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Independence

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TABLE OF CONTENTS

THE PRICE AND VALUE OF SOVEREIGNTY IN THE ERA OF GLOBALIZATION. 3
Alina Hrytsenko

RUSSIA'S QUEST FOR REGIONAL HEGEMONY: APPEARANCES VS. REALITIES. 12
Silviu NATE

ATYPICAL POST-COLONIALISM: UKRAINE IN GLOBAL POLITICAL THOUGHT 19
Volodymyr Yermolenko

POST-SOVIET SOVEREIGNTY AND UKRAINE'S POLITICAL DEVELOPMENT. 26
Mykhailo Minakov

UKRAINE: BUILDING INTERNAL STABILITY. 35
Yevhen Mahda

INDEPENDENCE AND THE LUBLIN TRIANGLE INITIATIVE. 41
Michał Wojda and Aleksandra Wojtaszewska

INDEPENDENCE AND THE LUBLIN TRIANGLE INITIATIVE

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The concept of sovereignty has been evolving. This article is an attempt to define “European sovereignty” and to compare it with the approaches emerging in Central and Eastern Europe. How might independence be defined today? Paul Samuelson’s theory of public goods plays a special role in this analysis to answer the main topic: whether the Lublin Triangle initiative has a chance to strengthen the independence of Poland, Lithuania and Ukraine.

Sovereignty Yesterday and Today

Sovereignty does not have a single definition in international law that would unequivocally say which attributes of a state are sufficient to constitute it as a sovereign. Moreover, the principle of state sovereignty is reflected, not only in international law, but also in domestic law. States often decide for themselves what attributes reflect their sovereignty.

However, one of the sources that offers common ground for understanding sovereignty is the United Nations Charter and the principle of *sovereign equality of states* expressed in it. It is possible to speak here of certain rules, such as the rights of a state arising from full sovereignty, which are expressed in the freedom to choose and develop its own social, economic and cultural system, and the inviolability of the territorial integrity and political independence of the state. The principle of *sovereign equality of states* was also confirmed in the Final Act of

the Conference on Security and Cooperation in Europe (CSCE, 1975), so in looking for the most universal definition of sovereignty, the principles expressed *explicite* in these various acts of international law.

Equally importantly, the concept of state sovereignty has evolved, and at the turn of the 20th and 21st centuries, it is possible to even speak of a revolution resulting from growing state interdependence in the multidimensional processes of globalisation and state integration, including European integration. Adam Łazowski and Anna Zawidzka write: “[T]he classical notion of sovereignty, referring to self-rule and entirety, is collapsing.”¹ However, J. Kranz counters: “[S]overeignty does not disappear with the intensification of international relations and the development of international law. Rather, it should be believed that, with the evolution of international law, the perception of sovereignty and its functions changes, as well as the role of the state.”²

1 A. Łazowski, A. Zawidzka, *Prawo międzynarodowe publiczne (Public international law)*, C.H. Beck: Warsaw 2001, p. 73.

2 J. Kranz, *Państwo i jego suwerenność (The state and its sovereignty)*, “Państwo i Prawo (The State and the Law)” #7/96, p. 5.

The presence of a state in these international structures within the framework of integration processes is also an issue that needs to be discussed. Does a state's membership in a given community undermine its sovereignty? One of the answers to this question was provided by former Polish Minister of Foreign Affairs Prof. Jacek Czaputowicz, a scholar of the sovereignty concept: "If we define sovereignty as the ability of a state to act in pursuit of its national interest, then membership of the EU or NATO does not necessarily imply a limitation of sovereignty, but may be its exercise."³

There is no doubt that, apart from international circulation, the notion of sovereignty can be defined differently at the domestic level, i.e., at the level of the individual state itself. In Central and Eastern Europe, a particular understanding of sovereignty as the exclusive attribute of a state is repeatedly expressed. French President Emmanuel Macron in 2017 spoke for the first time of "European sovereignty" as complementary to that of national sovereignty: "Only Europe can ... guarantee true sovereignty, which is our ability to function in the modern world to defend our values and interests." Macron goes on to expand on European sovereignty by outlining what it covers: security, migration, cooperation with Africa, sustainable development, the digital revolution, and the EU's economic and monetary weight in the world.⁴ Czaputowicz disagrees with such an understanding of sovereignty, stating: "[I]f sovereignty is a supreme power that has

no other power over itself, then the effect of European sovereignty would be, for example, the absence of French sovereignty."⁵

In Central and Eastern Europe, an example of the understanding of sovereignty as *supreme power* could be the Hungarian use of the concept of *illiberal democracy* expressed by Prime Minister Victor Orban. This objectively fits into the possibility of choosing and developing a state's own social, economic and cultural system.

The subjective perception of sovereignty in this part of Europe can be seen as a result of its specific history, which Polish Foreign Minister Prof. Zbigniew Rau commented on: "Apart from [Austria – author's note] all other countries in our region have had similar experiences. Above all, each of our countries has lost its independence at least twice in the last five hundred years. [...] If we look at the map of those times [the Congress of Vienna - author's note], we can see that between the great powers: Prussia, Austria, Russia, and Turkey – that is, where the Three Seas region extends today –, there was only one sovereign state. That was... Montenegro. The result of the long-term loss of independence was the experience of a lack of subjectivity."⁶

With some semantic background, the question of sovereignty in the countries of the Lublin Triangle Initiative can be considered. At first glance, it's clear that Poland, Lithuania, and Ukraine are in different positions when it comes to securing their state sovereignty. Poland and

3 A. Koziński, *Jacek Czaputowicz: Jesteśmy w stu procentach suwerenni (Jacek Czaputowicz: We are one hundred percent sovereign)*, "Polska Times," 26 March 2018, [www.polskatimes.pl access: 12 May 2021].

4 E. Macron, *Initiative pour l'Europe. Discours pour une Europe Souveraine, Unie, Démocratique (Initiative for Europe. Speech for a Sovereign, United and Democratic Europe)*, Elysee.fr; 26 September 2017, [www.elysee.fr access: 12 May 2021].

5 A. Koziński, n. 3.

6 G. Górny, *Prof. Zbigniew Rau: Trójmorze jest dobrodziejstwem dla UE (Prof. Zbigniew Rau: The Three Seas Initiative is a boon for the EU)*, "Trimarium.pl," [www.trimarium.pl access 2 May 2021].

Lithuania are long-standing members of NATO and the European Union. Although a state's participation in these communities often results in shifting some of the state's sovereign attributes to the supranational level – Lithuania's transfer of its monetary policy to the EU level by adopting the Euro being a case in point –, it is still the exercise of the state's sovereign will. In the case of Ukraine, there are problems with effectively retaining sovereignty in separate districts of its eastern regions and in Crimea, thanks to Russia's illegal occupation.

While the sovereignty of Poland and Lithuania is limited by certain international treaties the two countries accepted, the sovereignty of Ukraine on some of its territory has been restricted by Russia's hostile actions.

The Concept of Independence Today

The concept of independence for a state is closely linked to the word's actual definition, which has been the subject of scientific inquiry for years.⁷ Georg Jellinek's fundamental conception points to three elements without which a state cannot exist. These are territory, population and state authority.⁸ Independence can thus be defined as the ability of a state to maintain its own territory and to protect the interests of the population living in that territory by exercising effective power over that population.⁹

Jellinek's theory is widely recognised. Therefore, from the point of view of

international law, these attributes define a state and its independence. The key question seems to be whether and how a state can defend it, and what are the dangers of losing independence.



While the sovereignty of Poland and Lithuania is limited by certain international treaties the two countries accepted, the sovereignty of Ukraine on some of its territory has been restricted by Russia's hostile actions

The threats to independence have a new dimension today, although the definition of independence is not changing as rapidly as the concept of sovereignty, which is linked to the development of interdependence among the actors on the international stage. The changes in the threats to independence are primarily influenced by developments in military technology and techniques. Although states today face new challenges and not only military ones, their goal is still to ensure effective sovereignty over their own territory and provide security for their citizens.

Today, threats to independence can be observed not only on the military level, that is, defending the state's territory against aggression from a hostile army, but also – perhaps even more importantly – information and cyber security, the control of which could provide a basis for armed

7 See L. Antonowicz, *Państwa i terytoria: Studium prawnomiędzynarodowe (States and Territories: International Law Study)*, Państwowe Wydaw. Naukowe: Warsaw 1988.

8 G. Jellinek, *Das Recht Des Modernen Staates VI: Allgemeine Staatslehre (The Law of the Modern State VI: General State Doctrine)*, Kessinger Publishing: Berlin 2010; pp. 381-420.

9 See Barrington, Lowell W., editor. *After Independence: Making and Protecting the Nation in Postcolonial and Postcommunist States*. University of Michigan Press, 2006. JSTOR, www.jstor.org/stable/10.3998/mpub.126246. Accessed 30 May 2021.

aggression or attaining the goals of a third country on a state's territory, and energy, the subordination of which could lead to economic decline and its eventual dependence on raw materials from abroad.



The threats to independence have a new dimension today, although the definition of independence is not changing as rapidly as the concept of sovereignty, which is linked to the development of interdependence among the actors on the international stage

The independence of a state today can also be seen from the perspective of the supplier of public goods, which were characterised by Paul Samuelson in *The Pure Theory of Public Expenditure*.¹⁰ According to this model, public goods are characterised by the impossibility to exclude them from consumption and, at the same time, by their non-competitiveness.¹¹ And so we may include national defence, the police, fire brigades, and information. A state that is unable to defend its territory and ensure the security of its citizens, including information security, that is, to ensure that information is secure and to shape the information space in an unfettered manner, free from the influence of other centres of power, can hardly be considered independent in the light of the public goods theory.

Poland learned the importance of cyber security during last year's secondary school exams, when its schools received information *en masse* about explosive devices. Bomb

alarms were reported in more than 100 educational institutions during a key exam, the passing of which opens university doors to students. Polish investigators determined that Russian services were behind the false alarms. Analysis of the connections led to servers in St Petersburg that had previously been used to spread disinformation in various parts of the world. What is more, the individuals who carried the operation out had logged on to accounts used by Russia's military intelligence service.¹²

Russia's cyber breach capabilities were also tested on Lithuania. Russian intelligence was said to have used IT infrastructure in Lithuania to launch cyber-attacks on targets in other countries, including entities working on a vaccine against COVID-19. This information was provided by the Lithuanian State Security Department in its *National Threat Assessment 2021* report.¹³

Lublin Triangle Initiative: Response to Threats to Independence in CEE

Military threats – a field of cooperation for Lithuania, Ukraine, and Poland

In July 2020, a new trilateral initiative by Lithuania, Ukraine and Poland was launched, taking the name "Lublin Triangle" from the meeting place of the three countries' foreign ministers. The location was not accidental, as it was in Lublin that the political union of the Grand Duchy of Lithuania, composed also of some lands of present-day Ukraine, and the Kingdom of Poland was established in the 16th century. The current initiative aims to deepen regional cooperation. During the meeting, a joint declaration was adopted,

10 P.A. Samuelson, *The Pure Theory of Public Expenditure*, "The Review of Economics and Statistics," Vol. 36, #4, 1954, pp. 387-389.

11 R.G. Holcombe, *A Theory of the Theory of Public Goods*, "Review of Austrian Economics," #10 (1) 1997, pp. 1-22.

12 *Rosyjskie specysłużby odpowiedzialne za fałszywe alarmy bombowe w Polsce (Russian special services responsible for false bomb alarms in Poland)*, "CyberDefence24," 11 May 2020, [www.cyberdefence24.pl access: 6 May 2021].

13 S. Palczewski, *Rosja wykorzystała infrastrukturę Litwy do cyberszpiegostwa (Russia has used Lithuania's infrastructure for cyberespionage)*, "CyberDefence24," 5 March 2021, [www.cyberdefence24.pl access: 6 May 2021].

in which the ministers noted the benefits of creating political, economic, scientific and cultural ties among Poland, Lithuania and Ukraine.¹⁴

Such a broad outline of areas for cooperation raised both hopes and concerns among the members. For Ukraine, this is a chance to fill the void left by the Eastern Partnership and to move closer to the EU and transatlantic structures.



Military cooperation between Lithuania, Ukraine and Poland is important on several levels for defending and strengthening the independence of these countries. It is also an opportunity to bring Ukraine closer to full NATO membership

Experts involved in Central and Eastern European studies in Poland, Lithuania and Ukraine agree on the scope of cooperation under the Lublin Triangle Initiative. In a poll conducted by the Foreign Affairs Portal (PSZ.pl) on the future of this format, the consensus was that it could and would serve military cooperation.¹⁵ As Łukasz Adamski of the Centre for Polish-Russian Dialogue and Understanding argues: “The natural area is the security issue and the Belarusian issue. The security issue – because it is in the interests of Poland and Lithuania to strengthen Ukraine and its defence against Russian aggression.”¹⁶

This idea was already evident during the initiative’s inauguration, when the Foreign Ministers of all three countries visited the headquarters of LITPOLUKRBRIG, the multinational military unit located in Lublin. This multinational brigade with all-military capabilities designed to independently conduct military operations. The unit includes specialist military units seconded from the Polish 21st Highland Rifle Brigade, the Ukrainian 80th Landing and Assault Brigade, and the Lithuanian Grand Duchess Biruta Lancers Battalion.

This trilateral brigade is primarily intended to increase the interoperability capabilities of the Polish, Lithuanian and Ukrainian armies and, as the Polish foreign ministry noted, “to implement NATO standards in the Ukrainian Armed Forces primarily through training of officers and units of the Ukrainian army in these standards, and the planning and execution of operational tasks, and maintaining the operational readiness of the units.”¹⁷

Military cooperation between Lithuania, Ukraine and Poland is important on several levels for defending and strengthening the independence of these countries. It is also an opportunity to bring Ukraine closer to full NATO membership. In light of the recent demonstration of force by the Russian Federation and the accumulation of troops on Ukraine’s borders, there has been a clear statement from President Zelenskyy that Ukraine will again seek the NATO membership action plan (MAP).

14 *Spotkanie ministrów spraw zagranicznych Polski, Litwy i Ukrainy (Meeting of the ministers of foreign affairs of Poland, Lithuania and Ukraine)*, “Serwis Rzeczypospolitej Polskiej Gov.pl” 28 July 2020, [www.gov.pl access: 8 May 2021].

15 B. Bodalska, *Trójkąt Lubelski – nowy format współpracy Polski, Litwy i Ukrainy. Z jakimi zadaniami? (Lublin Triangle – a new format of cooperation between Poland, Lithuania and Ukraine. With what tasks?)*, “Euractiv.pl,” 29 July 2020, [www.euractiv.pl access: 7 May 2021].

16 Ibid.

17 Ibid.

Although the North Atlantic Alliance has been talking about an open-door policy for new members since 2019 through the Secretary General and this was also reiterated recently by the new US administration, there is no consensus among NATO countries on the prospects for Ukraine being admitted as a full NATO member.

When asked about this possibility by Carnegie Europe, experts from Western European countries expressed quite serious scepticism.¹⁸ Firstly, Ukraine is at war with Russia and its formal admission to NATO could result in an even more aggressive policy from Moscow. Secondly, Ukraine's accession to the Alliance would have to mean overt support for military operations in the east of the country, while the absence of such support would mean that NATO is an alliance on paper only, like the alliance of Poland, France and Great Britain in 1939. The majority of the European members do not want an open test of alliance commitments. Third and finally, the cohesion of the alliance is a debatable issue today. European states are considering implementing Macron's concept of European sovereignty and there are voices about strengthening military capabilities within the EU itself. When this is added to the ambiguous position of Erdogan's Turkey, the vision for Kyiv's aspirations is quite bleak.

This does not change the fact that it is Poland and Lithuania that are Ukraine's most faithful supporters in its endeavours. Firstly, these countries themselves have emerged from the Russian sphere of influence, and secondly, Russia is still their greatest military threat, as they are NATO frontline states. Regardless of the vision of military alliances in Western Europe, Poland and Lithuania will stand by

the need to strengthen NATO and Ukraine, because this is what their interests require and, on this point, they coincide with those of Kyiv.

For Ukraine, however, pursuing NATO membership without any guarantee is difficult. The price of reforming is high, but if Ukraine wants to ensure its independent and sovereign in Europe, it will have to pay it. Even if Ukraine does not join NATO in the next few years, it will have a chance to strengthen its deterrence capacity against Russia, modernise its army and shore up its statehood.

For Poland and Lithuania, Ukraine is a testing ground, a lesson in how to deal with Russian military aggression and how not to make mistakes. These countries should pay for this lesson first and foremost with the knowledge of how to implement NATO standards in the army, how to train officers and plan operations, and with support for Ukraine's NATO aspirations.

Energy: A new dimension of independence

Ukraine, Poland and Lithuania are aware that the Initiative will be an important mechanism for strengthening the role of Central Europe in the EU and to promote Ukraine's European and Euro-Atlantic integration in terms of energy and cooperation in this area.¹⁹ Energy security is a priority for every country and in this region, it is especially important to become independent of Russia's energy leverage. Energy cooperation should be supported and reflected in state strategies and by individual actions in line with international and national legal frameworks.

18 see J. Dempsey, *Judy Asks: Should NATO Admit Ukraine?*, CarnegieEurope.eu, 15 April 2021, [carnegieEurope.eu access: 9 May 2021].

19 N. Dordević, *Ukraine, Poland, and Lithuania launch Lublin Triangle, a new regional cooperation initiative*, "Emerging Europe," 29 July 2020, [www.emerging-europe.com access: 7 May 2021].

The growing potential of regional energy cooperation can be seen in the development of infrastructure, such as the option of exporting liquefied natural gas (LNG) to Ukraine from the Świnoujście terminal in north-western Poland and, possibly quite soon, from Lithuania's Klaipeda. Indeed, Lithuania's Energy Ministry has often stated that Lithuania is willing to contribute to the diversification of gas supplies to Ukraine as soon as the Poland-Lithuania Gas Interconnection pipeline is completed.²⁰

In order to diversify gas supplies, the construction of the Baltic Pipe was started and the LNG terminal in Świnoujście was launched. The Baltic Pipe is a strategic infrastructure project aimed at providing a new gas supply corridor on the European market. The pipeline will deliver natural gas from Norway's Continental Shelf to the Danish and Polish markets, and to consumers in neighbouring countries. This is the main reason why Poland is implementing gas connection projects with Lithuania, Slovakia, Ukraine, and the Czech Republic. Furthermore, the expansion of the Baltic Pipe transmission networks will also enable the distribution of gas from Poland to Denmark and Sweden.²¹ Baltic Pipe should bring significant social and economic benefits to Poland, Denmark and other countries in the Baltic region and in Central and Eastern Europe – including Lithuania and Ukraine. By diversifying natural gas supplies, these countries will become independent of Russian supplies.

A further important element in regional cooperation is a new gas pipeline connecting the natural gas transmission

systems of Poland and Lithuania, which can undoubtedly be included in the Lublin Triangle strategy. The construction of the new pipeline is currently underway. The partners are Gaz-System SA, the operator of the Polish transmission system, and AB Amber Grid, the operator of the Lithuanian system.

The Poland-Lithuania interconnection (GIPL) is perceived by the European platform as infrastructure that contributes to the integration of the European gas industry and shaping a liberalized gas market in northern Europe. This new transmission infrastructure will allow the off-take of gaseous fuel through the distribution network, as well as the direct connection of large industrial customers to the high-pressure gas pipeline system.²² The GIPL pipeline to Poland should be completed by December 2021 and will also give Finland, Estonia and Latvia access to LNG from continental Europe.

While energy cooperation between Poland and Lithuania seems to be easier, cooperation with Ukraine is more complicated. Polish Gaz-System and TSOUA, the Ukrainian gas pipeline management company, are involved in a project to build a new gas connection. The planned connection is 1.5 km long on the Polish side and 110 km on the Ukrainian side, and the technical transmission capacity in both directions will be about 54.86 TWh/year. In February 2019, a construction permit was obtained on the Polish side. However, in January 2020, the president of the new operator of the gas transmission system of Ukraine announced that Ukraine was not interested in the project, due to the

20 J. Bornio, *Lithuania, Poland and Ukraine Inaugurate 'Lublin Triangle'*, The Jamestown Foundation, 5 August 2020, [www.jamestown.org access: 7 May 2021].

21 A. Wojtaszewska, *Bezpieczeństwo energetyczne Polski i regionu w kontekście budowy Baltic Pipe (Energetic security of Poland and the region in the context of the construction of the Baltic Pipe)*, ECPP.org.pl, [www.ecpp.org.pl access: 8 May 2021].

22 *Gazociąg Polska-Litwa (Gas pipeline Poland-Lithuania)*, Gaz-System.pl, [www.gaz-system.pl access: 9 May 2021].

alternative of using the virtual reverse at the border with Poland.²³

Analysing cooperation between Poland, Lithuania, and Ukraine, and their individual relations with each other, it is plain that the goal of Lithuania and Ukraine is energy independence from Russia. They are both working to synchronize their power systems with the EU and cut off the IPS UP network system launched during the Soviet period. They also oppose the Nord Stream 2 gas pipeline. In December 2018, both countries began closer cooperation in the power industry, including the shutdown of nuclear power plants, and the gas industry. Lithuania still counts on Ukraine's support in blocking energy imports from the nuclear power plant in Ostrowiec, located on the Belarusian-Lithuanian border.²⁴



Although, all three Lublin Triangle Initiative members are currently at different levels of independence in these fields, there is common ground for cooperation among them

It should be emphasized that Poland continues to get gas deliveries from Gazprom because of its 1996 Yamal contract, which expires at the end of 2022. Poland consumed 19.7 billion cu m of natural gas in 2018 and it's on an upward trend. As much as 60% of this fuel comes from the Russian Federation.²⁵ The same is true of Lithuania and, even more so, of Ukraine. This high dependence on Russia is exacerbated by the risk of growing

gas prices as Russia manipulates supply and the threat of gas supply disruptions due to political conflicts. This clearly has had an impact on the shaping of the Polish, Lithuanian and Ukrainian energy markets.

The main goal of energy cooperation among Poland, Lithuania, and Ukraine under the Lublin Triangle should be independence from Russia and diversification of energy sources through individual and regional initiatives.

Summary

The concept of independence, while not as volatile as the concept of sovereignty, continues to evolve, due in large part to the new challenges that states are facing nowadays. These are not only military ones, although this sector remains essential to state independence, but also threats to information and cyber security, as well as energy security.

Although, all three Lublin Triangle Initiative members are currently at different levels of independence in these fields, there is common ground for cooperation among them. In terms of military and cyber security, Ukraine is again actively pursuing NATO membership and taking part in initiatives such as the LITPOLUKRBRIG multinational military unit, which could help bring the country closer to the desired standards. For Poland and Lithuania, a strong and independent Ukraine remains a goal in protecting their own independence. Ukraine comes also with a lesson for the other two members on how to deal with Russian military and informational aggression.

23 B. Sawicki, *Znamy warunki powstania Gazociągu Polska-Ukraina, ale do jego realizacji wciąż daleko (The conditions for the construction of the Poland-Ukraine gas pipeline are known, but its realization is still far away)*, *BiznesAlert.pl*, 26 April 2021, [www.biznesalert.pl access 9 May 2021].

24 D. Szeligowski, K. Raś, *Litwa jako adwokat Ukrainy na arenie międzynarodowej (Lithuania as Ukraine's advocate in the international arena)*, *PISM.pl* 15 February 2018, [www.pism.pl access: 9 May 2021].

25 A. Wojtaszewska, n 19.

Energy security is an important value for every state and a goal in itself. An important measure to achieve this goal is introducing it into the state's internal security system. Partnership in this area is a matter of utmost importance.

The Lublin Triangle Initiative members came together to achieve a desired level of energy security by linking various solutions. They are primarily focused on combining innovations in the energy sector within the framework of a regional agreement. The condition for this is the creation of equal operating conditions for all participants in the energy market. It is important to ensure stable conditions that will make it possible to cover the current and future needs of the three economies, which can be done with additional support through individual country activities.

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