 Progress report

1.2.1 Legislative dossier – COM(2010)249 (‘Permanent Crops’)


(...) 

Summary:

The aim of this proposal is to update and simplify the existing legal framework for European statistics on permanent crops by replacing the existing two legal acts by a single one. The objective of the Regulation is also meeting the policy needs for a high quality data concerning the field of agriculture.

The Commission adopted the proposal on 21 May 2010 and sent it to the Council and the European Parliament.

The issue was discussed by Council Working Party on Statistics six times – two times during the Belgian Presidency and four times (plus two oral information) during the Hungarian Presidency.

On 29 June 2011 the Hungarian Presidency sent the compromise text on the Proposal for a Regulation of the European Parliament and of the Council
concerning European statistics on permanent crops to the Special Committee on Agriculture. The file was deeply discussed in CWSP and on that stage approved by the majority of Member States.

The Polish Presidency took over the work on the dossier. In order to confirm its mandate for the negotiation with the European Parliament, the Presidency launched written consultation procedure among the Member States. As a result some of them, after carefully analyzing the arguments supporting the compromise text, withdrew the reservations they presented earlier. In the written consultation, almost all Member States approved the compromise text.

The informal trilogue with the European Parliament was held on 21 September 2011. As a result a compromise was achieved between three parties: European Parliament, Council and Commission. In comparison with the original Presidency compromise text the following changes were introduced:

- the wording of one Article was simplified, without any substantive changes,
- the date for asking for derogation was extended,
- the date of entry into force was changed.

Information on trilogue results with the final compromise text attached, was sent to Member States for information.

Afterwards, the draft Regulation was approved by Special Committee on Agriculture (SCA) on 3 October 2011. The EP AGRI Committee accepted results of the trilogue on 6 October 2011. European Parliament plenary vote took place on 15 November 2011 (610 votes – in favour, 15 – against and 10 – abstentions).

On 1 December 2011 the Proposal for a Regulation of the European Parliament and of the Council concerning European statistics on permanent crops was adopted by Council after Parliament’s 1st reading approval.

1.2.2 Legislative dossier – COM(2010)505 (‘Road transport’)


(...)

Summary:

The recast of the Regulation on statistical returns in respect of the carriage of goods by road was initiated by the Commission in order to meet the requirements set out in Article 290 of the Treaty on the Functioning of the European Union (TFEU), where the legislator may delegate to the Commission the power to adopt non-legislative acts to supplement or amend certain non-essential elements of a legislative act.
The file on Road Transport was on the agenda of CWPS meetings four times. The discussion on the proposal for a Regulation was initiated by the Belgian Presidency (one meeting), continued by the Hungarian Presidency (two meetings plus two oral information concerning this issue), and finalised by Polish Presidency (one CWPS meeting).

The Polish Presidency took over the work on the Proposal and held an informal trilogue on 13 July, during which the Presidency compromise and EP amendments were discussed. The agreement was achieved in a majority of cases, however two issues still remained open:

- powers delegated upon the Commission as regards Annex I which, as many Member States expressed, were too wide,
- proposal of the European Parliament to add 2 new variables (euro-class of the vehicles and vehicles equipped with digital tachograph) which was also not supported by the Member States.

After numerous opinions exchanged with the Commission, the Polish Presidency provided Member States with the new Presidency compromise solution, which tried to solve the issues that resulted from the July trilogue.

The Presidency compromise text which reflected proposed solution was sent to Member States. It was discussed at the CWPS meeting on 20 September. The Presidency achieved approval of Member States on the new compromise solution and obtained the mandate for further negotiations with EP. The agreement with European Parliament was confirmed by exchange of official notes thus second trilogue was not necessary.

The draft Regulation was approved by the COREPER on 28.10.2011. The European Parliament TRAN Committee vote on the dossier took place on 22 November.

The European Parliament voted in favour of the proposal on 1 December (607 votes – in favour, 15 – against, 9 – abstentions) and after the 7 December COREPER meeting, the Council of 12 December 2011 has adopted the Regulation.

1.2.3 Legislative dossier – COM(2010)774 (‘ESA 2010’)


(...)

Summary:

The aim of this proposal is to revise ESA 95 in order to bring national accounts in the European Union, in line with new economic environment, advances in methodological research and to meet the needs of users. The
revised ESA will allow for the production of the high quality national accounts data required to support the implementation of major EU policies.

The dossier was on the agenda of the Council Working Party on Statistics four times during Hungarian Presidency and six times during Polish Presidency. The issue will be continued by the forthcoming presidencies. It has been discussed according to the following roadmap:

- methodology (Annex A),
- data transmission programme (Annex B),
- legal text (will be discussed by Danish Presidency).

Still during the Hungarian Presidency, in cooperation with the next Polish Presidency and European Commission (Eurostat), two templates on general opinions and for derogation requests were sent to the Member States.

Poland took over the file concerning the Proposal for a Regulation on the European System of National and Regional Accounts and according to the Trio programme, prepared jointly by the three Presidencies: Poland, Denmark and Cyprus, considers ESA file as one of its main priorities during the Presidency period.

During CWPS meetings held under Polish Presidency the following ESA issues were discussed:

- 12 July CWPS – discussion was focused on corrections to the Annex A – Methodology based on ECB opinion. Then the results of two templates filled in by Member States, aimed at gathering opinions on the Annex B – Transmission Program were presented. The debate was focused on the scope of table 1 (quarterly and annual).
- 20 September CWPS – compromise proposals for the tables 1, 3 and 5 of ESA 2010 Transmission Programme were the main topic of this CWPS meeting.
- 11 October CWPS – the discussion on tables 1, 3 and 5 was continued and eventually the compromise concerning those tables was achieved (except for footnote 7 in table 1). Apart from that proposals of the Presidency as regards modifications in tables 8 and 801 were presented and thoroughly discussed.
- 3 November CWPS – discussion on tables 8 and 801 of ESA 2010 Transmission Programme was continued. As a result the scope of both tables was accepted (except for the issue of public corporations that remained open in table 8). Moreover first Presidency proposals for tables 2, 9, 11, 27, 28, 20, 22 and 26 were discussed and in the course of negotiations tables 2, 9, 11, 22 i 28 were agreed. It was also decided that tables 20 and 27 should be modified according to Member States opinions presented during the meeting. The discussion on table 26 was postponed after Eurostat National Accounts
Working Group (NAWG) meeting that took place on 29-30 November.

- 23 November CWPS – during the meeting the discussion on ESA file was focused on two issues: Annex A – Methodology and Annex B Transmission Programme. The revised version of Annex A chapters was discussed and majority of them was accepted, except for five chapters (3, 7, 11, 17 and 19). Discussion on tables 20 and 27 was continued and eventually the compromise concerning those tables was achieved. Apart from that Presidency proposals as regards tables 15, 16, 17, 6, 7 and 29 were presented and thoroughly discussed. The scope of tables 15 and 17 was generally accepted by Member States. It was also decided that tables 16, 6, 7 and 29 need to be revised according to the outcome of the discussion. Tables 6 and 7 were agreed in the written procedure after the meeting, however requirements for public corporations in those tables will remain an open issue (as in case of table 8).

- 15 December CWPS – during the last Working Party meeting chaired by Polish Presidency the remaining tables of Annex B Transmission Programme were discussed. It was also confirmed that Member States have no further remarks to the revised versions of five chapters of Annex A (3, 7, 11, 17 and 19), which were sent to Member States prior to the meeting. Member States granted their acceptance to the modified versions of the tables 1, 26 (both were discussed during NAWG – table 1 requires minor editorial changes) and 29 (in which technical improvement will be made). As regards table 26 it was decided to come back to original approach and present data in current prices. As a result of the discussion on tables 15, 16 and 17 it was agreed that for the reason of clarity and consistency, the tables will be revised. After including agreed changes the tables will be sent to Member States for their acceptance in written procedure. Apart from the above the first compromise proposals of tables 10, 12 and 13 were discussed among Member States and in a result tables 12 and 13 were accepted with no changes to the Commission proposal. The agreement was also reached on table 10, which will be amended according to the discussion that taken place and sent to the Member States for their final acceptance.

Up to now, during the Working Party on Statistics meetings, the Polish Presidency managed to finalise the discussion and gain Member States acceptance to all chapters of Annex A Methodology. Moreover the scope of all tables of Annex B of ESA Transmission Programme was debated and generally agreed. After last CWPS meeting the Member States will receive the modified versions of tables 10, 15, 16 and 17 for their acceptance in written procedure. Public corporations issue (tables 6, 7 and 8) remain open. Foot-
Note 1) in table 28 has to be analyzed taking into account consistency with EDP requirements. ECB comments have been discussed and reflected in both annexes when supported by majority of Member States.

Furthermore the joint Polish and Danish hearing concerning legal text of Proposal for a Regulation of the European Parliament and of the Council on the European system of national and regional accounts in the European Union was launched. Delegations were invited to express their opinions by 21 December 2011. Comments obtained in the hearing will be circulated to all delegations.

The ESA file will be continued by the upcoming Danish Presidency.

1.2.4 Legislative dossier – COM(2011)335 (‘Safety from crime’)


(...)

Summary:
The aim of this Regulation is to implement a one-off households’ survey in the EU, covering safety from crime issues. It would make available information on the prevalence of specific types of crime (victimisation rates) and on other aspects relating to citizens’ feelings of security which would be possible to compare between Member States.

The Proposal for a Regulation of the European Parliament and of the Council on European statistics on safety from crime was introduced to the Council Working Party on Statistics agenda by the Polish Presidency and was discussed during five meetings:

- 12 July CWPS – general discussion among Member States was held. Presidency committed itself to distribute a template for gathering detailed opinions of Member States on the proposed Regulation.
- 20 September CWPS – on the basis of the template a summary document containing issues arisen from Member States remarks was prepared for the meeting and sent to the delegations. It was the starting point for discussion of the Regulation article by article. During September meeting articles 1-7 were discussed and generally accepted.
- 11 October CWPS – the discussion on SASU Regulation was continued and eventually completed – recitals, articles and both annexes were discussed. However some issues still remained open, and further progress was dependent on the outcome of the Task Force that took place on 27-28 October.
- 23 November CWPS – Presidency presented to Member States first compromise text concerning SASU survey. The compromise text,
including Task Force recommendations and legal – linguistic comments, was discussed and as a result the majority of provisions were accepted. Apart from that, the European Data Protection Supervisor presented to the delegations the issue of sensitiveness of the data to be processed, and the Commission gave a presentation on the outcome of the Task Force meeting that took place on 27-28 October.

- 15 December CWPS – revised Presidency compromise text was discussed. The remarks presented by European Data Protection Supervisor and Council Legal Service were taken into consideration. It was agreed that slight modifications in some articles will be required. Still during Polish Presidency the third compromise text will be prepared and sent to Member States. Eurostat gave a presentation concerning the financial issues of the Regulation. As a result the Member States accepted the article. 11 of the Regulation. Five Member States sustained their general reservation to the SASU Regulation. Presidency appealed to reconsider their stance taking into account the compromise that was elaborated during 5 CWPS meetings. The Commission has raised the reservation as regards amendment made in art. 12(2) concerning comitology procedure.

Proposal for a Regulation of the European Parliament and of the Council on European statistics on safety from crime dossier will be continued by the Danish Presidency.

2. CWPS meetings during Polish Presidency

During Polish Presidency six Council Working Party on Statistics meetings took place in Brussels on the following dates:

<table>
<thead>
<tr>
<th>Date</th>
<th>Day</th>
<th>Topics on the agenda</th>
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<tbody>
<tr>
<td>12 July</td>
<td>Tuesday</td>
<td>European statistics on safety from crime</td>
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<td></td>
<td></td>
<td>European system of national and regional accounts</td>
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<tr>
<td>20 September</td>
<td>Tuesday</td>
<td>European system of national and regional accounts</td>
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<td>European statistics on safety from crime</td>
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<td>Statistical returns in respect of carriage of goods by road</td>
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<td>11 October</td>
<td>Tuesday</td>
<td>European system of national and regional accounts</td>
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<td></td>
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<td>European statistics on safety from crime</td>
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<tr>
<td>3 November</td>
<td>Thursday</td>
<td>European system of national and regional accounts</td>
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<tr>
<td>23 November</td>
<td>Wednesday</td>
<td>European statistics on safety from crime</td>
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<td>European system of national and regional accounts</td>
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<tr>
<td>15 December</td>
<td>Thursday</td>
<td>European statistics on safety from crime</td>
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<td></td>
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<td>European system of national and regional accounts</td>
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</tbody>
</table>
3. Presidency conference: Development of the European Statistical System within Eastern Partnership – directions and strategy

In the framework of events accompanying the Polish presidency, CSO Poland hosted the conference dedicated to the Eastern Partnership programme. The conference took place on 18–19 October in Krakow, under the honorary patronage of the European Parliament and of the Deputy Prime Minister, as one of central events of the Polish presidency in the Council of the European Union.

The following issues were brought up during the conference: role of official statistics in international cooperation, integration processes regarding statistical systems of the Commonwealth of Independent States and international cooperation as a factor determining development of statistical potential within countries covered by the Eastern Partnership (EaP) programme.

4. Other issues

Polish Presidency website http://pl2011.stat.gov.pl was perceived by Presidency Team as a communication platform with the Member States. Thus, it contained regularly published up to date information, meeting agendas and relevant documents. The website was updated after CWPSm or other important meetings.

Simultaneously an information concerning the results of CWPS was published on ESS website.

CSO Presidency Team contact address is pl2011@stat.gov.pl. We are still available for all your questions.

After CWPS the Presidency committed itself to send the written outcome of the discussion to the experts that took part in the meeting, as well as to highlight further actions that need to be taken. Such way of proceeding makes all parties (Member States, Commission and the Presidency) fully informed about the progress achieved and makes the Presidency work more efficient.

Moreover, Central Statistical Office experts take part in Presidency events held by Polish ministries and other organizations both in home country and abroad.
1. Preparations Concept: Polish Presidency
of the Council of the European Union

[pages 11–16]

1.1. Formal and Legal Conditions

The Republic of Poland’s first – and thus historical – Presidency of the Council of the European Union, scheduled\(^2\) by the Council for 1 July through 31 December 2011, took place in the second half of the second year after the adoption of the Lisbon Treaty (LT)\(^3\). This meant that neither the new institutional framework of the European Union (EU) nor its operations as laid out in the Lisbon Treaty had been fully formed yet. In light of the Polish Presidency


\(^2\) Decision of the European Union Council of 1 July 2007 determining the order in which the office of President of the Council shall be held, OJ 2007 L1/11.

\(^3\) The Lisbon Treaty formally came into force on 1.12.2009.
having been confronted with such circumstances, the Council of Ministers concluded that on the one hand, the Polish Presidency shall target effective management of the Council’s individual sector-related formations with no option of managing the preparations, course, or results of European Council sessions, while – on the other hand – shall strive to shape such areas of EU operations as have been assigned to EU presidencies under the LT, thus allowing them a field for manoeuvre in terms of tabling and implementing initiatives of their own. Another objective was that of creating specific measures and methods of operation, potentially to be included as part of general practice followed by subsequent states assuming presidency in the European Union.

From the viewpoint of consecutive presidencies and the modified formula of their operation, crucial changes limiting their competencies included in particular the appointment of the President of the European Council and the High Representative of the Union for Foreign Affairs and Security Policy; strengthening the position of the President of the European Commission (EC), and expanding the role of the European Parliament (EP). As a result of all these changes, every Member State holds presidency in different Council configurations only (the Foreign Affairs Council excepted) for a period of six months; the entire evolution is assigned to pre-designed groups of three Member States for periods totalling eighteen months.4

As the fourth state to assume the Presidency of the Council of the EU under the Lisbon Treaty regime, and the fourth ‘new’ (following the 2004 expansion) Member State to do so, in preparing for presidency the Polish government decided to opt for ambition and activeness in content and form alike. With regard to organisational matters concerning the Presidency of the Council of the European Union, it was decided that individual Polish regions would be promoted as part of our Presidency. The concept was implemented by way of preparing and holding focal informal meetings of different levels at selected Polish cities.

In terms of key merit areas, it was decided that the Polish Presidency would be put to use at the General Affairs Council, COREPER I and II, and other Union structures, to enable the launch of targeted technical initiatives valuable to broadly defined Polish interests. This was to serve the purpose of consolidating Poland’s international image as one of the most important, active and competent European Union Member States.

Presidential efficiency, and in particular the effective presentation of initiatives in the area of third country relations on the borderline of respective

competencies assigned to the presidency and the High Representative of the Union for Foreign Affairs and Security Policy Lady Catherine Ashton (High Representative/HR) required former consultation and day-to-day co-operation. The efficient and consistent application of the concept enabled the Polish Presidency to be effective (within the framework of limited prerogatives assigned to rotating presidencies) in action in the field of foreign policy and European Union security in relations with third countries, including the Union’s support for democratic movements in North Africa. Moreover, the aforementioned efficiency and consistency allowed for successful preparation and organising of the top-ranking event under the Polish Presidency – the Eastern Partnership Summit – originally to be organised by the Hungarian Presidency in the first half of 2011.

The Presidency of the Council of the EU under the new circumstances of the Lisbon Treaty regime required an accord, as well as regular working contacts and consultation with other partners of the presidential trio, Denmark in particular. Such contact was organised at the level of foreign affairs and European affairs ministers, and of ministries and ministerial representatives responsible for different sector-related areas. Regular and frequent contacts in preparation ensured successful approval of programme documents and agreements for the eighteen-month term spanning presidencies to be held by all three countries of our trio, in strategic and operational segments alike. In May 2011, the President of the Council of Ministers of the Republic of Poland Donald Tusk met the President of the Republic of Cyprus and the Prime Minister of the Kingdom of Denmark in Warsaw, to discuss matters key to trilateral co-operation for purposes of the upcoming group presidency to be held by the three states.

In the context of the strengthened role of the European Parliament, developing a successful formula of cooperating with that institution was a crucial aspect of the Polish Presidency. The objective was served by a number of initiatives and actions: early identification; contact established by heads of ministries and central authorities with key EP representatives, and regular dialogue in the course of the Presidency itself; the frequent presence of the Plenipotentiary and of Polish ministers at EP plenary sessions and sessions of individual EP committees, participation in numerous parliamentary debates included; introducing a supplementary forum for dialogue with the EP in the form of monthly informal debates of presidential ministers with Members of the EP, such as ‘Meet the Presidency’ in Strasbourg. Key events organised as part of the preparations preceding the Polish Presidency and determining the Presidency-EP relations included visits paid to Warsaw by the Conference of Presidents of the European Parliament, the EP’s major political groups, and the Parliament’s committees, as well as the Plenipoten-
tiary’s June 2011 meeting with the Conference of Presidents of the European Parliament. In the course of the latter, the Plenipotentiary described the Polish Presidency’s priorities and programme in assorted sectors of European Union work, presented the Presidency’s expectations of the European Parliament, and outlined the vision of co-operation between the Polish Presidency and the EP.

Thanks to long-term and multifaceted preparations for the Polish Presidency of the Council of the European Union, neither the new quality of European institutional operations under the new Lisbon Treaty regime, nor challenges stemming from lack of former experience as the acting European Union Council Presidency impacted the organisational or technical efficacy of the Polish Presidency, in particular in comparison with Member States more experienced in the field. In consequence, it may be concluded that the professional nature of organisational and technical preparation blended in with the absence of complexes allowed the Polish Presidency to remain ambitious and efficient in the process of designing, delivering, and presenting its position with regard to a number of priority issues on all Union forums. This may be, for example, proven by the Polish Presidency’s activeness during European Parliament debates, focusing among others on the Multiannual Financial Framework, the financial, economic and social crisis within the EU, and the state of the European Union; by sound preparation for European Union sessions; by partaking in the design and adoption of the agreement on EU’s anti-crisis action; by adopting the Joint Declaration of the Warsaw Eastern Partnership Summit; and by drafting an agreement concerning EU’s position for purposes of the Durban Climate Conference.

Under formal and legal conditions amended by virtue of the Lisbon Treaty, it ought to be recognised that wherever beneficial and feasible, the Polish Presidency took advantage of Treaty provisions to introduce favourable sector-related and political directions to the process of drafting European policies.

1.2. Geo-political context of the Polish Presidency of the Council of the European Union

Internationally, the first half of 2011 brought mainly unchanged financial and economic crisis conditions to the majority of European states. The ever-growing risk of the breakdown of the euro as the common currency of European Union Member States was another factor attracting the attention of the rest of the world, including leaders of the G-20 countries. These problems were superimposed by continuous long-term recession, and grave uncertainty as to further developments in the US economy. Globally, the period of preparation for and the actual holding of the Polish Presidency coincided with
groundbreaking changes in Arab states. Tunisian, Egyptian, and Libyan citizens began their struggle for democracy and respect for human rights. Although it was obvious that Tunisians, Egyptians, and Libyans would have to bear the brunt of action themselves in order to legitimise such democratic movements, they did little to conceal avid hopes of the North Atlantic Treaty Organisation and other international political-and-economic organisms, such as the UN or EU, for example, offering active support to pro-democratic rising. Despite the unfavourable economic condition of the majority of NATO and the EU Member States, they did not remain indifferent to the dramatic needs of the Arab Spring.

In Poland’s immediate neighbourhood, the international community was primarily concerned with the escalated repression against Belorussian oppositionists, Polish minority activists included, by President Alexander Lukashenko. During the first half of 2011, international public opinion was also troubled by the severe political and legal action taken by Ukrainian state authorities against the leader of the Ukrainian opposition Yulia Tymoshenko. Such an attitude by the authorities of both countries towards European standards and values impacted two upcoming events, crucial to both states and coinciding with the Polish Presidency of the Council of the European Union. Firstly, the organisation and results of the Warsaw Eastern Partnership Summit, postponed to September 2011; secondly, the prolonged Ukrainian/European Union negotiations concerning the association agreement, including the Deep and Comprehensive Free Trade Area (DCFTA) agreement. In both cases, given their respective diversity, justified concern arose that events in both states could result in a deterioration of their political relations with the European Union. In effect, the process of bringing Minsk and Kiev closer to European Union structures – via the Polish Eastern Partnership Summit initiative and the association agreement with Ukraine – became jeopardised. Concurrently, the European Union was becoming increasingly aware of the fact that its former neighbourhood policies had yielded rather moderate results, proving insufficiently flexible in light of the changes taking place in its diversified environment.5

The European Union agenda for the first half of 2011 highlighted issues of the political and economic crisis in Greece, of matters troubling the eurozone, and of the increasingly distinctive concept of a two-speed Europe. Given the circumstances, EU Member States were attentive and diversified in their tolerance of actions taken by German and French leaders to aid

5 On 25.05.2011, the EC and HR published a document entitled A New Response to a Changing Neighbourhood, containing conclusions summarising a review (spanning a period exceeding one year) of the European Neighbourhood Policy, and suggested improvements thereto.
Greece in overcoming its in-house economic and social crisis. Reasonably, it was believed that the Greek crisis may bring tragic consequences to other European Union countries. The Union was anxiously watching the new and grave symptoms of economic difficulties sprouting in other European economies alongside Greece, in Ireland, Spain, Portugal, and Italy in particular.

From the vantage point of the upcoming Polish Presidency of the Council of the European Union, tremendous importance was attached to in-house European Union efforts to reach an accord with the European Parliament, and the follow-up introduction of a package of six pieces of legislation fortifying financial supervision in eurozone countries – the so-called ‘Six-Pack’. Another matter of key importance to the Polish Presidency was that of further European Union expansion, and especially of finalising accession negotiations with Croatia and continuing them with Turkey. As the future Presidency, Poland supported continued sound co-operation with the President of the European Council, the High Representative, and the European Commission for the purposes of the as yet non-finalised process of drafting a much-delayed agreement on co-operation between the European Union and the Russian Federation. The matter of finalising formal relations between both organisms was also crucial in the context of prolonged negotiations concerning Russian accession to the World Trade Organisation. Despite the earlier hopes of making EU-Russian relations more dynamic thanks to the Partnership for Modernisation facility, the first year of its history blatantly displayed a lack of any new or specific factors boosting mutual co-operation.

In general terms, the international situation on the eve of the Polish Presidency of the Council of the European Union was enormously complicated politically as well as economically. The deteriorating US-Pakistani relations following Osama-bin-Laden’s death, the ever-increasing economic and political importance of the Chinese People’s Republic, co-operation developing between leading emerging economies (Brazil, Russia, India, China, and the Republic of South Africa) to a certain detriment of those states’ relations with the European Union, and uncertainties as concerns the US economy – all these factors were recognised as major features of the international situation during the period immediately preceding the Polish Presidency of the Council of the European Union.

On the other hand, the European Union’s failure to adopt specific solutions to remedy the Greek crisis, and – more broadly – the eurozone as part of the Union, the threat of a second financial credit crunch, financial losses and insufficient capitalisation of numerous leading European banks (German and French in particular), and the increasingly intense armed struggle for democracy in North Africa, especially in Libya, all gave rise to concern that
the Polish Presidency of the Council of the European Union would be sum-
marily obscured by the day-to-day financial and economic difficulties of
European Union countries, and by the North African armed conflict.
Nonetheless, from a time perspective it may be concluded that the efficient
organising of the Polish Presidency based on former agreements with Euro-
pean Union partners and institutions enabled this rotation-based presidency
to succeed in focusing on predefined priorities within the framework of sec-
toral councils, with regard to budgeting and finance in particular. On the other
hand, Lisbon Treaty restrictions notwithstanding, following earlier discus-
sions with the President of the European Council, President of the European
Commission, and the HR, the Polish Presidency actively joined the process
of planning and implementing the EU’s foreign policy, specifically with
regard to the EU’s reaction to Arab anti-regime uprisings, and in neighbour-
hood policy and the Eastern Partnership programme. Another crucial aspect
was the Polish Presidency’s co-chairmanship at numerous meetings with
third country partners, which translated into active participation in the
Union’s internal foreign affairs dialogue.

(...) 

3.5. Implementation of the programme

Implementation of the programme of the Polish Presidency continued
efficiently and effectively. Despite the financial crisis which clearly domi-
nated the EU agenda causing a shift in the emphasis in the debate on the
future of the EU, Poland achieved most of the stated objectives.

These goals were included in the Programme of the Polish Presidency. In
the strategic dimension, the ambitions of the Presidency focused on three pri-
orities. First, there was the effort for greater integration, investment in Europe
and favouring of economic growth. Secondly, the Presidency set itself the
goal of developing security understood in multidimensional terms: as energy,
internal and food security and reinforcement of the Common Security and
Defence Policy. The third strategic priority was the effort to secure stable and
transparent relations with neighbours, openness to others and the closing of
collaboration.

This part presents specific actions taken to carry out these priorities. Sheer
numbers point to the efficiency of the work of the Polish Presidency. In the
second half of 2011, 48 conclusions and resolutions and 54 acts of law were
approved and in 64 issues major progress was achieved, allowing the work
to reach significant milestones. Moreover, following the implementation of
the programme of the Polish Presidency, several declarations, reports and statements approved at the EU Council were established.

### 3.5.1. The legislative process and other elements of implementing the programme

The Polish Presidency found a particular affinity with the idea of ‘more Europe’, a community approach and the integrity of the EU. The goals defined were not only ambitious but also based on an approach in which the European interest took the upper hand over the national point of view.

Carrying out these goals occurred in an exceptionally difficult period for the EU. The crisis focused the general European debate on the problem of debt in the Eurozone, frequently shifting numerous other issues further on. For that reason the activity of Poland was to a significant extent conditioned by the situation in global markets and the turbulences over the common European currency. Despite these, the Polish Presidency undertook actions going beyond the perspective of the crisis, carrying out the approved priorities and strategic goals.

The Polish Presidency carried a powerful message: Europe acts jointly. Based on the assumption that the most efficient form of fighting a crisis is the support of actions furthering growth, the Polish Presidency paid special attention to this aspect, as a necessary element of anti-crisis strategy. Using the Presidency report as the foundation, the political debate on economic growth was initiated; its goal was the establishment of a pan-European consensus for implementation of initiatives favouring growth.

As a result of the activities of Polish diplomacy, the conclusions of the June EU Council summoned the European Commission to report in October 2011 on the areas favouring growth. That step made it possible for the Presidency to conduct a discussion concerning the necessary initiatives stimulating growth, whose conclusions, included in the approved motions, provided a powerful political impulse for the implementation of these initiatives.

On 6 October 2011, the Polish Presidency together with the European Commission organised a political conference concerning the sources of growth in Europe. The grounds for the discussion were provided by the Presidency report entitled ‘Towards a European consensus on growth’ and the preliminary reports of the World Bank concerning the European model of growth: ‘Golden Growth. Restoring the lustre of the European economic model’.

The debate initiated by the conference encouraged great involvement from the European Commission and preparation of the report in writing. As a result, the European Commission published a communication entitled ‘A roadmap for stability and growth’, presented by the President of the European Commission to the European Parliament on 12 October 2011.
Later, the conclusions from the conference and recommendations of the report of the Presidency were presented for discussion during the session of the General Affairs Council (11 October 2011) and also during the mini-session of the European Parliament (13 October 2011). The General Affairs Council worked out an initial consensus concerning including a reference to the conference and the range of the initiative proposed by the Presidency in the report in the conclusions of the EU Council.

In line with the intentions of the Polish Presidency, the October EU Council (23 October 2011) produced the final agreement concerning economic growth. In the conclusions, reference was made to the results of the political conference concerning the sources of economic growth in Europe. Moreover, confirmation was given for the significance of encouraging growth in the anti-crisis strategy and the ambitious text of the conclusion calling for priority significance to be awarded to the implementation of selected initiatives identified by the Polish Presidency (including the implementation of initiatives as part of the Single Market Act, full implementation of the services directive, building of the digital market by 2015 and a decrease in administrative burdens, especially for small and medium-sized enterprises).

The Presidency tried in its activities to go beyond the perception of the crisis. An overarching intention of the Presidency was the long-term vision of a powerful, effective, ambitious and prosperous Europe.

Begun during the Polish Presidency were the negotiations over the Multiannual Financial Framework of the EU for 2014–2020 (MFF). The Presidency completed the first stage of these negotiations, i.e. the explanation phase. The goals of the Presidency were: a detailed discussion of the proposal from the European Commission establishing an opportunity for articulation of interests of all the Member States an insight into all the negotiation issues.

All the assumed goals were completed, as reflected in the report on the Presidency concerning the progress in negotiating the financial framework. In the report, the Presidency identified issues whose negotiations would have to begin by the following Danish Presidency. The report of the Presidency, taken down in the conclusions of the December EU Council, will therefore allow a compromise to be sought in the Council in the matter of the Multiannual Financial Framework in the first half of 2012. Moreover, by objectively portraying the orientation debates conducted in the Council, the report points to the fact that cohesion policy gained the comprehensive support of many Member States.

During the debates in the Council conducted by the Polish Presidency, two groups of Member States with colliding demands emerged. On the one hand, the eight net payer states presented a joint list concerning curtailing of the EU
budget and on the other, 13 states presented a joint approach to the cohesion policy, supporting a powerful and properly financed cohesion policy. The Polish Presidency ensured integrity of the process of negotiating financial frameworks – questions of a financial nature are discussed at the General Affairs Council.

Based on the assumption that the debate about the financial framework is in fact that about the shape of the Union and its policies for the successive years, the Presidency opened a discussion about the financial frameworks for all the interested parties. A high-level political conference concerning the future of the EU budget, organised by the Polish Presidency, the European Commission and the European Parliament gathered representatives of national parliaments, governments, EU institutions and civil society institutions. The success of the conference was corroborated by the decision of the future Danish Presidency, which expressed the will to organise a similar event in the coming half year. The Polish Presidency, carrying out the obligations of the preceding Hungarian Presidency and those resulting from the treaties, also involved the European Parliament in the work on the Multiannual Financial Framework.

Despite the efforts of the net payers to define top-down the volume of the financial framework, the Member States considered the proposal prepared by the Commission solid grounds for further negotiations. Favourably for Poland, the proposal of the Commission – even though criticised by some states – was not rejected a priori, as it happened during the previous negotiations.

Making reference to 2012 marking the 20th anniversary of the establishment of the Single Market in the European Union and also to the important legislative initiatives of the European Commission, the Polish Presidency made embarking on specific actions for the benefit of the actual completion of the construction of the single market one of its main goals. An efficiently operating single market is a key instrument for the reinforcement of economic growth, which is especially significant in the long-term, anti-crisis actions of the EU.

The main event concerning the promotion of the single market of the European Union during the Polish Presidency was the joint organisation of the Single Market Forum (SIMFO, Cracow, 2-4 October 2011) by the European Commission, European Parliament and Presidency. The Forum gathered approximately 1200 people: politicians, entrepreneurs, employers and representatives of trade unions and non-governmental organisations. The anticipated and achieved goal of the SIMFO was to increase the awareness of entrepreneurs and citizens about the benefits that result from the four freedoms of the single market and are available for them and also the involve-
ment of participants in the single market in its further development. The discussion continued both during the eighth parallel thematic workshops and also during the Single Market Fair, where for three days citizens (more than 10,000 people were interested) could obtain information concerning the competencies of individual EU institutions and information and consulting networks supporting the operation of the single market. SIMFO participants jointly created the ‘Krakow Statement’, which provided the grounds for the conclusions of the Council concerning SIMFO results approved at the session of the Council on Competitiveness (COMPET) on 5 December 2011.

In the legislative dimension, the Polish Presidency supported the initiatives and actions of the Commission concerning the internal market and conducting work on seven initiatives as part of the Single Market Act. Due to the failure of the European Commission to present a statement concerning e-commerce in the second half of 2011, the plans connected with the development of the electronic services market in the EU could not be successfully completed.

In turn, in line with the assumptions, the Polish Presidency initiated a discussion of potential activities aimed at facilitation of conducting trans-border sales contracts.

From the very beginning of the Polish Presidency, much attention was devoted to industrial policy. On 29 September 2011, the conclusions of the Council concerning the competitive European economy were approved and earlier – on 21-22 July – an informal session of the EU Council on Competitiveness, an introductory debate for the formal talks, was held. Besides the subject of efficient use of resources, the debate also touched upon more general questions of the influence of regulations concerning environmental protection on industry. The discussion proved a far-reaching consensus concerning the fact that the balance between industry and environmental action is important, so that the factors related to climate policy did not rule out the competitive edge of industry, especially in the face of numerous global challenges, primarily including growth in competition from sunrise economies. This found its reflection in the text of the conclusion of the Council, much like the idea of researching the influence of major initiatives on competitive edge (competitiveness proofing). The Presidency also emphasised on other occasions – with great support from other Member States – how significant the checking of the influence of every legislative initiative on the competitive edge of the EU is, whenever it is possible that such an influence could occur, even indirectly.

With the support of European entrepreneurs in mind, the Presidency conducted work on the conclusions of the EU Council concerning the flagship initiative in industry policy, namely the strengthening of implementation of
industrial policy in the EU. The conclusions identified priority actions in industrial policy aimed at improving EU competitiveness and also the course of actions in supporting small and medium-sized enterprises (SMEs) in using opportunities in global markets (as an answer among others to the proposals of the European Commission pointed to in a communication concerning the internationalisation of the SMEs). The conclusions envisage solutions including a mapping exercise of SME support instruments in global markets to identify potential gaps in the system and/or redundancies of activities. The conclusions were approved at the session of the EU Council on Competitiveness on 5 December 2011. Moreover, the Presidency participated actively in the initiatives of the European Commission concerning the facilitation of access to capital markets and venture capital, also support of SMEs in the markets of non-EU states, among others by supporting a range of events including SME Week (7 October 2011) and the SME Finance Forum (18 October 2011).

One of the key priorities of the Presidency in the area of the internal market was the completion of work on the system of uniform patent protection, continuing for 30 years and composed of: a regulation concerning the establishment of a uniform system of patent protection; a regulation in the field of establishing a single system of patent protection in reference to language solutions; and a draft international agreement concerning the establishment of the Single Patent Court. A success of the Polish Presidency is the achievement of an understanding between the European Parliament and the Council and the conclusion of negotiations that were part of the first reading in the reference to the drafts of patent regulations. Moreover, the Presidency greatly advanced the negotiations of the draft act on the Single Patent Court. After the session of the EU Council on Competitiveness on 5 December 2011, only an issue of political nature – the location of the Central Headquarters of the Court – remained to be agreed.

The main achievements of the Polish Presidency in the scope of the opening of the European market to trade contacts with external partners were the actions aimed at the normalisation of economic and trade relations in the EU’s immediate vicinity, including those within the Neighbourhood Policy, in both its Eastern and Southern dimensions.

Realising the maximum use of the intellectual capital of Europe priority was an example of a long-term activity undertaken with joint European interests in mind. This was related to embarking on and conducting an in-depth debate concerning the role of intellectual capital, among others in the context of global challenges and the global financial crisis and the economic slowdown in the forum of the European Union. The frameworks of the debate were defined by the recommendations of the EU Council from February
2011, which called for a strategic implementation and an integrated approach used to stimulate innovation and maximum use of the intellectual capital of Europe with benefit for citizens, businesses – especially small and medium-sized enterprises and scientists. Actions for the reinforcement of the cohesion and synergy between the politics and initiatives of the European Union that will favour the complete use of the intellectual capital of Europe were discussed during the work concerning the functioning of partnerships for research and innovation (designing and approval of the conclusions of the EU Council on Competitiveness concerning partnerships for research and innovation), modernisation of higher education institutions (designing and approval of conclusions of the EU Education, Youth, Culture and Sport Council concerning modernisation of higher education), cultural and creative competencies (designing and approval of conclusions of the EU Education, Youth, Culture and Sport Council concerning the cultural and creative competencies in the construction of the intellectual capital of Europe).

Maximum use of the intellectual capital of Europe was also the subject of the ministerial conference of the European Research Area on ‘Intellectual Capital – Creative Impact’, held in Sopot on 20 July 2011. Conclusions from the discussion were presented at a conference organised by the European Commission and entitled ‘Innovation Convention’, held on 5-6 December 2011 and devoted to the implementation of the Innovation Union leading initiative. Numerous conferences organised by the Polish Presidency also tackled the subject of intellectual capital, including the ‘3rd European Innovation Summit: Towards European Innovation Ecosystem: R&I strategies tailored to national and regional context’ (10–12 October 2011, Warsaw and Brussels), ‘The European integration process in the new regional and global settings’ (19–20 October 2011), ‘Corporate governance. Perennial Issues? New ideas’ (14–16 November 2011, Warsaw), ‘The European Forum on Forward Looking Activities’ (17 November 2011, Warsaw), ‘Knowledge transfer from universities and public research organisations in Poland – contribution to the smart growth’ (3 November 2011, Warsaw).

Strengthening economic management in the EU was the main priority of the Polish Presidency in the area of economy and finance. This premise was suggested by the fact that the implementation of a strategic EU goal, namely the building of economic growth, is impossible without ensuring security and stability of public finance.

The process of shaping a new system of economic management in the EU, initiated by the previous presidencies, is a phenomenon that is both dynamic and complex. Its first important stage and at the same time a major success of the Polish Presidency of the EU Council, was the approval of the so-called ‘six-pack’, that is the package of six acts of law (five regulations and a direc-
tive) strengthening the coordination of economic policies in the EU, especially in the Eurozone states. It came into force on 13 December 2011. Four of the six ideas concerned public finance and, among others, reformed both the preventive and the corrective parts of the Stability and Growth Pact.

As a result of the aggravation of the debt crisis, further reforms of economic management were embarked on. Work began on the so-called ‘two-pack’ (a draft of two resolutions presented by the European Commission on 30 November 2011), which additionally reinforces the supervision of the budgetary policy of Eurozone Member States and supervision over the economic and budgetary policies of the Eurozone states that are economically unstable, or which are threatened with such an instability.

The EU Council held in October agreed on the need to reinforce the economic convergence within the Eurozone, further reinforcement of fiscal discipline and deepening of the economic union, which provided a forecast of work on the fiscal compact. At the same time, the need to guarantee integrity of the European Union as a whole was emphasised. In response, the Polish Presidency put forth a political initiative aimed at ensuring a coherent and inclusive character of the emerging structure of economic management. Developed was the ‘non-paper’ entitled Preserving Integrity of the European Union, which emphasised the necessity to maintain transparency and inclusiveness of decision-making processes within the Eurozone and presented specific procedure-related solutions. The Presidency’s ‘non-paper’ was the subject of discussion during the General Affairs Council (5 December 2011). The initiative was successful. The agreements of the leaders of the Eurozone made on 9 December 2011 envisaged that the President of the European Council and the President of the European Commission would generate a report concerning the relationships between the Eurozone and the EU, which would accompany a report on the furthering of fiscal integration. As a result of further work, preparation of the said report was abandoned and instead the contents of the Treaty on Stability, Coordination and Governance in EMU were agreed. This was signed on 2 March 2012 by 25 Member States of the EU. The subject of the relationship between the EU and the Eurozone will be continued throughout the Danish Presidency.

Intending to increase stabilisation and a sense of security, the Polish Presidency undertook to conduct work concerning the strengthening of energy security.

Actions in the area of energy policy, especially in its external dimension, accounted for one of the programme priorities of the Polish Presidency, as – in the face of the current economic crisis – ensuring stable sources of cheap energy is a significant source of growth and an element of building the EU’s competitive edge in the world. The Polish Presidency achieved its set objec-
tive, namely, forming and gaining approval for a conclusion concerning the reinforcement of the external dimension of energy policy from ministers for energy. The grounds for the draft conclusion was the Communication on Security of Energy Supply and International Cooperation – ‘The EU Energy Policy: Engaging with Partners beyond Our Borders’, published by the European Commission on 7 September 2011. An important contribution to the preparation of the conclusions of the Council was the preliminary discussion of EU states concerning the external dimension of energy policy of the EU, organised by the Polish Presidency at an informal session of energy ministers in Wrocław on 19-20 September 2011. The conclusions were approved at the first session of the Energy Council on 24 November 2011. They emphasised that the external energy policy of the EU should be based on the principles of solidarity, transparency, collaboration and coordination of activities of the EU and its Member States. Moreover, it should contribute to the assurance of secure, safe, lasting and affordable energy. The conclusions included the following priorities of actions for consolidation of the external energy policy:

- strengthening of coordination of the external dimension of energy policy, among others, by the greater involvement of formal and informal meetings of ministers for energy into the external dimension of energy policy, synchronisation of work of various bodies of the Council and the involvement of the High Representative of the Union for Foreign Affairs and Security Policy, coordination of the EU position in international forums, including MAE, IRENA, the Energy Charter Treaty and Energy Community, G8 and G20
- strengthening of collaboration between EU and non-EU states, based on the internal energy market, by strengthening and expansion of the Energy Community, strengthening of the Energy Charter Treaty, development of energy infrastructure for the benefit of diversification of suppliers, supply pathways and energy sources for the EU
- deepening energy partnerships (defining a coherent catalogue of principles for their formation), especially with Russia, the US and Japan; coordination of EU actions towards China, India, Brazil and South Africa to promote secure, sustainable and climate-friendly energy policy
- support for developing countries, especially in Africa, as part of the EU development policy, including promotion of renewable energy and energy efficiency for reducing poverty.

The conclusions listed above were approved later by the Heads of States or Governments in the conclusions of the European Council of 9 December 2011, which made it possible to provide the conclusions with a strategic dimension. The approval of the conclusion also gives an important political
impulse in the implementation of the guidelines contained in the conclusions of the European Council of 4 February 2011 and the EU Energy Strategy approved by the Council for 2011–2020. At the same time, by the approval of these conclusions, the Polish Presidency – in keeping with its ambitions – provided a specific contribution to the definition of external EU energy policy and crowned the efforts undertaken by Poland before the Presidency.

Together with the presentation of the Communication on Security of Energy Supply and International Cooperation mentioned above, the European Commission also presented a draft decision of the European Parliament and Council establishing a mechanism for exchanging information and reference to international agreements in the field of energy between Member States and non-EU states. The proposal of the European Commission introduces among others the procedure of ex ante evaluation of contract drafts from the point of view of their cohesion with EU law. The draft decision is coherent with the priority of the Polish Presidency, as it provides a significant element in operationalising the guidelines included in the approved conclusions and reinforces the position of individual Member States and the EU as a whole in the international dialogue on energy. The Polish Presidency conducted an intensive discussion at the working level, creating an advanced new version of the document which was passed to the Danish Presidency for further work.

Besides the agreement on the guidelines included in the general conclusions and concerning the strengthening of the external dimension of energy policy, the Polish Presidency also brought about the formal approval of the mandate for the European Commission to negotiate a contract with Turkmenistan and Azerbaijan concerning the legal framework for the construction of the Trans-Caspian gas pipeline (12 September 2011). The negotiations conducted by the European Commission are to prepare political and legal frameworks to facilitate the construction of the Trans-Caspian gas pipeline connecting Azerbaijan with Turkmenistan, which – combined with the implementation of the Southern Corridor projects – will allow imports of Caspian gas to the EU. Following the conclusions of the EU Council of 4 February 2011, the Southern Corridor is a priority corridor for importing large volumes of gas to the EU, as it is to provide Europe with diversification of sources of supplies (besides the Norwegian, Russian and Algerian sources). The Safe Europe: Food, Energy, Defence strategic priority was also established to emphasise the importance that the Polish Presidency considered food security and agricultural policy to hold for the citizens of Europe. The priority came about as an answer to the forecast increase in the global population, to emphasise the need for sustainable growth of production capacities of Europe, which should be ensured by the reformed Common Agricultural Policy.
The Polish Presidency made a significant contribution to building the reformed Common Agricultural Policy, which should provide food security, continue market orientation and account for the public good and multifunctional development of rural areas. The actions conducted during the Polish Presidency emphasised in a special manner the significance of good solutions concerning the direct payments and support of development of rural areas and also agricultural produce quality policy. The Presidency began intensive work on legislative projects of the Commission concerning the Common Agricultural Policy by 2020. Despite the late publication of the drafts by the European Commission, the Presidency made progress in work at both the political and the interinstitutional level as well as and in the area of technical analysis. This progress in the work on the projects achieved should make it possible for the subsequent countries of the trio to conduct the process of working out the position of the Council and continuation of the dialogue with the European Parliament efficiently.

The overarching goal of the Polish Presidency in the scope of the Common Security and Defence Policy (CSDP) was the improvement of efficiency of this policy and reinforcement of the image of Poland as a state involved in its development. Moreover, the Presidency aimed to define a new, active role of the Polish Presidency in the post-Lisbon institutional architecture.

The specific character of the CSDP required that work had been launched many months before the Polish Presidency. The key element of the preparations was the joint letter of ministers of foreign affairs and defence of the Weimar Triangle states to High Representative Catherine Ashton, delivered on 6 December 2010. Despite certain delays in the work at the beginning of the Polish Presidency (lack of agreement on the FAC conclusion), the deadlock was successfully resolved and the strong support of partners, including Italy and Spain, was obtained.

The Polish Presidency undertook efforts for reinforcement of the EU military capacity and especially improving the usefulness of the EU Battle Groups, development of the initiative for pooling and sharing defence capacities and streamlining the structure of planning EU operations. As a result, the EEAS was obliged in 2012 to develop concrete proposals of actions and reinforcing the use of the EU Battle Groups; the Declaration of the Council concerning the joint financing of strategic transport of the Battle Groups in 2012–2013 was also approved. Moreover, the Council approved a catalogue of 11 pooling and sharing projects and decided to activate the Operations Centre for the needs of CSDP in the Horn of Africa.

The Presidency undertook actions for the strengthening of CSDP civilian capacity, especially in reference to the implementation of two Civilian Headline Goals and collaboration between the external and internal area of secu-
rity of the European Union (the so-called relations between the CSDP and the Area of Freedom, Security and Justice (AFSJ) as an element of a broader effort for promotion of synergy between the internal and external dimensions of security).

The Presidency undertook efforts serving the reinforcement of collaboration between the EU and its partners. It initiated a discussion concerning the strengthening of practical collaboration between the EU and the Eastern Partners, proposing specific solutions. Moreover, it supported the High Representative in the reinforcement of the dialogue between the EU and NATO.

The crowning of the efforts of the Presidency was the approval of the December conclusions of the Foreign Affairs Council (FAC) concerning CSDP and referring to all Polish proposals, namely:

- streamlining the process of planning and conducting EU operations by the activation of the Operations Centre
- confirmation of the usefulness of the Battle Groups and recognition of the need for joint financing of strategic transport
- approval of the obligation to conduct multinational pooling and sharing projects by Member States
- confirmation of the political significance of the close collaboration between EU and NATO and collaboration between the EU and Eastern Partners (for the first time in a document of the status of a Council conclusion).

The Polish Presidency was motivated by the idea of an open Europe The starting point was the assumption that the involvement of Member States in the foreign policy of the EU and capacity of the Union to promote its values and interests in the world efficiently should reflect the scale of global challenges for Europe and the political vision which provided the grounds for the integration of the continent.

Carried out during the Polish Presidency was a new, strengthened EU offer for the neighbourhood, both in Eastern Europe and in the Southern dimension. The development of the European Neighbourhood Policy was one of the important goals of the Polish Presidency as part of the ‘Europe benefiting from openness’ priority. The actions of the Polish Presidency in this field followed three major courses:

1) implementation of the agreements from the review of the European Neighbourhood Policy made in 2010–2011,
2) including the financial realm reinforcement of the Eastern Partnership development of relations between the European Union and the Southern Neighbourhood region,
3) following the events of the Arab Spring.
Initiated during the Polish Presidency was the preliminary discussion concerning the financing of the Neighbourhood Policy in the period 2014–2020, together with the publication of a draft regulation on the establishment of the European Neighbourhood and Partnership Instrument (ENPI) by the European Commission.

As part of the ‘Europe benefiting from openness’ priority, the Polish Presidency significantly contributed to the development of collaboration with EU’s eastern neighbours by intensive activities within the scope of the Eastern Partnership policy. The 2nd Summit of the Eastern Partnership (29–30 September 2011) in Warsaw at the level of heads of state and government was the most important event in the area of external affairs of the European Union during the Polish Presidency. It served to conclude the actions conducted so far and offer a definition of the new ambitious goals concerning the subsequent stages of political association and economic integration of partner countries with the EU and adjustment of partner states to EU standards. It was one of the most visible events of the Polish Presidency, by showing its organisational efficiency and primarily by serving the achievement of progress in the area of EU relations with the states of Eastern Europe, a significant one for Poland.

The Joint Declaration approved at the Summit, which provides a political signal concerning further deepening of integration of partner states with the EU, contains ambitious clauses concerning: founding the Partnership on shared values and recognition of the European aspirations of partner states; an announcement of full integration of partner states with the EU’s internal market and in future the establishment of an EU–Eastern Partnership joint economic area; confirmation of the intention to establish a visa-free regime and also deepening of sector collaboration. The Declaration also included an announcement of EU programmes being opened to citizens from partner states. According to the decisions made in the Declaration of the Warsaw Summit of the Eastern Partnership, negotiations on Deep and Comprehensive Free Trade Area (DCFTA) agreements with Georgia and Moldova were inaugurated and the negotiations of the EU-Ukraine Association Agreement, covering DCFTA, were concluded. Similarly, the efforts of the Presidency to establish the Eastern Partnership Business Forum (with the founding meeting taking place in Sopot on 30 September 2011) ended in success. Moreover, the Presidency supported the organisation of the 3rd Eastern Partnership Civil Society Forum (28-30 November 2011) in Poznań, which was also the site of the inaugural session of the Conference of the Regional and Local Authorities for the Eastern Partnership and the EU (CORLEAP, 8 September 2011). Held during the Polish Presidency was the first formal session of the EURONEST Parliamentary Assembly (EU/Eastern Partnership inter-parliamentary forum).
Moreover, following an initiative of the European Commission, organised in collaboration with the Polish Presidency (Ministry of National Education, Ministry of Culture and National Heritage, Ministry of Science and Higher Education and Ministry of Sport and Tourism) was a conference entitled ‘Eastern Dimension of Mobility’ (Warsaw, 6-7 July 2011). The conference provided a significant contribution to the European Neighbourhood Policy, especially by emphasising the significance of the Eastern Partnership. Special attention was paid to the mobility of students, teachers, academics, young people and businesses from the sporting and cultural sectors. A participant in the conference was Ms Androulla Vassiliou, EU Commissioner for Education, Culture, Multilingualism, Sport, Media and Youth. In the conclusions approved, participants appealed, among others, for the strengthening of participation of entities from partnership countries in the current and future programmes of the European Union.

Aiming at deepening the sectoral collaboration of the Eastern Partnership, the Presidency organised a range of meetings at ministerial level, of higher officers and experts, including a conference of ministers of economy, transport and agriculture of the Eastern Partnership; a debate of the ministers of higher education of the Eastern Partnership, a conference for the heads of customs services of the Eastern Partnership, a meeting of the heads of statistical services of the Eastern Partnership and expert conferences in the area of migration, combating crime related to drugs and human trafficking, collaboration on climate (including a two-day workshop on climate for the states of the Eastern Partnership), fighting corruption; energy, security, education; and culture, customs and industrial property. Currently, the European Commission is working on the further development of sectoral collaboration on the grounds of the actions initiated by the Polish Presidency.

As part of the aspirations for the idea of open Europe, the Polish Presidency undertook to establish a compromise concerning its expansion. During the work, the Presidency followed the motto of the Solidarity movement: ‘Daringly, but with deliberation’. The questions of expanding the EU ranked high in the agenda of the Presidency, in line with the current position of Poland, pointing to the strategic importance of the process for the reinforcement of security and stability in Europe. The adopted objective was achieved, namely ensuring progress in the implementation of the expansion strategy.

Initiated in 2010/2011, the events of the Arab Spring, which encompassed most states of Northern Africa and the Near East (the so-called EU Southern Neighbourhood being part of the European Neighbourhood Policy) and partially the Arab Peninsula, dominated the EU agenda in matters related to external affairs in 2011 and shaped the priorities of the Polish Presidency in the second half of 2011. On the one hand, a challenge for the current EU
policy was the endeavour for stabilisation and security in its environment and reaction to the dynamically changing situation in the region. On the other, the goal was to present the states of the South with a new, effective offer of cooperation and support for the process of democratic transformations. Following the above, the activities of the Polish Presidency in the strategic dimension aimed at supporting EU institutions and intensification of bilateral actions channelled into the implementation of the new approach/new partnership in relations with the states of the Southern Neighbourhood, by forming a new offer of collaboration and a flexible set of instruments for supporting the democratic transformation and also short-term assistance as an answer to current events. The goal of the Polish Presidency was to bring about the establishment of a flexible financial mechanism of support for the construction of democratic institutions and civil society in the form of the European Endowment for Democracy and – in bilateral relations – sharing of experiences in transformation from the last two decades with the states of the Southern Neighbourhood.

During the Polish Presidency, the European Union continued support for the democratic transformations in Tunisia and Egypt and also the reconstruction of statehood in Libya. It also undertook to embark on the negotiations of an in-depth and versatile free-trade zone with four states of the region (Egypt, Jordan, Tunisia, Morocco). The European Union launched the SPRING initiative, which included the programming of additional aid funds (€350 million) for the Southern Neighbourhood. Initiated was a process of the so-called dialogues for migration with selected states of the Southern Neighbourhood, which are to bring about the establishment of partnerships on migration.

As far as the EU Common Commercial Policy is concerned, significant for the Polish Presidency were actions aimed at the normalisation of business and trading relations in the close vicinity of the EU, including the Neighbourhood Policy: in both its Eastern and Southern dimensions.

The most important achievements of the Presidency in the Eastern dimension include:

- agreeing the conditions of Russia’s accession to the World Trade Organisation (WTO) and Russia’s accession to the WTO
- signing an understanding between the EU and the Russian Federation normalising the question of flights over Siberia: an issue important for European airlines (including LOT)
- finalising the negotiations of the contract on the Deep and Comprehensive Free Trade Area (DCFTA) EU–Ukraine, part of the EU–Ukraine Association Agreement, whose negotiations finished in December 2011
embarking on analogous DCFTA negotiations with Georgia and Moldova, which the European Commission officially announced on 12 December 2011.

In the southern dimension of trade policy, the assumption of a mandate for the negotiations of DCFTA agreements between the EU and the countries of Northern Africa (Egypt, Jordan, Morocco and Tunisia) was successfully achieved.

In addition, accession of Montenegro to the WTO and acceptance of EU autonomous trade preferences for the Western Balkans were achieved.

Faced with the lack of real opportunity for closing negotiations within the Doha WTO Round, the Presidency – as agreed with the European Commission – focused its efforts on leading up to the approval of the arrangements that would maintain the credibility of the WTO. As a result of the 8th WTO Ministerial Conference (15–17 December 2011), a facilitation package for the states at the lowest level of development (the LDC countries) was approved. A significant element of the package is the approval of the so-called waiver on services for the LDCs, which allows preferential treatment of these countries in the services trade, approval of a simplified path of WTO accession for LDC states, approval of a moratorium concerning the application of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS WTO) towards these countries and a moratorium concerning e-commerce. Moreover, despite the continuing deadlock, the continuation of the Doha Round negotiations was decided. A measurable achievement of the Conference is the completion of the 12-year-long WTO negotiations on the access to the market of public procurement by revising the Agreement on Government Procurement (GPA), which will significantly increase the value of trade exchange covered by public procurement.

(...)

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BOOK REVIEWS
Book Reviews


Holding the reins of the Presidency of the Council of the European Union is a challenge for every Member State of the European Union. What does it mean to hold the Presidency for the first time? What are the main tasks and challenges of the rotating Presidency of the Council? How has the scope and the character of the rotating Presidency changed since the entry into force of the Lisbon treaty?

The answers to these and many other questions are provided in the book The European Union Presidency: A Practical Perspective, which gives a comprehensive picture of the roles and tasks of the rotating presidency. The book is written jointly by four authors – Tomasz Husak, Filip Jasiński, Anna Piesiak and Richard Szostak. As Ambassador Jan Tombinski points out in the Foreword, three of them are employees of Poland’s Permanent Representation to the EU and the other an employee of the Council’s General Secretariat. This fact pre-determines the structure and content of the book. As one might expect, the work contains not only theoretical and legal explanations of the different procedures and legal provisions relevant to the rotating Presidency, but also practical information based on personal experiences of the authors, as well as experts from the EU institutions and from Member States with previous experience in handling the national Rotating Presidencies. Their experiences, gained according ‘at the front’ as the authors put it, sets the foundation for a catalogue of good and bad practices, which are equally important as the legal and theoretical explanations delivered by the authors.

As is described in the Introduction, the main aim of the book is to provide information on the innovations introduced by the Lisbon Treaty which have influenced the scope and the character of the Rotating Presidency, to draw attention to the institutional and legal context since its entry into force, and to clarify the key elements of the decision-making procedures. Particular attention is paid to the co-decision process. The book is divided into four chapters, each of which is written by one of
Tomasz Husak’s article focuses on the role of the Rotating Presidency in the Lisbon Treaty era; Anna Piesiak explains the ordinary legislative procedure; Richard Szostak broadens the previous article by clarifying the Presidency’s role within the ordinary legislative procedure; and Filip Jasiński outlines a practical guide to participation at the meetings held during the Presidency.

In reviewing this book, it is useful to keep three different perspectives in mind:

1) As the book was written just prior to the Polish Presidency of the Council in the second half of 2011, it was an attempt to see how the post-Lisbon situation would influence the Polish Presidency. It is thus interesting to analyse how the Polish EU Presidency managed to go through this challenging time in relation to the issues forecast in the book.

2) As the Lisbon treaty entered into force more than 3 years ago (from the present), now is the right time to evaluate whether the authors’ predictions, made in 2011, remain valid from today’s perspective.

3) As preparations are now underway for the Lithuanian Presidency of the Council in the second half of 2013, it is also useful to view this book from the perspective of the incoming Presidency.

In this review we try to keep these three perspectives in mind while commenting on the different ideas presented in the book.

Tomasz Husak starts his article – ‘The role of the Rotating Presidency in the Lisbon Treaty era’ – with a provocative question whether the Rotating Presidency still has any major role left to play in the EU. He also gives a straightforward answer and demonstrates that it is too early to talk about the ‘death’ of the Member States’ Presidency. From today’s perspective, it is clear that Rotating Presidency has adapted quite well to the new EU institutional arrangements. Firstly, it continues to chair nine formations of the Council and a large number of Committees and Working parties. Seen from the perspective of the incoming Lithuanian Presidency, this would appear to be a big challenge. Secondly, the Rotating Presidency has found its role in the European Council. Cooperation with the Cabinet of the President of the European Council is fully institutionalized (agreeing on the dates for the European Councils, preparing the European Council agenda within COREPER and the General Affairs Council etc.). The Rotating Presidency presents its priorities to the European Council before the Presidency starts and submits an overview of the results at the end of the Presidency. The Rotating Presidency frequently intervenes the ‘first among Member States’ at the European Council, especially if the question is related to legislative files. The well managed process between the European Council and the Council on the next Multiannual Financial Framework proves that close cooperation is possible and can bring about tangible results. Thirdly, close cooperation with the Foreign Affairs Council and the European External Action Service (EEAS) has been established. The head of the Rotating Presidency quite frequently replaces the High Representative in meetings with third countries or at the European parliament. The EEAS has also contributed to the 18 month programme of the Council, which was prepared by Ireland, Lithuania and Greece. A clear practice has been established for the preparations of the Foreign Affairs Council, especially ensuring
the role of COREPER, and for cooperation in the fields of trade and development. Some further improvements could be made using EEAS review, which will start in 2013. Fourthly, while someone may legitimately ask whether the Rotating Presidency’s role has not slightly decreased at the Council since the entry into force of the Lisbon Treaty, no one could question that the Rotating Presidency’s role in dealing with the European Parliament has significantly increased. The ordinary legislative procedure is becoming a real challenge for every Presidency and requires a massive amount of time and effort. And the success of the Presidency is ultimately judged on the number of legislative files adopted during the six-month period.

Tomasz Husak rightly points out that since the entry into force of the Lisbon Treaty the European Council has introduced a ‘top down’ approach. This change was clearly visible during the first term of the President of the European Council, especially in dealing with the financial and economic crisis. The President of the European Council, following confirmation of his candidacy for a second term in June 2012, has presented a tentative work programme of the European Council up to 2014, with clear indications of the issues to be addressed at each European Council summit. But at the same time the Polish Presidency of the Council and subsequent Presidencies have demonstrated that some tasks continue to be pursued using a bottom-up approach. Examples could include the European patent, Schengen enlargement, and Eastern partnership.

Looking from the incoming Presidency’s point of view, it is clear that the Rotating Presidency has no choice but to be a ‘friend’ of the Council’s General Secretariat. One of the essential elements for the success of the Polish Presidency was the trust and close cooperation it established with the Secretariat. The role of the Council’s General Secretariat has also increased because it also performs the ‘secretariat’ function for the European Council.

The author very accurately predicts that informal discussions could become more dominant in the post-Lisbon reality. The dichotomy between the European Council and Euro zone Summit became visible, especially during the Polish EU Presidency. Two meetings of Euro zone Heads of State or Government were organized in the second half of 2011. The question of the participation of non-euro zone states in these meetings was very delicate. The informal meeting of Members of the European Council on 26 October 2011 reflected an attempt to find the right balance between what could be discussed at the Euro zone Summit and the European Council. Preparation of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union serves as another example reflecting the growing relevance of informal discussions outside the normal institutional framework.

In conclusion it can be said that the Rotating Presidency still has a major role to play. It has retained control over the legislative process with its increased workload in dealing with the European Parliament in the post-Lisbon era. It is still difficult to determine the extent to which the Rotating Presidency plays the intermediary role between EU institutions, especially the European External Action Service, and other Member States, but for sure it has a more challenging task to find a compromise between different players in the EU decision-making process. There-
fore, Presidency of the Council is still a big challenge, especially for those Member States which are presiding for the first time.

Anna Piesiak in her article – ‘The Ordinary Legislative Procedure’ – presents the main aspects of the ordinary legislative procedure, which has replaced the co-decision procedure existing before the entry into force of the Lisbon Treaty. The key element of this procedure is the Commission’s right of initiative to propose legislation. The author describes different steps in the process of the preparation of the draft of legal acts in the Commission, and points out how it is essential for the Presidency to establish good relations and contacts with the officials of the Commission as well as with the MPs of the European Parliament. The importance of good cooperation between the Presidency and other players in the legislative procedure is emphasized in the article. Anna Piesiak analyses the legal provisions and different steps of the ordinary legislative procedure in the Council and in the European Parliament. The article guides us through the procedures of the first reading in the European Parliament and within the Council. Further the author elaborates on the legal context and significance of the second and the third reading procedures. The explanations are provided in a very clear and straightforward fashion and help us to understand the complex procedures which take place throughout the entire process. The schematic representation of decision-making procedures which is attached to the article is a significant aid in understanding the complicated process. Anna Piesiak not only provides us with comments on the legal provisions regulating the ordinary legislative procedure, but also succinctly describes the role of the Presidency in the different stages of the process.

The Presidency’s role is explained more broadly in the article – ‘The Presidency’s role within the Ordinary Legislative Procedure framework’ – written by Richard Szostak. This article complements the excellent overview of the legal framework provided by Anna Piesiak and expands our knowledge concerning how the procedure works in practice. In the first section of his article the author describes the various roles of different actors in the legislative procedure. Firstly, he briefly describes the work of the General Secretariat of the Council of the European Union. It might have been useful had the author elaborated more on the role of the General Secretariat of the Council. It is well known that the General Secretariat is the main supporter of the Presidency, so it is essential that every Presidency knows what it can expect from this player. Further on, the role of the European Commission is outlined by commenting on the legal provisions establishing the powers of the European Commission in the legislative process. Also, the author submits observations on the sometimes overlooked informal role of this institution. He advises that every Presidency should establish regular, informal contacts with the officials of the European Commission, and ensure good cooperation and coordination of the positions taken. However, the author does not mention the disparities which can result from the different positions of the Council and the Commission and how the Presidency should act in such circumstances. Next the author gives short overview of the rules governing proceedings in the European Parliament with respect to the legislative procedure. In the second part of his article Richard Szostak defines the steps of the first and second reading.
phases. The first reading phase is described as the bureaucratic phase. The author refers to all practical steps of the procedure and rightly concludes that the Presidency is a mediator between the Member States and the Parliament. The description of the process of the second reading is based on the analysis of legal provisions as well as on practical observations of the process. The author informs us that the second reading agreements can be either early or normal agreements, and explains the different steps of this phase. The second reading phase is usually qualified as a political phase.

Finally, the third reading and Conciliation procedure is outlined in the fourth section of the article. As in the previous sections, the author defines all the procedural steps of this phase. The summary of the article gives valuable advice on how to run the Presidency effectively, which is important to the achievement of the desired results. It is essential for the Presidency to be an intermediary between the Member states and the European Parliament, ensure effective cooperation with the European Commission, and use the knowledge and the support of the Council’s General Secretariat.

The two articles examining the ordinary legislative procedure and the role of the Presidency in this process are very useful from the perspective of the incoming Presidency, as they clearly explain the steps of the procedure and the role of the Presidency during each phase. The authors give advice on how to facilitate the negotiations in order to achieve agreement between all the institutions involved. This knowledge and the suggestions put forth are of great value from the perspective of the incoming Lithuanian Presidency, which will be held before the upcoming elections to the European Parliament, and will probably contain a large number of legislative files to be adopted by the ordinary legislative procedure during the time left until the election campaign begins. It is clear that the EP and the Commission will seek the adoption of numerous legal acts before the end of the term, so Lithuania is preparing for this challenge and the enormous work which awaits it.

Finally, the article – ‘The participation at the meetings during the Presidency’ – written by Filip Jasiński reminds us about the practical matters and steps that can be so crucial, both in the preparation for the Presidency as well as in its actual performance. It is important to bear in mind that plenty of practical issues come into play to ensure the smooth operation of the Council. The article provides us with practical advice where to find the information needed for an incoming Presidency to make its initial preparations for the Presidency. During the phase of strategic and tactical preparations it is essential to make contacts with the appropriate representatives of the different EU institutions. According to the author it is vital to ensure good cooperation with the European Parliament and make use of the assistance offered by the Council’s General Secretariat.

Further on the most important tasks of a Presidency are listed. While it is not an exhaustive list of all the tasks that the Presidency is responsible for, it points out the most important ones that should be kept in mind while preparing for the Presidency. The author elaborates on particular tasks, such as the organisation and the running of the meetings of the Council’s working parties. He gives valuable advice on how to ensure the smooth running of a meeting and achieve the best results. It is hard to deny the significance of the author’s advice with respect to the way of
speaking at the meetings, and it is critical to keep in mind how much depends on
the way the chair speaks. Persons in this position should bear in his/her mind all
the practical tips for speaking when interpretation is provided. ‘A Presidency shop-
ing list’, together with suggestions and remarks, is given in lieu of a summary.
They are worth taking into account in order to avoid unnecessary fluster during the
Presidency and guarantee the smooth and successful running of meetings.

In concluding this review, it is important to stress that the success of a Presi-
dency depends on excellent preparation. This includes not only deep knowledge of
the substance of the files and a good understanding of the tasks and procedures
of each EU institution, but also depends on the contacts established with the people
working in the EU institutions. As is pointed out several times in the articles, good
cooperation with the European Parliament is essential in the legislative field. It is
also wise to use the knowledge and experience of the Council’s General Secretariat
and the expertise of the Council Legal Service.

The post-Lisbon challenge was much more complex for Polish Presidency in
2011. Looking back from today’s perspective, it may be said that the clear practice
of cooperation between the Rotating Presidency and the new actors in the EU deci-
sion making process – the President of the European Council and the European
External Action Service – has been successfully established. The role of the Euro-
pean Parliament has significantly increased. It seems that the Lithuanian Presi-
dency of the Council in the second half of 2013 will have a different challenge, as
it will mark the beginning of the review process of the new institutional arrange-
ments as the end of the first post-Lisbon institutional cycle approaches, together
with the commencement of the review process of the EEAS, and will be a time for
more reflections about the future of the European idea.

It should be underlined that the book describes and explains the role of the
Presidency from different perspectives and gives a full picture of the tasks and
responsibilities of the rotating Presidencies, together with providing advice and
practical tips with respect to the running of the Presidency. The book thus consti-
tutes a valuable textbook and reference guide for the experts of the member states
whose work in national administrations is related to European Union affairs, as
well as to their colleagues and diplomats working in the Permanent Representations
to the EU. But the greatest value of the book is for the future rotating Presidencies
themselves, in order to acquaint them not only with the legal framework of the
functioning of the EU institutions, but also to guide them and describe how the dif-
ferent processes are viewed through the eyes of experienced insiders.

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The world surrounding us is undergoing rapid changes. International relations are changing with it, which, in turn, implies changes of the foreign policies of the individual actors. Until fairly recently – at least until the end of World War II and possibly until the end of the Cold War era – foreign policy was the domain of states. Today, this is no longer true. Apart from states, we now also have non-state entities, which play an increasingly more important role in the international arena and are ever more numerous, including in particular non-governmental organizations (NGOs), transnational corporations and the new supranational entity with entirely unique qualities, namely the European Union – an entity in statu nascendi, that is still under development.

The respected Polish researcher Teresa Łoś-Nowak undertook an effort to present a new systematisation of the issue of foreign policy in this new, post-Cold War era called – not consistently enough – either ‘post-Westphalian world’ (which is more apt) or ‘post-modern world’ (which is more controversial, as it immediately gives rise to the question of how to interpret ‘modernity’). In the two initial essays, ‘Polityka zagraniczna w przestrzeni teoretycznej’ (‘Foreign Policy in the Theoretical Sphere’) and ‘Polityka zagraniczna – stałe i zmienne komponenty procesu formułowania i realizacji’ (‘Foreign Policy – Constant and Variable Components of the Process of Formulating and Executing’) as well as in the Summary at the end of the publication, the editor lucidly presents its premises. She argues, and quite rightly so, that in the post-Cold War era the world has found itself in a state of chaos, lacking a new international order, especially after the brief ‘unipolar moment’ (this handy expression was used by the American feature writer Charles Krauthammer) in 1991–2008, following the collapse of the USSR, when the United States were a single superpower. Now it would seem that both the bipolar and unipolar worlds are no more. With the outbreak of the crisis in the world markets (the fall of the Lehman Brothers and others), American domination was undermined, at least in the economic dimension. A struggle for this domination in the other fields – technology, space research, the military, etc. – is taking place virtually before our very eyes.

Meanwhile, there are also further, even deeper and more serious processes contributing to this lack of a new world order. According to T. Łoś-Nowak, the old Westphalian order (after 1648), created only by states, ‘is in a state of a total crisis’. The principal reason for this is the fact that ‘of course, it is the state, the central subject of this system, that is undergoing the deepest metamorphosis’, and this, in turn, is conditioned by the fact that ‘non-state participants are becoming ever more important’.

I agree with these theses and with the identification of processes, which are of a somewhat objective nature. However, it is a shame that the book does not take into account, for instance, the works and results of research by Alain Touraine, or the

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1 Review translated by Maja and Tomasz Wolsan.
innovative Manuel Castells, and that the crucial research by Zygmunt Bauman has only been briefly signalled (p. 30), but not elaborated on in detail nor further developed. Certainly, all these scholars are sociologists and not classical experts in international relations, but I believe that they really hit the nail on the head describing the modern world as a ‘post-industrial society’ (A. Touraine), a ‘network society’ and at the same time an ‘information society’ characterised by ‘flows’ (M. Castells), or ‘liquid modernity’ and ‘entropic world’ in which ‘no one controls anything’ as ‘power has there become separated from politics’, i.e. from the state (Z. Bauman).

Moreover, in the modern world, still not fully described and understood, such aspects as information or capital flows – once the exclusive domain of states – largely escaped their control, deeply changing the international arena. What is more, the phenomena often called ‘globalisation challenges’, threatening the entire life on Earth – e.g. climate change, drug trafficking or networks of terrorist cells – are often beyond the control of states. In these circumstances, it is obvious that the behaviour of individual states (called actors not without reason) in the international arena must change. In other words, putting it bluntly, the present scientific and technical revolution, also referred to as the digital revolution, has led to what sociologists call ‘deterriorialisation’ (Gilles Deleuze and Félix Guattari) of many phenomena mentioned above and ‘time–space compression’ (David Harvey, later quoted by Anthony Giddens). In relative terms, the world has become much smaller. Distance, in geographical terms, has lost any significance and information practically knows no boundaries or time delay. It is available instantly. These processes and phenomena coincided, in a sense, with the changes in the international arena after the collapse of the bipolar order, which has not, unfortunately, been sufficiently emphasised in the book in question. It is these processes and phenomena, though, that considerably contribute to the relative decrease in importance of state entities in the global power game.

As a result, the solutions applied in the book are, in a sense, only partial. The publication contains, which is commendable, two chapters dedicated to non-state entities, that is the EU (Ryszard Zięba) and international corporations (Katarzyna Marzęda-Młynarska), but it fails to mention some even more powerful international organisations, including the recently all-important G-20, BRICS and the Shanghai Cooperation Organisation, as well as the most important NGOs. The editor of the book states already in the beginning (p. 11) that ‘the authors of the book aim at overcoming the Europocentric way of thinking on foreign policy present in Polish research’. Indeed, the structure of the publication confirms this approach. However, certain processes and phenomena, very important for the foreign policy of individual states and particularly strongly emphasised after 2008, have either not been noticed or have not been examined to a sufficient extent. Maybe the authors decided that there is yet not enough hindsight to make any statements, but – in the opinion of the undersigned – a separate theoretical chapter on the consequences of the present scientific and technical revolution for foreign policy would be nothing less than desirable. Perhaps this should be taken into consideration in the next issue of this insightful and very useful joint publication.
This is indeed a collective undertaking, as it represents the efforts of no less than 22 authors from various academic centres in Poland (including two scholars from abroad who are teaching in Poland and who wrote on Senegal and Georgia). Apart from the editor of the volume, who wrote the theoretical basis to systematise the publication as well as a chapter on Poland, only two more authors (Aleksandra Nowak, who wrote an article on Uruguay and the Republic of Suriname, and Andrzej Dybczyński, writing on Singapore and the Principality of Liechtenstein) provided two texts. Thus, the just principle ‘one author, one text’ was observed, which ensured factual quality, for every author, as we can well observe in the publication, feels quite comfortable within the area he/she writes about, is an expert in the given field.

There are also no greater reservations about the systematisation of the publication, proposed by the editor. She divided the state entities concerned (apart from the two exceptions mentioned above) into three fundamental groups, or ‘classes’: 1. Actual superpowers and superpowers in statu nascendi, to which – what is important – she includes: the USA (Justyna Zając), Russia (Andrzej Czajkowski), China (Joanna Marszałek-Kawa), Germany (Aleksandra Zięba), Brazil (Marcin F. Gawrycki), India (Jakub Zajączkowski), Japan (Andrzej Anders), as well as the EU and international corporations, this showing openness to the non-Western world and to the ‘emerging markets’; 2. Middle powers; and 3. Small states and ministates. Naturally, in the second and third case, the choice of entities to be described had to be free, or rather voluntary or subjective. The texts concerning entities of the second category discuss the following states: Poland, Ukraine (Beata Sumacz), Turkey (Maciej Herbut), Sweden (Andrzej Kubka), Israel (Joanna Dyduch) and South Africa (Arkadiusz Żukowski). As we can see, the emphasis on departing from Europocentrism is visible here as well. The chapters on the policy of Turkey, Israel and South Africa are particularly important from the present-time perspective (perhaps the one on Turkey being the most important, as the country pretends to the title of the ‘strategic pivot’ of the region). As regards the states belonging to the third ‘class’, the following were selected: the Czech Republic (Elżbieta Pałka), Georgia (Larysa Leszczenko), Uruguay, the Republic of Senegal (Iwona A. Ndiaye, Bara Ndiaye) and Singapore, Liechtenstein and Suriname. This selection could perhaps be disputed, but we have to acknowledge that in this context, every choice would be subjective and potentially subject to criticism.

But apart from a diligent and relevant description (however, in the case of Turkey and Israel, there is an almost pressing need to draw some preliminary conclusions from the ‘Arab Spring’, which started before the work on the publication in question), does the work edited by T. Łoś-Nowak contribute anything new to our knowledge? What seems particularly revealing is the listing included in the Summary – clear and precise, in points, specifying the roles and behaviours of the three categories of states in the international arena. On the basis of the empirical material collected in the volume, it shows the focus of the activities of superpowers, emerging powers (p. 503), medium powers (p. 505), and the smallest entities (p. 506).

It is very good that the theoretical part sufficiently emphasises one more important element concerning the foreign policy of modern states, which is the topic of
this publication. It was quite aptly highlighted that today ‘the power of a state [...] is the resultant of the state’s capabilities and its ability to use them in the international arena. The former is comprised of such ‘hard’ components as the military, economic, scientific and technical potentials, natural resources, geopolitical location, and other, verifiable parameters. The ability is first of all reaching for the tools ensuring effectiveness of actions’. It is a pity that this thesis was not presented to the authors of this joint publication as the starting point for their deliberations. As a result, in most cases we get the feeling that what was described and analysed were the ‘hard’ components of power, while less effort was put into dealing with their abilities of adapting to the changing circumstances. Meanwhile, it would seem that it is the latter that will be determining, to an ever greater degree, the roles of individual states in the international arena, next to their objective potential.

In the beginning, T. Łoś-Nowak stresses that the publication attempts to combine classical analyses from the schools of political neo-realism and realism with the neoliberal approach, in the conceptual framework of which – as it was emphasised – ‘next to such categories as security, strength/power, there are also such as independence, influence, effectiveness, cooperation, diplomacy and negotiation, treated as important elements of the process of formulating and executing the foreign policy of a state’. This approach is undoubtedly very apt. However, I would recommend looking into this interesting publication to see how the individual authors implement it, as well as to acquire much more knowledge on the contemporary world and particularly state actors, who still remain – even within the European Union – the main actors in the global arena, contrary to the theses put forward by some authors on the ‘twilight of the states’ or entropy of state rule, which is an undeniable fact though. States still remain the most important actors of contemporary times and it is praiseworthy that we can learn more about so many of them thanks to this interesting publication.

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sive development, taking into account the transformations taking place in the modern world, including especially the persisting economic and social crisis. This development should be based on greater innovativeness, education, science and research, obtaining better vocational qualifications, taking into account new energy sources and ecological principles, combating inequality and social problems, as well as introducing the necessary structural reforms.

It would seem that the strategy has not been well received and understood not only in the societies of the EU Member States, but also among scholars and specialists in European integration. All the more so, we should praise the fact that it has become a sort of focal point for the deliberations in the publication in question.

This book is a very valuable work, skilfully combining ambitious academic objectives with the advantages of a publication of considerable importance in the sphere of political and economic practice. It has come into existence largely as the outcome of the execution of a large research project resulting in a grand-scale international scientific conference with the same title as the reviewed book: ‘European Integration Process in the New Regional and Global Settings’, held on 19–20 October 2011 in Warsaw.

The event was organised by the Warsaw School of Economics in cooperation with the University of Gdańsk, the Faculty of Management of the University of Warsaw and the Polish National Contact Point for Research Programmes of the European Union. The preparations and the organisation of the conference were executed under the EUIntegRATIO project, financed from the funds of the Seventh Framework Programme of the European Union (FP7), allocated to research in social sciences and humanities. The project was coordinated by Professor Ewa Latoszek. Its scale and magnitude are proven by the fact that many prominent Polish and EU institutions were involved in financing and supporting it. These included several Polish ministries: the Ministry of Science and Higher Education, the Ministry of Foreign Affairs, the Ministry of Economy, as well as the National Bank of Poland and its Foundation, the European Commission Representation in Poland, the European Parliament, and others.

The main objective of the conference was to present a new view on the process of European integration in current, changing socioeconomic and political circumstances. The conference was also meant to establish a common ground for a multilateral debate of international and national experts and representatives of government administration, local self-government, the media, the industry, and science. The involvement of representatives of so many diverse circles provided a fresh look at the process of European integration in the context of its regional and global determinants. Hence, the project, and especially the conference and the publication in question, constitutes an important element in the entirety of debates concerning the major problems of European integration under the Polish Presidency in the EU in the second half of 2011.

The reviewed publication is devoted to a selection of the most important issues raised at the conference, and is based principally on the speeches delivered by the participants of that event. As the editors of the work put it in the introduction: ‘The
main aim of the publication is the promotion of a strategic and integrated approach to innovation which optimizes synergies between and within different EU and national/regional policies and ensures greater involvement of all stakeholders in the innovation process and supports the full use of Europe’s intellectual capital.

An approach of this kind can be very useful in the implementation of the aforementioned ‘Europe 2020’ strategy. The publication explicitly stresses the need for greater coordination of various national and EU policies. This regards policies concerning globalisation-related phenomena and technological changes, but also – as pointed out in the Introduction – such key issues as ‘demographic change, new world economic interrelations, environmental change, scarcity of resources, political uncertainty, etc.’

In order to ensure a comprehensive approach to the issue it deals with, the content of the publication has been divided into five parts. The first part focuses on an issue of fundamental importance for a sustainable and stable growth, namely full use of Europe’s intellectual capital. The source of this potential is its various components, that is human capital, social capital, structural capital, etc. The second part is dedicated to the very important issue of reforms of the financial system of the European Union, necessary for the consolidation of integration processes in the light of the persisting crisis. The deliberations included in this part concern not only the problems experienced by the euro area, but also the European system of financial regulation, the functioning of the banking system, as well as the flow of capital and services, although particular emphasis was put on the consolidation of government finances. The third part of the publication elaborates on the issues related to the need to ensure greater coherence in the socioeconomic development of all EU Member States. Faced with the threat of the birth of a ‘two-speed Europe’, the authors point out the need to decrease the regional development disproportions within the new EU Financial Framework 2014–2020.

The last two parts concern social and energy-related problems, which complement, in a sense, the topic of sustainable growth, recurring throughout the publication. The fourth part presents the reforms of the social policy, necessary in the light of far-reaching demographic changes taking place in the societies of the EU countries. This concerns first of all the need to introduce a reform of the pension systems due to the decreasing native workforce, population ageing and evolution of job markets. The fifth part, in turn, contains an analysis of the existing – or rather non-existent – common energy policy of the EU Member States, particularly in the context of the requirement to ensure long-term energy security.

The publication in question is not only, as it has already been said, a very important work, but is also very illuminating, as well as – what should be additionally stressed – simply interesting and well written. Its high factual quality has been determined by the format of the entire project, the bountiful results of the aforementioned conference and, above all, the authors themselves, who include both eminent practitioners, such as high-ranking politicians (ministers, the President of the National Bank of Poland, representatives of EU institutions) and outstanding Polish and foreign scientists, such as the team of editors of the publication in ques-
The publication has undeniably fulfilled its ambitiously outlined objectives— as the editors put it in the Introduction: ‘we propose some recommendations referring to different targets formulated in the Europe 2020 Strategy and suggest research topics considered as crucial for strengthening the integration process of the EU in its multidimensional aspects.’ Another very important advantage of the entire publication is the fact that it has successfully performed the task of creating ‘a platform for discussions between scientists and policy makers, including governments’ representatives, as well as other important stakeholders: non-governmental organizations, representatives of business (employers and employers associations), local authorities, different social groups (students, pupils and teachers), etc.’

Generally speaking, the publication in question deserves full recognition due to its factual content, the topic, scope, as well as the relevance of the issues it touches upon. The publication is a good example of a comprehensive and many-sided approach to the examined issues, principally owing to successful combining of the scientific theory with the socioeconomic and political empirical knowledge.

Another asset is the meticulous edition, not only in technical or formal terms, but also as regards the factual content, which is—as we all know—not an easy task in the case of joint publications, which require clear ordering and are more often than not rather diverse in terms of topic.

With all its merits, the book ‘European Integration Process in the New Regional and Global Settings’ is a valuable source of information and inspiration for research fellows and students of many various academic disciplines. It can also be of use to practitioners and all those interested in European integration.

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Stéphane Hessel is a 94-year old writer, a former operative of the French Résistance and the author of the book Indignez-vous!, deemed the literary highlight of 2010 by the daily Le Monde. One million copies of this books were sold in France alone. It was also a publishing success in other European countries. To date, it has been translated into 22 languages, including English, German, Italian, Korean,
Greek and Slovenian. In Poland it was published by Oficyna Naukowa. The booklet is only 4000 words long. It calls for civil disobedience against the present socio-political and economic situation in France. It has become a beacon for young people from all over Europe who feel the emptiness of the system, in which money and corporate power play the key role.

Undoubtedly, the book was a success also owing to the figure of the author. Hessel was born in 1917 in Berlin. His father was a Jew of Polish origin, a professional translator and writer (he translated, among others, *In Search of Lost Time* by Marcel Proust). His mother came from Prussia and was a correspondent of the *Frankfurter Zeitung*. Hessel grew up among artists, such as Pablo Picasso and Marcel Duchamp. He studied at the École Normale Supérieure, where he met Jean-Paul Sartre, to whose theory he also refers in this book. Stéphane Hessel fought in World War II against the Germans; he was taken prisoner and later escaped to England, where he served in the Royal Air Force. During his stay in England, he met General de Gaulle, who sent him on a secret mission to France in 1944. Captured by the Germans again, he was sent to a concentration camp. Although sentenced to death, he miraculously survived. After the war, in 1948, Hessel became the French ambassador to the United Nations and worked on the drawing up the Universal Declaration of Human Rights.

The *Time for Outrage* is divided into six very short chapters: *Introduction, Outrage Inspires Resistance, Two Views of History, Indifference: The Worst Attitude, Outrage over Palestine, Nonviolence – the Path we Must Learn to Follow*, and the last one, *Toward a Peaceful Insurrection*.

In the introduction, the author describes his life during the war and his relationship with General de Gaulle, who, according to the author, revived France after World War II. The new French Republic has become a country with a strong and just foundation, with a system that guarantees citizens the means of subsistence and decent retirement pensions, where the sources of energy, as well as electricity, gas, coal were nationalised, in which big banks and insurance companies belonged to the state. In this country, the public interest outweighed the interests of the individual, there was independent press, citizens had the right to free education and no one suffered from racial discrimination.

In the chapter *Outrage Inspires Resistance* the author discusses the situation of contemporary France, where in his opinion, the social achievements mentioned earlier are at risk. Money rules everything, banks have been privatised and are now more concerned about their income and salaries for the board than the best interest of customers. He also points out that the foundation of the French Resistance during the war was the outrage at the Nazis and the collaborating Vichy Government.

The chapter entitled *Two Views of History* involves a discussion of two theories of human history. According to the first one, by Georg Hegel, the history of mankind is subject to constant progress, as a result of which man will finally achieve complete liberation and a democratic state in its ideal form will evolve. According to Walter Benjamin, on the other hand, the history of mankind is also a progress, but of freedoms and competition, which lead to a kind of ‘rat race’, devastating like a hurricane.
In this chapter, the author presents one of the inspirations for the book – a watercolour by Paul Klee entitled Angelus Novus (its reproduction is printed at the beginning of the book) and the commentary by Walter Benjamin – ‘an angel opening its arms as if to pushback or ward off a storm that Benjamin equates with progress.’

In the next chapter, Indifference: The Worst Attitude, the author argues that by being indifferent we deprive ourselves of one of the essential ingredients that make us human – the ability to get indignant and to get involved. He also points out two main challenges facing today’s world: the growing gap between rich and poor as well as human rights and the state of our planet.

In the chapter Outrage over Palestine, despite his Jewish roots, the author speaks up for the rights of Palestinians. He criticises Israel for the invasion of the Gaza Strip in 2008. Quoting the report by Richard Goldstone of September 2009, Hassel points out that ‘Operation Cast Lead’ involved war crimes and crimes against humanity, and calls the Gaza Strip, which he visited in 2009, an ‘open-air prison for a million and a half Palestinians’.

The chapter Nonviolence – the Path we Must Learn to Follow deals with the ineffectiveness of terrorism and violence. The author quotes Sartre, who wrote: ‘(...) violence, manifested in any form, is a failure. But it is an inevitable failure because we live in a world of violence.’ Despite these words, the author calls for a total rejection of violence as the only way to make it stop.

In the last chapter, Toward a Peaceful Insurrection, the author emphasises once again that the rebellion must be a peaceful one. Therefore, he believes that we should start a fight against the system, as the French Resistance did years ago against the Nazi invaders. It should be a struggle to create a society that we can be proud of – in the present system, there is suspicion towards foreigners, retirement is uncertain, and the welfare state is gradually liquidated, while the media are in the hands of the rich.

Hessel’s book reflects the present situation in France and in a large part of Europe. It keeps with the spirit of the times and corresponds to the situation of the financial crisis that shook the whole world, including the European Union. The author does not, however, provide any specific solutions – he only encourages deep reflection. I think that this book, even though it is very small in volume, may provide a basis for understanding the wave of social unrest in Europe. Indeed, its title gave the name to the Spanish ‘Outraged Movement’ (Los Indignados).

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ACTIVITIES
OF THE
CENTRE FOR EUROPE
UNIVERSITY OF WARSAW
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MyCandidate.eu – the Voter Advice Application for the London Mayoral and Assembly Elections in 2012

Abstract: In 2011 and 2012 the Centre for Europe, University of Warsaw implemented an online tool, a Voter Advice Application (VAA), with a view to support voters in making an informed choice in the local elections in the UK.1 The aim of tools like VAA is to foster electoral participation by delivering information about the opinions of the candidates and propose a candidate-to-voter matching scheme. This particular VAA was targeted mainly at the Polish and Lithuanian communities in the UK, as one of the objectives of the European Commission, which co-sponsored the project, was to stimulate EU citizens living outside of their countries to take part in local elections in the place they currently reside. This article shares the findings of the second year of the project, makes some observations and proposals, and concludes by recommending further actions, both to the academic environment as well as to politicians and the European Commission.

Introduction

In the years 2011-2012 the Centre for Europe of the University of Warsaw headed up a joint project called ‘Voter Advice Application for Poles and Lithuanians eligible to vote in UK local elections,’ co-financed by the DG Justice of the European Commission and the Polish Ministry of Science and Higher Education. Together with its partners, the non-governmental organi-
zation MyPolitiq from Lithuania and two British universities (Loughborough and Leicester), the Centre for Europe set the goal of using the VAA as a tool which might encourage migrant communities to vote in their current place of residence and to do so in a responsible way. Such an objective required not only organizing a promotion campaign for participation in elections, but also the dissemination of knowledge about the views of each candidate. The views held to be of importance for such dissemination are those in areas of social life which have the strongest influence upon the quality of life and on how people assess the effectiveness of the actions of public authorities.\(^2\) The new project idea was created with both social and scientific objectives. Firstly, the Voter Advice Application (VAA) could help migrants within the EU with their electoral decisions, empower their social participation, and thereby boost election turnout. Secondly, the data collected by the statistical software could be used for further studies on migration and voters’ behaviour.

This paper describes the actions carried out in 2012 and discusses the effects of such actions, while at the same time demonstrating the way in which the lessons learned from the 2011 VAA edition were subsequently incorporated into the activities of the 2012 edition. Such changes, which included the improvement of IT tools, the organization of the project team implementing the website myCandidate.eu, and gaining users are described in the lead up to the final analysis of the VAA results in 2012 and the consequent findings.

1. The experience of 2011 and the lessons learned

There was a first edition of the myCandidate.eu project in the year 2011, which led to detailed research on the reality of local elections in the UK and to the needs and requirements for technical work on the IT tool. The actions undertaken in 2011 by the project team can be summed-up in the following points:

A. Designing the Internet application for the Voter Advice Application, which is an open source code based on the methodology of comparing sets of answers given by the application’s users.

B. Research on local elections in 2011 in the UK, which incorporated the structure of such local elections, the number of such elections, the electoral systems used, and the authorities being elected.

\(^2\) ‘VAA for Poles and Lithuanians eligible to vote in UK local election’ – survey conducted before the elections for Mayor of London and the London Assembly Members, Centre For Europe, University of Warsaw, June 2012, p. 2, unclassified.
C. The design and launch of the myCandidate.eu website with adjustment of the layout tailored for UK elections, as well as versions of the website in three languages (English, Lithuanian, Polish).

D. Creating for the local elections a questionnaire containing 18 questions on important topics for the local community, such as social security, safety, and education.

E. Designing the statistical software for the website and the additional questions for the questionnaire.

F. Creating the database of candidates, press and other media for the Polish and Lithuanian minorities and other important actors during the elections (electoral officers, local level political party leaders, organizations informing the public about the elections, and organizations working for the Polish and Lithuanian minorities living in the UK).

G. Mailing, calling and meeting persons and institutions listed on the database in order to invite them to participate in the project and/or disseminate the information further.

H. Registration of the candidates.

I. Internet promotion of myCandidate.eu, effected by the use of the website banner and google AdWords targeted to Poles and Lithuanians living in the UK.

J. Collecting the data derived from the application, analysis of the data, and further academic studies.

K. Collecting and archiving the press releases concerning the project.

All the partner organizations were responsible for the project to some extent and the work was divided up on the basis of the specializations of the partners. MyPolitiq covered the IT work and Internet promotion, while the universities were engaged in research and contacting both key people and institutions, either by meeting them in person or by email and phone. The most important lessons that can be derived from this first round of the myCandidate.eu project could be listed as follows:

Firstly, with reference to points A), C) and E), the use of the open source code of the Voter Advice Application and its technical capabilities was adequate for the project’s purpose. i.e. of making the tool available to the Poles and Lithuanians who lived in UK. Therefore the application could successfully be used again in the next project edition.

Secondly, with reference to the actions described in points B), F) and G), getting in touch with local authorities and politicians in order to persuade them of the benefits of the use of VAA was difficult, since local elections in the UK are very decentralised. The election structure is diversified and most of the campaigns are straightforward and based on walking door-to-door, so
neither candidates nor voters tend to use the Internet in search of information about the election.

Thirdly, a consequence of an attempt to cover the whole electoral map of the UK with VAA was that the questionnaire (point D) was required to be relevant for the whole UK, and consequently was rather general in nature. There was no space to ask people about specific local issues, but only some basic matters concerning all local communities. Besides, the questionnaire appeared to be too long in terms of its attractiveness for users. Many of them quit responding before getting to the final questions. Hence it was evident that not only were the 18 questions to be answered tedious, but the tedium could have been aggravated by the fact that the questions were divided into several sections, each on a different subpage that the user had to move to and from by clicking. Nonetheless the basic principle had to be maintained that the questionnaire could not be too short and easy for voters, as the objective is to give the voter a consistent analysis of the fit of each candidate’s views. Thus a compromise had to be found between convenience and comprehensiveness. Hence it was decided that the 2012 questionnaire would be limited to a smaller number of questions and appear more transparent for users, who could view all the questions together.

Fourthly, the dissemination of information as described in point H) mainly targeted Poles and Lithuanians, so the message to politicians was that the project concerned mainly the Polish and Lithuanian minorities in the UK. This message may not have been catchy enough for political circles and the two minority target groups could have seemed to them to be a relatively fringe voting bloc in relation to all the people eligible to vote. This created a negative spiral effect, as the low level of interest in the website on the part of the candidates consequently generated little traffic, which meant that the tool was destined not to be popular in the UK as a whole.

Fifthly, the experiences derived from the activities described in points H), I), and J) confirm the impact of mass media on the spread of information about the project among the politicians and voters, which has the potential to raise their awareness of the VAA and to convince people to use the tool. Even a limited use of Internet marketing tools notably increased the potential users who viewed the myCandidate.eu website.

Sixthly, as deduced from point I), there is a link between the small number of candidates registered on myCandidate.eu and the low numbers of potential voters using the tool. The candidates were not much interested in VAA if it was not going to help them get the voters’ attention. This attitude on the part of the candidates weakened the project team’s attempts to empower voters with information which would facilitate their election decisions.
2. Putting into practice the lessons learned

2.1. Setting a new agenda

In December 2011, at the end of the first year of the two-year project, the team was able to reflect together on the outcomes and to point up those actions which should constitute priorities for the next project year. The conclusions were as follows:

a. The IT system was to stay the same since there had been no apparent problems or difficulties the previous year.

b. Since the local elections in UK are particularly decentralised it would be better to focus on a smaller but densely populated area, where the campaigning is well commented on in the media and people are more likely to look for information about the candidates on the Internet. The team decided to focus only on London, where fortuitously local elections were to take place in 2012. In designing the VAA in 2012 only for London, the questionnaire could then contain questions specific for this city which could be matched with the issues that Londoners face every day.

c. The questionnaire would be limited to a smaller number of questions, which would cover the local authority themes.

d. The message to people had to be adapted to fit the target group. In order to reach the candidates, VAA requires popularisation as a universal tool and not as one specifically designed for Poles and Lithuanians. There was concern that the identification of the project as concerning Polish and Lithuanian minorities might have reduced the interest in VAA as a complex political marketing tool. It was supposed that political circles may be more interested in a tool which reaches all types of voters. At the same time Poles and Lithuanians still needed a specific message designed for them which would approach them better than the general UK news about the elections and that otherwise might not reach these eligible voters. This communication with non-UK nationals is not only about encouraging them to visit myCandidate.eu, but also about informing them that they can take part in the local election in an EU country other than the country of their origin.

e. In order to attract candidates and voters, more attention to myCandidate.eu had to be stimulated in the media. The direct cooperation with political parties, which for the most part failed in 2011, should not be expected to be much different in 2012. The actors who were more likely to cooperate were media and social organizations, so a larger number of them should be contacted directly. However, the most
effective means of communication seemed to be the indirect channels. Therefore it was decided that e-marketing would be the main driver of the communication this year.

f. The major assumption was that in order for the whole project to empower voters with the VAA tool, more candidates needed to be registered on myCandidate.eu. Improvement in this field in comparison to the previous year was considered to be the one thing most needed in 2012 in order to boost the project.

Hence the project goals in 2012 were set, and the team made an ‘adjustments plan’ derived from the lessons learned, which was planned to be put into practice in 2012 as follows:

a) Research into the local elections in London in 2012, based on gathering relevant information about the electoral system, would be reflected in the necessary website updates.

b) Creation of a questionnaire for London.

c) Launching the website and VAA with the new questionnaire and current electoral information in three language versions (English, Lithuanian, Polish).

d) Creating the database of candidates and other important actors during the London elections, as well as media channels such as press and radio (English, Polish, Lithuanian).

e) Organising a promotional campaign informing Polish and Lithuanian media and organizations about the upcoming elections and the electoral rights of EU participants.

f) Organising a promotional campaign aimed at getting candidates to register on the website. In order to do so, the project team contacted persons and institutions from the database and invited them to participate in the project by registration (if candidates) or by otherwise by disseminating the information about VAA further.

g) Promotion of myCandidate.eu, effected by the use of website banners, google AdWords and facebook targeted to Poles and Lithuanians living in the UK.

h) Collecting the data derived from the application, analysis of this data, and passing this along to academics for further studies.

i) Collecting and archiving the press releases concerning the project.

j) Comparative analysis of the two project years.

2.2. The specific election of 2012

The London Mayoral and Assembly elections, which were to be held in London in 2012, gave the project the opportunity to make myCandidate.eu
more visible than the year before for a variety of reasons. Firstly, London as a metropolitan capital city is a high profile arena for political debate, which engages top politicians and raises much emotion towards issues connected with the elections. The sheer size of London gives the discussion of the elections a solid grounding in virtual space. This cannot be said about many smaller communities in the UK, where the local campaigns seem to be more direct in nature. For the myCandidate.eu team the combination of these factors meant that the VAA might be a more relevant tool in London than in smaller communities.

Secondly, another important advantage was that London is city place where many migrants from Poland and Lithuania have taken up residence, with the consequential development of a diversity of media channels and organizations concentrating on these groups.

Thirdly, the decision to focus on London allowed the project experts to work on a questionnaire which would be matched specifically to the character of this particular place and to issues that residents of London face every day. The project team realised that the search for local issues which would be common for the whole UK in the 2011 elections had proven problematic, given that all of the questions had to fit specific local circumstances.

As the VAA in 2012 was to be designed for the London Mayoral and Assembly election, it was crucial for the project team to obtain a genuine understanding of how these elections are constructed by carrying out research on this particular voting system. This resulted in the following summarization of the process to be used as the basis of the plan:

The purpose of the Mayoral Election is to choose one politician who will hold the position of local authority representing Greater London with its 25 districts, plus London City. The specific competence of the Mayor of London is to plan the policies and execute the strategies for dealing with London’s everyday problems and continuing development. The power over London resides in the hands of the Mayor of London only since the year 2000, when the mayoral elections were decentralised. This post does not correspond to that of the Lord Mayor of the City of London, a post that has more than 800 years of tradition, and which currently is only of ceremonial importance, whereas the Mayor of London ‘\textit{has a range of specific powers and duties, and a general power to do anything that will promote economic and social development, and environmental improvement}’.\footnote{The Mayor of London Website: http://legacy.london.gov.uk/mayor/role.jsp (last visited 12.09.2012).}
The candidates for the Mayoral election are previously chosen at the political party level, and then in a direct election with a Supplementary Vote System (SVS). In this system, those entitled to vote have two choices, a first preference marked as the ‘first choice’ and a second one marked as the ‘second choice’. A candidate who receives at least fifty per cent of the ‘first choice’ votes is the winner. If no candidate attains this 50% threshold, then the results of the two candidates having the most ‘first choice’ votes are upgraded with the ‘second choice’ votes they received from people whose ‘first choice’ was someone other than the two leading candidates. In 2012 there were seven candidates standing in the Mayoral Election, six of whom were representatives of political parties, and one independent.

For the London Assembly, twenty-five representatives are elected by means of the Additional Member System (AMS). Fourteen members are chosen from the fourteen constituencies, which taken together cover the whole of London. The remaining eleven members represent the whole city and they are elected from the so-called London-wide list, which requires political parties to obtain a minimum of five percent of the total votes in order to get any seats. The role of the London Assembly is mainly to oversee the executive, monitor the situation in the city, and give recommendations to the Mayor. The Assembly also controls the Mayor’s work particularly in matters connected with transportation, criminality, real estate, and the environment. This body also has a right to intervene in the London budget, which the Assembly can modify by a two-thirds majority vote. Each Assembly constituency in London usually numbers between 300 and 400 thousand registered voters. Taking into consideration the large scale, this means that even the members elected from the constituencies would not be able to do a door-to-door campaign.

2.3. Creation of the questionnaire

As can be deduced from a perusal of the competencies of the Mayoral and Assembly authorities, both are concerned with similar issues for Londoners, which made it easier for the project team to construct a single questionnaire that would cover both the Mayoral and Assembly elections. The objective of the project experts who worked on the questions was to include topics in the questionnaire which would be deemed relevant for most London residents, and the team came up with the following subjects as topical for such voters: the street riots in 2011 and the issue of use of force by the police to combat them; aspects of social security, particularly those regarding the raising of children; the impact of the economic situation on the job market. Although

4 Greater London Authority Website: http://www.london.gov.uk/who-runs-london/the-london-assembly/about-london-assembly (last visited 15.09.2012).
there was a multitude of possible topics for questions, it was clear from the feedback on the 2011 research that the 2012 questionnaire should be shorter in order to make filling it in easier and quicker for both politicians and voters, as it had been observed that both parties find all kinds of Internet surveys tiresome, skip the last questions, and do not finish the survey. Thus it was decided on a total number of 16 questions. Additionally, there were also 9 optional questions, which could be used for obtaining statistical data on the respondents. The users could answer the additional questions after completing their questionnaire.

The questionnaire questions are listed below. The respondents’ had five possible answers: Agree, Partly agree, Partly disagree, Disagree, Don’t know. They could optionally value each question by marking whether they care about it little, average, or very much. The 2012 questionnaire included the questions listed in Chart 1 (given in the form of statements with which the respondents could agree, disagree etc).

There was also an interview form, which the users could optionally answer after they had filled out the VAA questionnaire. It included general questions concerning gender, age, nationality, education, income, as well as: ‘I care about what my neighbours think of my actions (YES/NO)’, ‘I expect to live in the neighbourhood I am living now for a long time (YES/NO)’. Moreover, for non-national users, there were also some specific questions, as listed in Chart 2 below.

Once the questionnaire had been completed, the IT professionals could launch the website and VAA with the new questionnaire and add current electoral information in the three language versions (English, Lithuanian, Polish).

Chart 1.

- **Category: Leisure**
  - Question 1: Cultural events and public space for cultural exchanges are available in my neighbourhood.
  - Question 2: The number of accessible places for leisure activities is satisfactory.
- **Category: Safety**
  - Question 3: I feel safe walking in my neighbourhood after dark.
  - Question 4: The police can always be counted on.
- **Category: Education**
  - Question 7: The cuts in the EMA strongly affect access to education.
  - Question 8: The increase in tuition fees to £ 9,000 a year strongly affects access to higher education.
- **Category: Environmental protection**
  - Question 11: Carbon emissions should be a Mayoral priority.

- **Category: Costs of life**
  - Question 10: Londoners’ fuel bills should be a Mayoral priority.
  - Question 12: Londoners pay too large an amount of their income in rent.
  - Question 13: Transport fares are too high.

- **Category: Healthcare and social assistance**
  - Question 5: A group of 240 healthcare professionals warned that the health and social care bill is an ‘embarrassment to democracy’ in mid-March. Do you agree?
  - Question 6: Grants for childcare for low income families should be provided.
  - Question 14: Local authorities carry out their duties in the area of social services in a satisfactory way.

- **Category: Employment**
  - Question 9: Work in the UK is available for all who seek it.

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**Chart 2.**

- When did you arrive in Britain?
- Is your life better now than it was in your country of origin? (YES/NO)
- Do you feel at home in Britain? (YES/NO)
- Would you like to stay in the UK for a long time? (YES/NO)
- Is your place in the UK social structure higher than in your country of origin? (YES/NO)
- Did you vote in the most recent elections in your home country? (YES/NO)
- Have you ever voted in Britain? (YES/NO)
- Did you attend religious services in your home country? (YES/NO)
- Do you attend religious services in Britain? (YES/NO)

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3. **Creating the database of candidates and other important actors**

Following the procedures set up in 2011, this stage of the project involved gathering data on the candidates and other important actors. This task was entrusted to the liaison team from the University of Warsaw, which was made up of a group of four part-time working students as assistants, and the project
manager to oversee the team. The team searched the 2011 database and looked for all possible contacts in London, which turned out to be mostly political party headquarters. They then searched ‘The Public Service Exchange’ database for the 2012 elections in London and incorporated the results into the project database. The liaison team also started a new search for contacts to the candidates and people working on the London elections. The database was to be used in two out of the three planned promotion stages. i.e. in the first stage, which would be focused on raising the awareness of migrants of their electoral rights, and in the second stage, which would seek to get candidates to register on myCandidate.eu.

A new objective, in comparison to the 2011 approach, was to create a much more extensive database of media and organizations which could help spread information about the project and website. Consequently the new strategy was that in 2012 many social media and institutions were to be approached. Media, social media and communities where migrants gather could also be used for the dissemination of information about the project among migrant voters. The previous year the project team had met with a number of people in the UK who work for organizations focused on the Polish and Lithuanian communities, democracy issues, and politics. Reaching all these actors was budget-consuming and time-consuming, and many of them did not engage in the VAA project. Hence in 2012 the team decided to first try to reach these groups through the virtual media.

A database was set up in order to keep a clear record of who had already been contacted, how many times, who not yet been contacted, and how the liaison team divided the work among its members. In total the database had 606 records containing different actors related to the London election and their various contacts, depending on what could be found (office address and telephone, email, facebook, twitter, website). The five main categories of records are listed below:

- Media: newspapers, news websites, radio stations, foundations and NGOs, church congregations, political parties’ headquarters – 92 records;
- London boroughs’ websites, fanpages – 14 records;
- Candidates in the London Mayor and Assembly Elections – 199 records;
- Public Services: Electoral service managers and heads of democratic services and other officials from London Boroughs – 113 records;
- Political party leaders from London Boroughs – 189 records.

These contacts were obtained from a database ‘The Public Service Exchange’ purchased for the project from Oscar Research Ltd.
4. Promotion of the project

There were three promotional stages of the project in 2012, which should be assessed separately, putting into practice the lessons learned in points E), F), G). By ‘promotion’ we mean a series of actions undertaken in order to promote the VAA. Since there were many different types of actions, they were divided into three groups, which constitute the three stages described in points below.

4.1. Stage 1. Promotions informing the Polish and Lithuanian media and social organisations about the upcoming elections and the electoral rights of EU participants

This First Stage in 2012 was seen as a prelude to the other two stages. It consisted of sending out some initial information about the London local elections to the media and organizations dedicated to Poles and Lithuanians. This was done by mailing, phone calls and through Internet fora. The objective of this Stage was to introduce the electoral rights of EU citizens to non-UK nationals, along with some practical tips on how to register to vote, as well as some information about the VAA project.

From the database, over 100 records were selected for further contact. They were various types of organizations, some of them dedicated to Polish and Lithuanian minorities and some English media and social organizations with strong local coverage in London. Political party headquarters were also included in this list in the hope of interesting some political actors in the project. Between the 5th and 4th weeks before the election these 100 recorded contacts were contacted with a message encouraging them to inform the public about the right to vote in London elections for all EU citizens living there, with instructions on how and when to register to vote in the London elections. There were approximately 100 messages sent in that period, with the contents adjusted according to the profile of the organization addressed. For instance the message to the Polish churches were different in terms of both language and register from those sent to the English language daily newspapers.

Among a hundred and six organizations reached, there were 25 newspapers (22 British and 3 Polish), 5 Polish church congregations, 38 NGOs or foundations (31 Polish, 4 British, 3 Lithuanian), 2 Polish radio stations, headquarters of 9 political parties, and 14 London borough websites or fanpages.

During this Stage, the liaison team also focused on the visibility of myCandidate.eu on facebook. From the end of March until the election there were updates on the project fanpage every two days. Moreover, the myCandidate.eu fanpage put ‘likes’ to all the media and social organizations in the database that were on facebook. At that point, the major task was to inform
the Polish and Lithuanian media and social organizations about the upcoming elections and the electoral rights of EU citizens.

Stage 1 resulted in press releases in the following media in London: elondyn.uk, thewiza.com, polonia-worcester.co.uk, polemi.co.uk. The newspapers and websites mostly published the letter sent by the liaison team describing where the reader could find information about how to register to vote. The dissemination of this information was intended to raise electoral awareness in the month before the election. An additional benefit from this stage for the project team was that by contacting the media about this initial activity some media contacts were early on established, which facilitated the subsequent contacts for the following stages of the project.

4.2. Stage 2. Promotion aimed at getting candidates to register on the website

The Second stage was based on the practice of the previous year: mailing all the potential candidates and people who work on the election campaigns in order to get candidates registered on myCandidate.eu website. The difference from 2011 was in the content of the message, as the 2012 VAA was basically promoted as a political marketing tool which would serve the public. The scientific value of VAA and the focus on chosen national minorities, factors which had been highlighted in 2011, were given less exposure.

The candidates were the most precious contacts in the database due – one could say – to their scarcity value! The list of confirmed candidates was officially released four weeks before the election. Until that date, only some of them were known. Right after the list was published, the liaison team was ready to send emails to all of them, but it turned out that while the candidates published their postal addresses, barely half of them had given their e-mail address. Thus for those who could not be reached by email, the liaison team had to send letters by regular post. Those with e-mail addresses received four e-messages from the liaison team at intervals of about five days apart. The number of candidates standing in the London Assembly election were as follows (sorted by their party affiliation):

- British National Party – 16 candidates
- Christian Peoples Alliance – 25 candidates
- Communist League – 1 candidate
- Communities United Party – 1 candidate
- Conservative Party – 26 candidates
- English Democrats – 9 candidates
- Green Party – 23 candidates
- Greenwich and Lewisham People Before Profit – 1 candidate
- Labour Party – 22 candidates
London Liberal Democrats – 22 candidates
National Front Putting Londoners First – 6 candidates
Residents’ Association of London Official – 1 candidate
The House Party – 1 candidate
The Socialist Party (GB) – 2 candidates
Trade Unionist And Socialist Coalition – 8 candidates
UK Independence Party: Fresh Choice for London – 22 candidates
Independents – 4 candidates

Table 1 below presents the number of e-mails sent to the candidates and public services and political party leaders by date. Due to the time which the postal service required to deliver the mail, the post-dispatch was made first. Then the liaison team sent e-mails almost every day right until election day. There were four rounds of e-mailing, which means that every candidate whose e-mail address or facebook profile was available received a message about the project four times.

In the case of the Mayoral election, the liaison team used the contacts to the candidates’ press officers as well as those of the candidates. Seven candidates and three press officers were contacted.

Table 1. Rounds of mailing

<table>
<thead>
<tr>
<th>Round</th>
<th>Date of dispatch</th>
<th>Number of messages sent to candidates</th>
<th>Number of messages sent to public services and political party leaders</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>05.04.2012*</td>
<td>86</td>
<td>56</td>
</tr>
<tr>
<td></td>
<td>07.04.2012</td>
<td>34</td>
<td>79</td>
</tr>
<tr>
<td></td>
<td>08.04.2012</td>
<td>7</td>
<td>109</td>
</tr>
<tr>
<td></td>
<td>09.04.2012</td>
<td>39</td>
<td></td>
</tr>
<tr>
<td>2nd</td>
<td>10.04.2012</td>
<td>19</td>
<td>48</td>
</tr>
<tr>
<td></td>
<td>13.04.2012</td>
<td>31</td>
<td>56</td>
</tr>
<tr>
<td></td>
<td>13.04.2012</td>
<td>60</td>
<td></td>
</tr>
<tr>
<td></td>
<td>15.04.2012</td>
<td>52</td>
<td>176</td>
</tr>
<tr>
<td>3rd</td>
<td>20.04.2012</td>
<td>27</td>
<td>109</td>
</tr>
<tr>
<td></td>
<td>21.04.2012</td>
<td>30</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>24.04.2012</td>
<td>31</td>
<td>127</td>
</tr>
<tr>
<td>4th</td>
<td>25.04.2012</td>
<td>50</td>
<td>109</td>
</tr>
<tr>
<td></td>
<td>29.04.2012</td>
<td>31</td>
<td>127</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>437</td>
<td>1057</td>
</tr>
</tbody>
</table>

* letters sent by regular post
Alongside the candidates, there were also other actors who were deemed to be potential facilitators in reaching the candidates. The public service officials and political party leaders at the London level were also e-mailed several times starting four weeks before the election. Around 300 contacts assigned to this group of records were e-mailed in four rounds. This target group mainly represented the most popular political fractions; 43% of them were from Labour, 32% – from Conservative, 16% – from Liberal Democrats, and 2% – from Green. There were also some other political affiliations represented, including Residents’ Association of London, No Overall Control Administration, and Independent.

A further action in this stage was to send out the messages about the myCandidate.eu website once again to all the media considered to be of interest. However this time the message was not about how to register to vote but was an invitation to visit the myCandidate.eu website, where there were already candidates registered. Between the 12th and 27th of April there were around 100 emails sent, which resulted in publicity in Cooltura magazine, polemi.co.uk, and a broadcast on radio (Polskie Radio Londyn).

In total, this promotional stage amounted to approximately 1600 letters and e-mails sent to 590 different persons. The results were articles in the press, radio broadcasts, website publications, and above all in the candidates who registered on myCandidate.eu (described further in section E.1 Registered candidates).

4.3. Stage 3. Internet promotion of myCandidate.eu

While the database was used for direct contacts with people in London by the liaison team from the University of Warsaw, the third type of promotion – e-marketing – was conducted by the marketing experts from MyPolitiq. In 2012 this Internet promotion was stepped up to become ten times more intensive than in 2011, both in terms of expenditure and outcomes sought. The previous year had shown the potential of communication channels such as tools provided by google and the placing of banners on websites. MyPolitiq decided to also add facebook marketing as a promotional channel, considering it as the second most influential method next to google. In comparison with the other promotional stages, which were based on the creation and use of a database, the Internet promotion had the advantage of requiring considerably less manual work involving searching and then mailing, but the disadvantage was that it was much more costly. In the case of the London elections it was possible for the project team to do an intensive VAA Internet promotion because the project covered only this one highly concentrated area. Thanks to the size of London’s population, there were many recipients of the Internet banners and ads, so the outputs of the promotion were rela-
tively high and the Third Stage could have an impact on the elections and yield adequate results. The Internet promotion consisted of three elements: facebook, google searches and banners, as well as articles on websites. These three channels are described in the points below.

- **Step 1.** The preparation, implementation and optimisation of advertising campaigns on the social network facebook.com.

  The First Step of Internet promotion consisted of nine different actions undertaken on facebook and designed to attract residents of London, including Lithuanian and Polish emigrants. The actions had more than 12 million views and 2,592 people clicked the ads. Table 2 presents details regarding the promotion of the project on facebook: the specification of the target groups, and numbers related to it.

Table 2. Project promotion of facebook

<table>
<thead>
<tr>
<th>Number of users</th>
<th>Target group specification</th>
<th>Results</th>
</tr>
</thead>
</table>
| 1 19,620        | • Live within 50 miles of London  
• Age 21 and older  
• Speak Lithuanian | Audience reached 14,773  
Views 507,322  
Clicks 160 |
| 2 22,480        | • Live within 50 miles of London  
• Age 18 and older  
• Speak Lithuanian | Audience reached 18,238  
Views 635,173  
Clicks 209 |
| 3 736,180       | • Live in United Kingdom or Lithuania  
• Age 18 and older  
• Speak Lithuanian | Audience reached 297,918  
Views 3,882,553  
Clicks 1,064 |
| 4 152,320       | • Live within 50 miles of London  
• Age 18 and older  
• Speak Lithuanian or Polish  
• Like political parties | Audience reached 39,794  
Views 662,363  
Clicks 85 |
| 5 70,200        | • Live within 50 miles of London  
• Age 18 and older  
• Speak Polish | Audience reached 44,868  
Views 963,768  
Clicks 377 |
| 6 6,650,160     | • Live within 50 miles of London  
• Age 18 and older  
• Speak English or Polish | Audience reached 422,121  
Views 2,348,498  
Clicks 371 |
| 7 51,560        | • Who live within 50 miles of London  
• Age 18 and older  
• Who like politics | Audience reached 36,236  
Impressions 1,126,579  
Clicks 270 |
| 8 54,180        | • Live within 50 miles of London  
• Age 18 and older  
• Like politics | Audience reached 31,264  
Views 845,880  
Clicks 154 |
| 9 6,791,360     | • Live within 50 miles of London  
• Age 18 and older | Audience reached 408,166  
Views 1,462,057  
Clicks 262 |
Facebook ads were distributed to nine target groups defined by the VAA marketing team (in the third column of the table above). The promotion was dedicated to adults living in London and the surrounding area, who speak English, Polish or Lithuanian, and who (optionally) are interested in politics.

**Step 2.** The preparation, implementation and optimization of advertising promotion on the google search engine and on Lithuanian and Polish websites through the web banner placements.

In the second step of Internet promotion, effected by the use of banners and google, there were two actions designed to attract the attention of voters. Developed promotions reached more than 770 thousand impressions and 902 clicks. The First action was based on the ads displayed on the google search engine, while the users were typing one of the chosen keywords. The full keywords list included the following words and expressions: Vilnius, lietuva, sportas, krepšinis, lietuvių, londone, anglijoje, verslas, karjera, politika, rinkimai, anglija, lietuvių, mokslas, sveikata, sveikagyrėsena, darboagentūros, darboskelbimai, anglijoje, lietuvosnaujienos, london mayoral election 2012, candidates london mayor 2012, london mayoral elections 2012, london mayoral candidates.

The second action activated the banners shown on the following websites: basketnews.lt, lrytas.lt, balsas.lt, technologijos.lt, alfa.lt, zebra.lt, anglij.com, londonietis.lt, delfi.lt, pazintys.lt, krepsinis.net, draugas.lt, one.lt, 15min.lt, tv.lrytas.lt, super.lrytas.lt, eli.mama.lt, mama.lt, grynas.lt, zodyn.as.lt, manodrabuziai.lt, daugakciju.lt, moteris.lt, 5braskes.lt, amazon.com, cnn.com, theregister.co.uk, msn.com, linkedin.com, facebook.com, nytimes.com, wikipedia.org, youtube.com, bbc.co.uk, ebay.co.uk, mashable.com, twitter.com, telegraph.co.uk, independent.co.uk, guardian.co.uk, metro.co.uk, ehow.co.uk, yelp.co.uk, and pinterest.com.

**Step 3.** The preparation and publication of articles for the most popular and most visited website by Lithuanian immigrants.

The third step of the Internet promotion consisted of articles published on the websites most visited by Lithuanian immigrants – www.londonietis.lt and www.anglija.lt. This step covered mostly Lithuanian media, while Polish media were covered by the University of Warsaw in actions described in Stages 1 and 2.

5. **MyCandidate.eu – summary of the promotion campaign.**

The media response to the actions undertaken by the liaison team was moderate. There were five articles released on the webpages for Polish communities, one in a Polish magazine, and one radio broadcast of an interview
with the VAA project manager. In relation to the work effort put into searching and contacting all the media, the e-marketing campaign brought better results. The e-marketing carried out with the use of search engines, social media and website banners generated considerably more VAA users than in 2011, when e-marketing was not used so intensively.

There was one interesting minor communication channel which proved helpful in getting in touch with the Polish minority. It was discovered that two out of the five church congregations which were contacted by the liaison team were willing to support the project by informing their congregations about it. Hence, some hundreds of leaflets and some posters were sent to these congregations. However, it cannot be said whether the recipients of leaflets were stimulated to check the website as easily as the users targeted by e-campaigns, who could get onto the myCandidate.eu website with just one click. More information about the website traffic is presented in the section below – Outcomes. 2. Statistics on the website traffic.

6. Outcomes

6.1. Registered candidates

There were thirteen Assembly election candidates registered on myCandidate.eu, which represented 6.8% of all of the candidates standing for the London Assembly election. They represented six different political parties, four of them from the London-wide list, the remaining nine from the constituencies. Only one constituency (West Central) had two of their candidates registered.

Each VAA user could compare their questionnaire results with at least four candidates for whom they could conceivably vote. VAA users living in one of seven constituencies had five of their constituency candidates to compare and choose whom to vote for; in one constituency there were six candidates registered on the website.

One candidate who stood for the London Assembly election from the London-wide list and who registered on myCandidate.eu got elected to the Assembly. In general, the registered candidates came from five political parties (three from Labour, three from Green, three from London Liberal Democrats, two from Conservative, two from Christian Peoples Alliance). Four of the candidates stood in the election from the London-wide list, and two from the West Central constituency. One candidate come from each of the following constituencies: Barnet And Camden, Bexley And Bromley, City & East, City And East, Croydon And Sutton, Ealing And Hillingdon, Merton And Wandsworth.
In concluding our observations about the registration of the candidates, one should point out the following:

- The candidates’ who registered responded relatively quickly – all of them signed onto myCandidate.eu within one week of receiving the first email.
- One of the registered candidates was reached by facebook, after his e-mail could not be found. He is one of the thirteen who registered on myCandidate.eu.
- None of those to whom information was sent via regular post responded, neither by registering on the website nor in any other way.

6.2. Statistics on the website traffic

The statistics on website traffic given by google Analytics indicate that before the London elections in 2012 the myCandidate.eu website was visited 6,207 times by 5,618 visitors. These figures are relatively high compared to the number of visits in 2011, when there were 900 visits and 625 visitors. Such a significant improvement may well be the result of the intensification of the promotion of the VAA, and particularly of the concentration of the action on London. Besides, the structure of the source of traffic changed notably. While in 2011 60% of the traffic on the website were direct entrances, and 20% came from referral sites and the other 20% from search engines; in 2012 only 12% were direct entrances, while 46% came from referral sites and 42% came from search engines. This comparison shows a notable growth in indirect website entrances, which in turn proves the significant impact of the large-scale e-marketing made in 2012, especially the use of banners on websites and the positioning in search engines.

The dynamics of the visits is also congruent with the run of the e-marketing campaigns, which were intensified two weeks before election day. From the beginning of the campaign on the 6th of April, there were up to 150 visits per day, which on the 22nd of April increased rapidly, and between the 24th of April and the 3rd of May the number of visits fluctuated between 400 and 650 per day.

According to the information available concerning the location of the website users, 5,297 visits out of the 6,207 came from the UK, and 92.5% of them were one time visitors. Users from Poland and Lithuania visited the website 803 times, and 73% of these were new visitors, which may suggest that the remaining 27%, around 216 visits, were made by the project team, viewing and checking the website.

6.3. Conclusions concerning the questionnaire

The questionnaire was answered completely by 823 respondents, which is more than eight times higher in comparison to the 2011 edition, where fewer
than 100 full responses were obtained. It should be noted that only 10% of the answers registered in this edition were ‘don’t know’, while in the previous year’s edition it was 18%, i.e. a decrease of 8% in this category. This result may indicate that the lucidity of the questions was improved compared to the 2011 questionnaire. The project team has written a report based on the 2012 questionnaire results. It states that the level of satisfaction of the respondents with the seven areas of social life in question varied – the answers of the 823 participants indicate the areas of social life to which there are not many reservations, such as safety, and those which should become the centre of interest of public authorities, such as tuition fees.6

Looking at the results of the questionnaire, the questions can be divided into three groups based on the respondents’ overall attitude. These three groups are:

● High-rated questions.

Four of the questions received more positive answers than negative ones. These include questions 1, 2, 3 and 4. Questions 1 and 2 were also asked in the 2011 edition, and then there were more negative answers than in 2012. Answers to questions 3 and 4 regarding safety leads to the conclusion that ‘a definite majority of the respondents feels very safe’.7 People in general feel that it is safe after dark and that they can count on the police, but in question 4 the respondents were not so clear as in question 3.

● Low-rated questions.

Six of the questions were answered with mostly critical answers, i.e. questions 6, 7, 8, 10, 11, 12 and 13. These questions represent five areas: education, transport, environment, housing, and social resources, which in the view of the respondents are given insufficient attention by the authorities. The critical answers ‘might show a need for a different policy than the one currently implemented or planned by public authorities’.8

● Questions with ambiguous answers, where the responses did not give an overall indication of whether the respondents are satisfied or not.

These include questions 9 and 14. These questions, with answers not clearly identifiable, are those which were perceived rather differently by var-

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6 ‘VAA for Poles and Lithuanians eligible to vote in UK local election’ – survey conducted before the elections for the Mayor of London and the London Assembly Members, Centre For Europe, University of Warsaw, June 2012, p. 3, unclassified.

7 ‘VAA for Poles and Lithuanians eligible to vote in UK local election’ – survey conducted before the elections for the Mayor of London and the London Assembly Members, Centre For Europe, University of Warsaw, June 2012, p. 4, unclassified.

8 ‘VAA for Poles and Lithuanians eligible to vote in UK local election’ – survey conducted before the elections for the Mayor of London and the London Assembly Members, Centre For Europe, University of Warsaw, June 2012, p. 7, unclassified.
ious respondents and the variety of viewpoints becomes evident in the answers to the questions about jobs and social services. It may be observed that there are as many respondents who think there is a job available for everybody as those who disagree. It might be presumed that the answers to question 9 provide an indication how many of the respondents have found work. The social services provided in London satisfy almost half of the respondents, while almost 20% of them do not have an opinion. Question 14 does not indicate a parameter upon which to judge the level of satisfaction and thus it cannot be clearly recognised whether the public opinion is so diverse or whether the result indicates the wide range of interpretation possible for the question itself.

Question number 5 cannot be considered in any of the three categories described above. The proportions between the answers, and especially the high number of ‘don’t knows’, may suggest that the question was not well understood by the respondents and perhaps was more of a comment by the question writer than a real question for the voters to answer. However, the analysis of the actual questionnaire is another issue altogether, which may well be studied as a follow up to the project.

Overall, the survey conducted using the questionnaire may indicate the mood of the public concerning the local community, and in this way indicates to the authorities the expectations of the people who will be voting. Furthermore, the question arises whether the results justify the hypothesis that there is a need for greater involvement of public institutions aimed at strengthening the idea of social justice, equal opportunities, lower costs of life, and sustainable development policies.9

The limited data derived from the questionnaire cannot be used to make sweeping statements about the general attitude of the people living in London towards local politics. However, most of all, the response to the questionnaire may suggest that those people who were reached by the VAA project’s promotional actions and who visited the myCandidate.eu website expect more involvement on the part of the city authorities, especially with regard to social security and care policymaking. If a tool such as the VAA questionnaire were implemented more widely in London than was the case of myCandidate.eu, the data so derived could potentially be used as a barometer of public opinion.

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9 ‘VAA for Poles and Lithuanians eligible to vote in UK local election’ – survey conducted before the elections for the Mayor of London and the London Assembly Members, Centre For Europe, University of Warsaw, June 2012, p. 3, unclassified.
Conclusions

The conclusions to this overview of the work involved in the second year of the VAA project can be summed up in the following few observations:

A) There is a correlation between the status of political parties and their openness to online campaigning.

By online campaigning we mean the use of Internet in public communications and electioneering. The VAA can well be considered as an e-campaigning tool. As Chrysa Lamprinakou describes, with this tool ‘candidates have actually the opportunity to promote their messages, make their policy stances on various issues known to the voters in their area, increase their recognition and support rates and thus, sell themselves through an easy, hassle-free and mainly cost-free way’.\(^\text{10}\) The use of the Internet in election campaigns seems more developed in the case of national elections due to the mass range and professionalism and to the high profile TV status of the parties involved. Thus, VAAs might be associated most effectively with national campaigning.

However having said that, candidates to local elections could also benefit from the use of a VAA, if only they could see the benefits of e-campaigning alongside their traditional ways such as street stalls and door-to-door campaigns. Two major advantages of the VAA in local elections are, firstly, that there are no costs to the candidate and party nor to the voter; and secondly that there is equal opportunity for access to everyone everywhere, particularly in the case of London, where access to the Internet is provided in a great number of social centres and libraries.

Thus, free access means that any candidate can add the use of VAA to their agenda without any extra costs, while equal access means VAA gives candidates exposure without the supremacy represented by the most influential political parties and local activists, who already hold power in the constituency. Nonetheless, in order to take advantage of these opportunities the essential prerequisites are an awareness of e-campaigning (on the part of both candidates and voters) and a willingness to use VAA as a tool. Contemporary research indicates that there is a significant shift in local campaigning towards modern modes of electioneering.\(^\text{11}\) Chrysa Lamprinakou’s study – already quoted above – and others would appear to indicate that local elections are going online, while the experience of myCandidate.eu provides somewhat different observations.

\(^{11}\) C. Lamprinakou, op. cit., p. 15.
Although electronic communication with all the Assembly candidates for election was not possible, some of those candidates who shared their e-mail and were contacted this way did get involved in the project by registering on myCandidate.eu, while attempts to establish contact with other candidates by regular post brought no results whatsoever, considering that none of them registered on the website. It cannot be judged whether the snail mail actually reached them or not, and it has to be mentioned that 20 out of the 86 letters sent by regular post were returned to sender with the postal annotation ‘not known at this address’, which raises interesting questions concerning the validity of the addresses given for candidates and the real availability of such candidates to take part in democratic practices. None of the persons who received the regular post joined the project, while 16.25% of the candidates contacted by e-mail did so.

The percentage of e-mail addresses NOT made public by political parties is presented in Table 3.

Table 3. Missing e-mail addresses per political party vs. assembly election results

<table>
<thead>
<tr>
<th>Political party</th>
<th>Number of candidates with e-mail addresses NOT published</th>
<th>Number of candidates</th>
<th>% of candidates’ e-mails NOT published per party</th>
<th>Party’s % of the constituency candidates elected to the Assembly (number of seats won)</th>
<th>Party’s % of seats won in the London-wide list (number of seats won)</th>
<th>Total number of seats won in the London Assembly</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labour Party</td>
<td>22</td>
<td>1</td>
<td>4.5</td>
<td>57.15 (4 seats)</td>
<td>41.14 (8 seats)</td>
<td>12</td>
</tr>
<tr>
<td>Green Party</td>
<td>23</td>
<td>2</td>
<td>8.7</td>
<td>8.64</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>London Liberal Democrats</td>
<td>22</td>
<td>3</td>
<td>13.6</td>
<td>6.79</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Conservative Party</td>
<td>26</td>
<td>7</td>
<td>26.9</td>
<td>42.85 (3 seats)</td>
<td>31.99 (6 seats)</td>
<td>9</td>
</tr>
<tr>
<td>Trade Unionist And Socialist Coalition</td>
<td>8</td>
<td>5</td>
<td>62.5</td>
<td></td>
<td>0.80</td>
<td></td>
</tr>
<tr>
<td>English Democrats</td>
<td>9</td>
<td>6</td>
<td>66.7</td>
<td></td>
<td>0.99</td>
<td></td>
</tr>
<tr>
<td>National Front Putting Londoners First</td>
<td>6</td>
<td>4</td>
<td>66.7</td>
<td></td>
<td>0.36</td>
<td></td>
</tr>
<tr>
<td>UK Independence Party: Fresh Choice for London</td>
<td>22</td>
<td>15</td>
<td>68.2</td>
<td></td>
<td>4.52</td>
<td></td>
</tr>
<tr>
<td>Christian Peoples Alliance</td>
<td>25</td>
<td>19</td>
<td>76.0</td>
<td></td>
<td>1.75</td>
<td></td>
</tr>
<tr>
<td>British National Party</td>
<td>16</td>
<td>13</td>
<td>81.3</td>
<td></td>
<td>2.12</td>
<td></td>
</tr>
<tr>
<td>Communist League</td>
<td>1</td>
<td>1</td>
<td>100.0</td>
<td></td>
<td>X***</td>
<td></td>
</tr>
<tr>
<td>Communities United Party</td>
<td>1</td>
<td>1</td>
<td>100.0</td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

393
<table>
<thead>
<tr>
<th>Political party</th>
<th>Number of candidates with e-mail addresses NOT published</th>
<th>Number of candidates</th>
<th>% of candidates’ e-mails NOT published per party</th>
<th>Party’s % of the constituency candidates elected to the Assembly (number of seats won)</th>
<th>Party’s % of seats won in the London-wide list (number of seats won)</th>
<th>Total number of seats won in the London Assembly</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greenwich and Lewisham People Before Profit</td>
<td>1</td>
<td>1</td>
<td>100.0</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Residents’ Association of London Official</td>
<td>1</td>
<td>1</td>
<td>100.0</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>The House Party</td>
<td>1</td>
<td>1</td>
<td>100.0</td>
<td></td>
<td>0.37</td>
<td></td>
</tr>
<tr>
<td>The Socialist Party of Great Britain</td>
<td>2</td>
<td>2</td>
<td>100.0</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Independent</td>
<td>4*</td>
<td>4</td>
<td>100.0</td>
<td></td>
<td>0.63**</td>
<td></td>
</tr>
<tr>
<td>Grand Total</td>
<td>190</td>
<td>86</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>25</td>
</tr>
</tbody>
</table>

* There were four independent candidates, two of them standing for election in the London-wide list and two from constituencies.

** The support gained by two out of four independent candidates, who stood in the London-wide list.

*** There were no London-wide candidates standing for election from these fractions.

Source: The data presented in columns 4, 5, 6 comes from ‘2012 election results for the Mayor of London and the London Assembly’, London Elects, The Office of the Greater London Returning Officer. Columns 1-3 were prepared by the project team on the basis of an Internet search.

Table 3 is sorted from the smallest number of unpublished e-mail addresses to the largest. The rows in bold print represent those political parties whose candidates used myCandidate.eu. The constituency candidates (column 4) were polled with First Past the Post system, which means that the candidate who receives the most votes in the constituency enters the Assembly. To choose candidates from the London-wide list, there is a formula which links this list to the support that candidates of the same party received in their constituencies. The final number of candidates from each party who got seats in Assembly is presented in column 6.

While another level of our observations focuses more on those who did not share an e-mail address, first the missing e-mail issue should be explained in more detail. The decision as to whether a candidate posted her/his e-mail address on the web was calculated on the basis of our liaison team’s research. There was an assumption made that if an email could not be found after several attempts, it is not shared with the public. This assurance arose from the
team’s experience in searching the data on elections and candidates in both 2011 and 2012. Upon perusing more closely the ‘published or not’ e-mail issue as presented in Table 3, some interesting hypotheses can be put forth:

Firstly, the candidates who are least likely to share their email with the public are the independents, or those candidates belonging to smaller and less powerful political parties. It cannot be stated how they responded to VAA, because there was simply a one-sided interest on the part of the project team, with letters sent by post and no feedback received. Since this group of candidates does not use electronic communication in their campaigns, neither are they potential VAA users. This raises the question as to why they are not willing to share an email address or whether they even have email addresses, and their willingness to be present in the virtual space. It would appear that the candidates of these parties have not, or do not, consider the Internet as a space for communication with the voters of their constituencies, and that these candidates and parties continue to focus only on the traditional campaign methodology such as direct communication and leaflets.

Secondly, the most popular political parties are more likely to use electronic communication in the campaign, which may be a result of political party discipline or may simply be a common practice for them. We could even risk surmising whether the use of electronic communication is in itself an indication of probable success in the twenty first century, especially when there are those who maintain that the US presidential elections may have been won via the use of social networks. Thus, politicians belonging to big parties mostly published email addresses, while the candidates who stand for election from smaller fractions or are independent and publish their e-mail are in the distinct minority. In fact all these candidates stand for the same local election, yet only a small percentage of them could be reached by e-mail. This is based on the supposition that inasmuch as only some candidates allowed themselves the opportunity to be informed by e-mail about the VAA, by the same token they do not give a chance to voters to contact them electronically. Consequently it can be said that only some candidates increased the reach of their campaigns by using the Internet.

Thirdly, most of the candidates who used myCandidate.eu are from the most popular UK-wide political parties. The four main political parties (Labour, Conservative, Green, Liberal Democrats) have local campaigns developed almost to the extent of their national campaigns, and candidates from their parties became interested in myCandidate.eu. Despite the fact that the party leaders did not give official support to the myCandidate.eu project nor incorporate it into their campaign agenda, there were candidates within these parties who used VAA. This meant they were able to make use of the information received and present themselves to almost 6000 visitors.
Fourthly, the findings presented above, when combined with the election results, confirm that those political fractions which are more likely to use electronic communication in their campaigning and in this way were more likely to use VAA, apparently received the most support from voters. This supposition, however, should not be treated as proof to explain the popularity of a political party. The London Assembly election results are conditioned by different factors such as historical considerations, the two-party domination system, the single–member constituency voting system, and the number of candidates the party put out. Also the public service and political party leaders on a local level, which myCandidate.eu tried to reach, were well represented by the biggest parties. The conclusion that the leading political parties are at the same time the ones which tend to use Internet campaigning should be rather a hint for those who work on VAA. This tool was created for both voters and candidates and it can empower candidates especially to become known to the public, even with little party support or resources. Candidates with limited awareness of using Internet communication and not much openness to non-political initiatives will find it even harder to get into the political debate and to be heard. If VAA is to serve all candidates, there should be an approach elaborated on how to get to those candidates who are less open to the Internet, and how to develop campaigning in the EU which does not have to be passed on to the PR experts and prime time holders.

The data analysed in Table 3, shows one exception to our argument. The Christian Peoples Alliance is a party with one of the lowest rates of e-mails published by its candidates, and in spite of this two out of six electronically contacted candidates joined myCandidate.eu. Even though the party did not get any seats in the Assembly, it got moderate support and placed almost in the middle in the London-wide list results.

The second supposition regards the fact that no candidates standing for the Mayoral election registered on myCandidate.eu, and it appeared to be practically impossible to get Mayoral election candidates to register there on. Is there a glass floor which blocks the way to the candidates, or was it our communication that failed? The liaison team was aware of the fact that reaching the candidates for the Mayoral Election might be difficult, since they are top politicians and probably difficult to get in close contact with before the election for a small player such as a project team. Indeed, this difficulty was based on something different from those difficulties encountered in the case of the other local election candidates, who simply were not very keen on online campaigning.

The scheme for modernisation of a campaign adopted by Fisher and Denver from Farrell and Webb for their research on district-level campaigning highlights three development dimensions: technical development, using the
resources and professional staff involved, and targeting individual voters. These dimensions evolve in three stages and at the last one the local campaign is characterised by the replacement of traditional techniques with technology, relying on specialist staff, increasing its role in comparison to national campaigns. We would allow ourselves to postulate that if any local campaign in UK can be identified as being at the third and last stage described by Fisher and Denver, that would be the Mayoral election in London. From the VAA project perspective, the technological development dimension in this model is the most interesting, because it opens up the promise that at least Mayoral candidates would be aware of the advantages of using technology and thereby also VAA. Nonetheless, the difficulty we encountered arose from another dimension, which concerns resources. In the matter of communication and campaign agendas, myCandidate.eu simply could not get through to the Mayoral candidates. Having regard to this high level of campaign professionalism, there was little chance of getting on the candidate’s desk with information about the project a month before the Election Day. The myCandidate.eu website is not yet a widely recognised brand, so there was not much likelihood that the candidates would be, or would rapidly become, familiar with the project. The registration on the website could not be done by anybody other than the candidate him/herself, which meant that the candidates’ agents could not authorise the answers to the questionnaire, an obligatory authorization for completing the registration. The other explanation is that the political party agenda, which is set many months in advance, was not open to incorporating emerging campaign opportunities and hence our project was simply skipped over. Despite that, the team decided to try contacting each Mayoral candidate as well as their offices and people working on their campaigns.

Another important reason we noticed why nobody from the Mayoral elections responded is that none of the candidates or their agents saw myCandidate.eu as an initiative which could pay back in relation to the scale of their expectations. This issue is discussed more in the next conclusion.

B) There is more data needed on the target groups to empower non-nationals living in the UK to engage in local level policy making.

This supposition concerns the numerical data on the target groups. The primary assumption of the project team was that the number of Poles and Lithuanians living in the UK can be only estimated with a large margin of

tolerance, and that there could be from 400 thousand to up to 1 million Poles, and up to 50 thousand Lithuanians, living in UK. This wide variation for Poles springs from the complexity of the waves of migrations which occurred in the late twentieth and twenty-first centuries.\textsuperscript{14} The official data of the Office for National Statistics in the UK, based on the Worker Registration Scheme, indicated that there were 328 thousand Poles and 55 thousand Lithuanians registered at the end of 2006. Poles made up 64.4\% of all A8 nationals,\textsuperscript{15} and Lithuanians 10.7\%, thus the total for these nationalities was 75\% of A8 emigration to the UK.\textsuperscript{16} The data on the migration dynamics available up to 2010 suggests that in the four years following 2006 there could have been more than 200,000 A8 arrivals net, so approximately 150,000 of them may well have come from Poland and Lithuania.\textsuperscript{17} BBC News UK quotes the recent census data showing the growth of the percentage of the residents in Britain born outside of the country. It reached 13\% in 2011, a figure which is 3 million larger than ten years previously. It also says that ‘London has become the first region where white British people have become a minority’.\textsuperscript{18} At the same time, ‘GazetaWyborcza’ reported, on the basis of the same census, that the number of Poles living in the UK grew tenfold between 2001 and 2011. In England and Wales Poles make up the third largest group after the native British and Hindu, with 579 thousand UK residents declaring themselves as Polish. The unverified estimations of the academics speak of an even higher number, perhaps up to 700 thousand.\textsuperscript{19}

The Office for National Statistics report also distinguishes the migration by local administrative districts and recognises about 294 thousand registered A8 nationals living in the City of London in 2006.\textsuperscript{20} By the time of the local election in London in 2012, the project team could calculate also that there are 22,500 adult Lithuanian and 70,000 adult Poles living within 50 miles of


\textsuperscript{15} A8 nationals – citizens of the eight Central and Eastern Europe countries that joined the EU in 2004 (Czech Republic, Estonia, Lithuania, Latvia, Poland, Slovakia, Slovenia, Hungary).


\textsuperscript{17} Office for National Statistics, Long-Term International Migration, estimates from International Passenger Survey, time series 1991–2010, Table 1.02, November 2011.


London who are registered on facebook. Additional data acquired from the facebook marketing campaign indicates that there are 6.8 million English-speaking adults living within 50 miles of London and using facebook. This number can be compared to the United Nations official data on the London agglomeration, calculating 8.9 million inhabitants in 2010. These statistics were of interest for the project team as the VAA was advertised in English for all the inhabitants of London, even though the main funding went to popularizing myCandidate.eu among Poles and Lithuanians.

If the project team were able to conduct more research and provide more specific data on these two groups, the Voter Advice Application could foreseeably have more impact as a policy-making device. The figures on the Polish and Lithuanian communities in the UK could then be correlated with their opinions, and these together would give politicians feedback on their voters’ needs and electoral potential. One disadvantageous conclusion, however, concerns the apparent lack of interest in Poles and Lithuanians among the political circles, which could be linked with the lack of statistical data. Based on our experience, the politicians we were able to contact standing for local election in the UK were not particularly concerned about the myCandidate.eu targeted groups of voters. This may suggest that political groups do not see the demographic potential of these two minorities, so politicians do not make a bid concerning them during the elections. This demonstrates the importance of carrying out research on these groups, which could enable them to become a part of policy making in UK. There may well be other influences and points of view concerning the possibilities of Poles and Lithuanians as potential voters, some of which are interestingly described in another publication.

Thus, there is room for more studies on Poles and Lithuanians in the UK, involving sociologists and doing the statistical research to give the VAA tool more practical applications. So far, the main ambition of the VAA in 2012 was to help voters to get to know their candidates.

C) If VAA is used in local elections, the bottom-up approach for one city/region is recommended in order to match the tool and its marketing to the specific local conditions.

The choice of London in 2012 was an appropriate choice. Since there are substantial Polish and Lithuanian communities there as well as media dedicated to them, the project team could set the correct marketing direction and gain a plethora of website users. There was also a significant improvement

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in getting London candidates to register on the VAA compared to the more generic attempts of the previous year. Perhaps most importantly, the questionnaire could be matched with local issues, so the VAA questions responded better to the place itself, which could be crucial for local elections.

All in all this may suggest that if the VAA is designed for local elections it is more favourable to construct it using a bottom-up rather than top-down approach. In spite of the fact that the VAA open source code allows the tool to be introduced on a large scale, particular attention should be paid to the local context. In dealing with issues such as the dissemination of information among politicians, construction of the questionnaire, and reaching voters it appears crucial to grasp the local specifics and circumstances.

At this point, the question arises whether a single VAA for each local election would not be a too cost-intensive and sophisticated enterprise. At this stage it is worthwhile considering building one universal platform, which would have the capacity to create many VAAs across the EU for different elections and administration units. Such a platform could be operated by interaction with the initiators of the VAA, who would use the platform to generate a specific VAA for each election. This idea and others, which are the result of the experience of the myCandidate.eu project, will be evolved and developed in this last section of these conclusions.

**D) A proposal for the establishment of a platform which could serve for all kinds of elections EU wide.**

In 2011, at the beginning of the myCandidate.eu project, we received feedback from the Liberal Democrats party, who asked why they should launch myCandidate.eu if there is already a VAA in the UK? What was meant in that case was a tool called Vote Match, and even though this application was not active for UK local elections in 2011 (indeed it was active for Ireland only), this does not affect the appropriateness of the question raised by the LibDem. Why overlapping VAAs?

Taking into account the experiences derived from the project there might be a proposal made for further research both on studies on the VAA, as well as on Polish and Lithuanian minorities living in the UK. A variety of migration studies concerning movements within the EU can be positively continued under the agenda of VAA tools, since these tools aim to increase civic participation and democratic involvement, both important issues related to migration. Considering the VAA itself, we believe that some of its aspects suggest that the next possible step for VAA development studies could be a EU-wide platform aggregating the previous achievements and findings.

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23 [www.votematch.org.uk](http://www.votematch.org.uk)
Our insight is based on our awareness of several features which would give the platform a maximum utility and efficiency.

Firstly, there would be one highly developed IT system set up on a platform where the VAAAs could be developed. The capacity and sophistication of such a system would demand considerable technical input, but at the same time it would be a single capital expenditure, which would give users the highest possible functionality. The upkeep of VAA and server costs are not high; the system needs good initial IT expertise working on the authorization system, administration panel and layout instead.

Secondly, the platform would allow the non-profit sector to generate their own VAAs for particular elections. Such organizations, which could take the initiative of introducing the VAA in a certain election, could concern themselves with the questionnaire and the target groups, without the need to develop their own IT.

Thirdly, we propose that the platform holder be a civic organization or a university, which would credit the system with its public trust and reputation. It could also be an EU institution, but the fear here is that then the project would be perceived as not completely impartial by some, the EU being a political institution in addition to its other dimensions. The holder would engage in creating a common brand awareness across the EU, which would raise interest about the tool and upgrade the state of general knowledge about its advantages and goals. Then organizations generating VAAs would need to focus only on the election they are working on and reaching the politicians, voters, and media marketing. In order to make the VAA visible in Europe, these would make two parallel streams of communication, one top-down and one bottom-up.

There are many reasons which militate in favour of this proposal. With one system, the costs of IT implementation would be reduced, while at the same time the quality of the system would be improved. Certain groups, including academics, NGOs and political factions would have access to do VAAs. The standardization would increase the clarity and establish the recognition of VAAs, something crucial for those candidates who are not very likely to use the Internet in their campaigns. Finally, the VAA would become a cheap and accessible environment of its own which, while interacting with the civil society and boosting its involvement, would provide formidable research potential.

Considering all the advantages pointed out above, one might still be sceptical about the possibility of creating just one VAA for the whole of Europe. This may be due to the fact that some currently operating VAAs are not ‘voter-to-candidate’ systems but ‘voter-to-party’ ones which – although less precise or useful for voters – are easier to make. The second reason lies in
the fact that there might be two or more teams wanting to use the software for the project and in fact it often happens that there are competing projects relating to the same elections. Still, we believe our proposal withstands the challenge, as making software and its hosting available to all would mean that the popularity of VAAs would grow, and it is demonstrated that they can contribute to raising election turnout, so badly needed in Europe nowadays.
The extensive international activities of the Centre for Europe at the University of Warsaw in 2012 can be divided into two groups: the institutional activity of the Centre for Europe and the staff’s individual activity.

1. International research projects

1.1. Institutional activity of the Centre for Europe, UW:

A) The international research project “Voter Advice Application (VAA) for Poles and Lithuanians eligible to vote in local elections in UK”.

The project was executed from 2010 to 2012 under a European Commission grant of EUR 276,000 (DAPHNE III programme) and a subsidy from the Ministry of Science and Higher Education. The leader of this project was the Centre for Europe and the co-organisers were the British universities in Loughborough and Leicester and the Lithuanian NGO MyPolitiq. The main aim of the project was to analyse the fundamental conditions influencing the attitude of immigrant voters from Poland and Lithuania during local elections in the United Kingdom. The research, based both on theoretical and empirical data (e.g. a special Web tool called VAA), brought some innovative conclusions, which were later disseminated at several international academic conferences organised as part of the project and through three collective publications.

B) The international research project “Europeanisation of higher studies in Ukraine as the basis for reforming the public administration”.

The project was executed in 2012 under a grant of PLN 100,000 from the Ministry of Foreign Affairs (obtained in the contest “Cooperation in the field of public diplomacy 2012”). The project was organised by the Centre for Europe in cooperation with the Institute of International Relations at the UW,
the Institute of European Integration at the Ivan Franko Lviv National University and the Department of International Relations and Foreign Policy of the Donetsk National University. The main aim of the project was to enhance cooperation and strengthen academic and institutional bonds between universities in Poland and Ukraine in the context of Europeanisation of studies conducted by the Ukrainian partners, in particular as regards the education of public administration staff. The effects of the project include a series of study visits and seminars and preparations for a collective work titled *Introduction to European Studies*, which will be published in 2013.

C) The international research project “Centre for Contemporary India Research and Studies”.

The project was executed from 2009 to 2012 under a European Commission grant of EUR 270,000 (EU India Action Plan Support Facility). It was organised by an international consortium composed of 23 European and Indian research centres, led by the Institute of International Relations, UW, in cooperation with the Centre for Europe, UW. The aim of the project was to initiate cooperation between the European Union institutions and the public administration bodies in India, as well as between European scientific institutions and their Indian counterparts, for instance by creating a network of research and didactic centres. The contribution of the Centre for Europe to the project included participation of the Centre’s staff in conferences and seminars and in preparing syllabuses for a special edition of studies.

D) The international research project “Turkey on the way to the EU – International, European and Polish Perspectives”.

The project was initiated in 2009 and its main organisers are the Centre for Europe and the University in Istanbul. The principal aim of the project is to undertake research on the multidimensional international implications of Turkey’s possible membership in the European Union – in the global perspective, in the European perspective and from the point of view of Poland. The project’s plan includes the organisation of international seminars and conferences, as well as a book publication.

E) The international research project “Arab Spring and EU Foreign Policy”.

This project, financed from an EU grant, will be executed in 2012 and 2013 by the Centre for Europe and the Ankara University European Research Centre in cooperation with the Polish Embassy in Turkey. The aim of the project is to examine how the EU’s foreign policy may influence the processes of democratisation of Arab societies in the Maghreb and the Middle East. The project includes the organisation of international conferences and seminars and the publication of a book titled *EU towards Arab Spring. Turkish and Polish Perspective* in 2013.
F) The research and didactic project “European Union from the historical, political and socioeconomical perspective”.

The project was executed in the years 2010–2012 under a European Commission grant of EUR 15,000 as part of the “Jean Monnet Lifelong Learning Programme, Teaching Module, Key Activity 1”. The project consisted in a series of lectures for the students of the University of Warsaw on the fundamental issues of the genesis, history and main conditions of the process of integration in Western Europe. The lectures were organised in cooperation with selected faculties and institutes of the University of Warsaw.

1.2. Individual projects of the Centre’s staff

Artur Adamczyk, Ph.D.

The international research project “Cyprus: History, Literature, Culture”, executed in 2010–2013 by the Section of Hellenic Studies of the University of Warsaw and the Embassy of the Republic of Cyprus in Poland. The project consists in an analysis of the political, social and cultural aspects of Cyprus’s history. The planned effect of the research is a series of seminars and a collective publication under the same title.

Dr Patrycja Dąbrowska-Kłosińska

The international research project “Global Safety Governance and Human Rights: An Analysis of EU, US and International Law/Measures Aimed at Preventing Bio-terrorism”. The project is executed in the years 2012–2013 under a one-year “Jean Monnet Fellowship 2012/2013” in the Robert Schuman Centre of the European University Institute in Florence. The project is a part of a broader research on the legal aspects of preventing the threat of bioterrorism.

Dr Wojciech Gagatek

The international research project “Political Parties as Multi-Level Campaign Organizations”. The project is executed in the years 2012–2016 and is implemented by the Observatory on Political Parties and Representation at the European University Institute in Florence. The aim of research is an in-depth analysis of the operation of European political parties.

The international research project “Party Attitudes Towards the EU in the Member States: Parties for Europe, Parties Against Europe”. The project has been executed since 2011 by the University in Siena. It consists in analysing the programmes and activities of political parties in EU Member States in order to see their attitude towards the European Union. The expected result of the project is a chapter of a collective publication which will be published by the publishing house Routledge.

The international research project “The Regionalisation of Regional Elections: Beyond Mid-Term and Second-Order Elections”. Initiated in 2011, the
project is executed by the Free University of Brussels and the Maastricht University. It consists in an analysis of the transformations in the regional election system in Europe. The results of the project will include a contribution to an academic article on the situation in Poland.

2. Participation in academic consortia

2.1. Institutional activities of the Centre for Europe, UW:

The Centre for Europe has been leading and coordinating the Interdisciplinary Team for Research Cooperation between the University of Warsaw and the École des hautes études en sciences sociales in Paris, which has been in operation since 2010. In Poland, the Team has been established on the initiative of the Centre for Europe and is led by CE staff; it includes four other institutes of the University of Warsaw: the Institute of History, the Institute of Philosophy, the Institute of Sociology and the Institute of Polish Culture. The Team’s task is to initiate and implement joint research undertakings in various areas as well as academic staff exchange.

As a result of the involvement in the international research project “Voter Advice Application (VAA) for Poles and Lithuanians eligible to vote in local elections in the United Kingdom”, the Centre for Europe contributed to the establishment of a research network for analysing voters’ attitudes and, more broadly, political and social transformations taking place among Poles living in the UK. Apart from the partners involved in the project, the network comprises a group of prestigious research institutions, such as the Institute of Economics of the Polish Academy of Sciences, the Roman university “Sapienza”, the Humboldt University and the Max Planck Institutes.

In addition, to complement this initiative, in 2012 the Centre for Europe joined the academic network “VAA-RESEARCH.NET”, a consortium composed of researchers from all around Europe who analyse and develop the VAA technology in the European Union.

As a result of the numerous research projects conducted together with its Ukrainian partners, the Centre for Europe has contributed to the establishment of the Polish-Ukrainian research network composed of researchers from the University of Warsaw and several Ukrainian universities, in particular from the Institute of European Integration at the Ivan Franko Lviv National University. The aim of the network is to strengthen the institutional bonds between the members of the consortium, to develop joint research and conduct student and academic staff exchange.

The Centre for Europe has also continued working on the establishment of the Polish-Turkish research network initiated in 2011 by launching an aca-
ademic cooperation with the Istanbul University. In addition, in 2012, the Ankara University and some other Turkish universities expressed their interest in joining the network. Apart from conducting joint research, which results, for instance, in joint publications, the network would support the exchange of academic staff.

2.2. Individual participation in projects by the staff of CE UW

Prof. Bogdan Góralczyk

Participation in an international research consortium called “Asia-Pacific CEO Association Worldwide” (APCEO). The consortium, with members from all around the world, conducts comprehensive information and research activity on the broadly defined problems of Asia, including the relations between Asia and Europe.

Dr Patrycja Dąbrowska-Kłosińska

Participation in the research network coordinated by the Amsterdam University as part of the international research project “Extending Experimentalist Governance”. Initiated in 2008, the project is financed from an EU grant under the EU FP7 GREEN (“Global Reordering: Evolution through European Networks”) programme. The subjects of analysis are the legal aspects of experimental forms of implementing policies and governance methods in the EU.

Participation in the research network coordinated by the University of Milan, operating under the international research and didactic project “European Regulatory Networks and Governance”. The project was executed from 2009 to 2012 under the “Jean Monnet Modules” programme. The participants of the project prepared a special didactic module for teaching new regulations and laws in the field of public administration management in the EU Member States.

Dr Wojciech Gagatek

Participation in the research network “European Parties Elections & Referendums Network” (EPERN), coordinated by the University of Sussex. The aim of the research is to conduct a multidimensional analysis of the party and election systems in the European Union.

3. Academic conferences, seminars, meetings, and debates

In 2012, the Centre for Europe and its staff were involved in several dozen academic undertakings, including various international conferences, seminars and debates. The CE staff presented their papers and actively participated in more than 60 international conferences and seminars. There is not enough space in this report to present all these activities in detail.
Below, we only present the activities with institutional involvement of the Centre for Europe, in chronological order:

- The international debate “The limits of sovereignty”, devoted to the Hungarian policies and Hungary’s role in the European Union, organised by the European Forum at the Centre for Europe and the Hungarian Cultural Institute in Warsaw; Warsaw, 17 February 2012; CE UW staff participated in the panel;

- The international research seminar “Foreign policy of Spain”, organised by the Centre for Europe and the Faculty of Political Sciences and Sociology of the University of Granada; Warsaw, 9 April 2012; CE UW staff presented papers and participated in panels and debates;

- The international academic conference “Arab Spring and EU Foreign Policy – Turkish and Polish Perspective”, organised by the Centre for Europe UW and the European Research Centre at the Ankara University; Ankara, 12 April 2012; CE UW staff presented papers and participated in the debate;

- The international academic conference “USA, China, and the EU and the New Challenges of Globalization” organised by the Centre for Europe UW and the Faculty of Political Science of the University of Florence; Florence, 21 May 2012; CE UW staff presented papers and participated in the debate;

- The academic conference “Theories in European studies. Reflections – Explanation – Application”, Szczecin, 30–31 May 2012; Dr Wojciech Gagatek presented the paper *On False Understanding of Inter-disciplinarity in European Studies*;

- The international research seminar “The economic crisis in the European Union – Italian economic mysteries. How to survive with the third biggest sovereign debt in the World”, organised by the Centre for Europe UW, the Faculty of Political Science of the University of Florence and the Fudan University in Shanghai; Warsaw, 31 May 2012; CE UW staff presented papers and participated in the debate;

- The international research seminar “Europeanisation of higher studies in Ukraine as the basis for reforming the public administration”, organised by the Centre for Europe UW and the Faculty of International Relations at the Ivan Franko Lviv National University; Lviv, 12 October 2012; CE UW staff presented papers and participated in panels and debates;

- The academic workshop “I’m a legal alien: Political behaviour of migrants in a city”, organised by the Centre for Europe and its British and Lithuanian partners under the joint project “Voter Advice Application (VAA) for Poles and Lithuanians eligible to vote in local elec-
tions in the United Kingdom”; Warsaw, 27 October 2012; CE UW staff presented papers and participated in debates;

- The international workshop organised by the Centre for Europe and its British and Lithuanian partners under the joint project “Voter Advice Application (VAA) for Poles and Lithuanians eligible to vote in local elections in the United Kingdom”, Warsaw, 17–18 November and 24–25 November 2012; CE UW staff presented papers and participated in debates;

- The international research seminar “Foreign policy of the Slovak Republic”, organised by the Centre for Europe; Warsaw, 26 November 2012; CE UW staff presented papers and participated in debates;

- The international research seminar “Ukraine’s European perspective”, organised by the Centre for Europe in cooperation with its Ukrainian partners under the project “Europeanisation of higher studies in Ukraine as the basis for reforming the public administration”; Warsaw, 29 November 2012; CE UW staff presented papers and participated in the debate.

4. Selected individual publications

4.1. Monographs

- Wojciech Sadurski, *Constitutionalism and the Enlargement of Europe*, Oxford University Press 2012, 360 pp. The author discusses the democratic legitimisation of the European Union and the result of his theoretical and legal research on the idea of ‘public reason’ in the constitutional theory.

4.2. Edited books

- *Poland in the European Union: Adjustment and Modernisation*, eds. Artur Adamczyk, Kamil Zajączkowski, Centre for Europe UW, Faculty of International Relations of the Ivan Franko Lviv National University, Warsaw–Lviv, 2012, 295 pp. The publication discusses, in a comprehensive way, the position and role of Poland in the European Union as an example and inspiration for Ukraine to take up integration efforts.

- *New neighbours – on the diversity of migrants’ political involvement*, eds. Agata Dziewulska, Anna M.Ostrowska, Centre for Europe, University of Warsaw, Warsaw 2012, 170 pp. A collective publication, presenting the results of research under the project analysing the attitudes of voters from Eastern Europe in local elections in the UK.
Europeanisation of political rights: Voter Advice Application and migrant mobilization in 2011 UK elections, eds. Agata Dziewulska, Anna M. Ostrowska, Centre for Europe, University of Warsaw, Warsaw 2012, 120 pp. The publication is also the result of the abovementioned project. It presents the theoretical and empirical aspects of application of the special Web tool called Voter Advice Application (VAA) in research.

Practitioners’ advice on EU project Management, eds. Agata Dziewulska, Anna M. Ostrowska, Centre for Europe, University of Warsaw, Warsaw 2012, 120 pp. The publication is a practical handbook and guide for preparing and implementing research projects financed from EU funds.

4.3. Publications quoted in “Journal Citation Reports”


4.4. Chapters in edited books


5. Fellowships

Prof. Wojciech Sadurski

Was granted the prestigious title of “New Century Fellow” at the University of Leeds (UK);

Dr Patrycja Dąbrowska-Kłosińska

Obtained a fellowship under the “Jean Monnet Fellowship 2012/2013” in the Robert Schuman Centre of the European University Institute in Florence, where she executed her own research project “Global Safety Governance and

Dr Wojciech Gagatek

Has been awarded a 12-month post-doctoral scholarship at the Zurich University Political Science Institute, funded by the Rectors’ Conference of the Swiss Universities, for his own research project “The Development of a Future EU Party System: The Lessons from the Swiss Case”.

6. Additional research activities

Dr Agata Dziewulska contributed to the promotion of the research project “Voter Advice Application (VAA) for Poles and Lithuanians eligible to vote in local elections in the United Kingdom”, including, in particular, in the promotion of the VAA Web tool among Poles living in the UK, by using various methods, e.g. radio programmes, texts in the Polish press abroad (the Cooltura and Nowy Czas periodicals) and in the social social media, or announcements made at meetings of Polish organisations in the UK, such as the Federation of Poles in Great Britain, Polish Professionals, Polish City Club.

The research fellows of the Centre for Europe held around 50 hours of lectures under LLP Erasmus at the universities in Siena, Florence, Granada, and others. Under this programme, around 60 students of the CE UW went to study abroad, and around 480 foreign students participated in lectures at the Centre for Europe, UW.

Małgorzata Augustynowicz
Centre for Europe
University of Warsaw
Publications of the Publishing Programme of the Centre for Europe

Periodicals

Books

“Monographs and Studies” series
♦ Sieci informacyjne Unii Europejskiej w Polsce (EU Information Networks in Poland), red. Marta Grabowska, Warszawa 2012
♦ New neighbours-on the diversity of migrants’ political involvement, eds. Agata Dziewulska, Anna M. Ostrowska, Warsaw 2012
♦ Eastern Policy of the European Union: Role of Poland, Case of Ukraine, eds. Alojzy Z.Nowak, Dariusz Milczarek, Bohdan Hud, Jan Borkowski, Warsaw 2008
♦ Rola Polski w kształtowaniu polityki wschodniej Unii Europejskiej na przykładzie Ukrainy (The Role of Poland in Shaping of the European Union’s Eastern Policy as Exemplified by Relations with Ukraine), ed. Jan Borkowski, Warszawa 2006
♦ Dariusz Milczarek, Unia Europejska we współczesnym świecie (The European Union in Contemporary World), Warszawa 2005
♦ Regionalizm, polityka regionalna i Fundusze Strukturalne w Unii Europejskiej (Regionalism, Regional Policy and Structural Funds in the European Union), eds. Artur Adamczyk, Jan Borkowski, Warszawa 2005
♦ Fundusze kohezyjne i możliwości ich absorpcji w Polsce (Cohesion Funds and the Potential of Their Absorption in Poland) (conference materials), Warszawa 2004
♦ Krzysztof Wielecki, Podmiotowość w dobie kryzysu postindustrializmu. Między indywidualizmem a kolektywizmem (Subiectivity at the Time of Postindustrialism Crisis. Between Individualism and Collectivism), Warszawa 2003
♦ Dariusz Milczarek, Pozycja i rola Unii Europejskiej w stosunkach międzynarodowych. Wybrane aspekty teoretyczne (Position and Role of the European Union in International Relations. Selected Theoretical Aspects), Warszawa 2003
♦ Globalisation, European Integration and...?, eds. Alojzy Z.Nowak, Jeffrey W.Steagall, Warsaw-Jacksonville 2002
♦ Suwerenność i integracja europejska (Sovereignty and European Integration), eds. Władysław Czapliński, Irena Lipowicz, Tadeusz Skoczny, Miroslaw Wyrzykowski, Warszawa 1999
♦ Iwona Pawlas, Helena Tendera-Właszczyk, Poland’s Economy Competitiveness with Respect to the Integration with the European Union, Warszawa 1999
♦ Wybrane problemy i obszary dostosowania prawa polskiego do prawa Unii Europejskiej (Selected Issues and Areas of Adaptation of Polish Law to the Law of European Union), eds. Przemysław Saganek, Tadeusz Skoczny, Warszawa 1999
“Textbooks and Manuals” series

♦ Practicioners’ advice on EU project management, eds. Agata Dziewulska, Warsaw 2012
♦ Władysław Czapliński, Podstawowe zagadnienia prawa międzynarodowowego Zarys wykładu (Foundations of International Law Lecture Manual), Warszawa 2009
♦ Krzysztof Wielecki, Wprowadzenie do problematyki integracji europejskiej (An Introduction to European Integration), Warszawa 1998
♦ Zenon Knypl, Wprowadzenie do prawa europejskiego (An Introduction to European Law), Warszawa 1997

“Studies on European Integration” series
(series editors: Piotr Jasinski, Tadeusz Skoczny)

♦ Elektroenergetyka (Electricity Supply Industry), Warszawa 1996
♦ Gazownictwo (Gas Supply Industry), Warszawa 1996
♦ Telekomunikacja (Telecommunications), Warszawa 1997

“Accession Documentation” series
(series editor: Tadeusz Skoczny)

♦ Volume 1. Dokumenty dotyczące przystąpienia do Wspólnot Europejskich Danii, Irlandii i Wielkiej Brytanii oraz Grecji (Documents Concerning the Accession to the European Communities of Denmark, Ireland, Great Britain and Greece), Volume editor Jana Plaavov-Latanowicz, Warszawa 1998
Volume 2. Dokumenty dotyczące przystąpienia do Wspólnot Europejskich Hiszpanii i Portugalii (Documents Concerning the Accession to the European Communities of Spain and Portugal), Volume editor Jana Plaavov-Latanowicz, Warszawa 1998

Volume 3. Dokumenty dotyczące przystąpienia do Unii Europejskiej Austrii, Finlandii i Szwecji (Documents Concerning the Accession to the European Communities of Austria, Finland and Sweden), Volume editor Jana Plaavov-Latanowicz, Warszawa 1998


“Research Reports” series

Prawne i ekonomiczne aspekty połączeń między sieciami telekomunikacyjnymi (Legal and Economic Aspects of Connections Between Telecommunications Networks), (Team Leader Tadeusz Skoczny)

– Report I. Cellular Telephony and Connections Between Networks in the European Union, Piotr Jasiński, Tadeusz Skoczny

– Report II. Economic Aspects of Connections Between Networks under Conditions of Market Economy, Piotr Jasiński, Tadeusz Skoczny

Liberalizacja łączności międzystrefowej w Polsce (The Liberalisation of Toll Connections Between Area Zones in Poland), Piotr Jasiński, Tadeusz Skoczny

Raport zawierający ocenę stopnia adaptacji prawa polskiego do prawa wspólnotowego (Report on Harmonisation of Polish Law with the Community Law), (Team Leader Tadeusz Skoczny)