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DEMOCRATIC BACKSLIDING AS AN OBSTACLE IN POLISH-AMERICAN COOPERATION IN PROMOTING DEMOCRACY

Abstract

The United States has been the main promoter of democratic values in the world for decades. After the Cold War, promoting these values in Central and Eastern Europe, including Poland, was their important strategic goal. Poland, striving for the closest possible relations with the US, joined its efforts to promote democracy in Eastern Europe and other parts of the world. While this had tangible effects in the vicinity of Poland, doing so as part of military missions in Afghanistan and Iraq ended in failure. In recent years, Polish-American cooperation to promote democracy has been limited due to democratic backsliding in Poland. The American authorities have criticized the legal changes in Poland that limit the independence of the judiciary and freedom of the media, as well as other actions that violate the principles of liberal democracy and the rule of law. Criticism has a limited impact on stopping the regression of democracy in Poland. Moreover, with the outbreak of the war in Ukraine, the issue of democratic backsliding has been overshadowed by the military aspects of Polish-American cooperation.

Keywords: Polish-American relations, promoting democracy, democratic backsliding, independent judiciary, free media.

Introduction

After the World War II the United States had a major influence on the shape and maintenance of the liberal international order. They led the free world in the global rivalry against the Soviet Union and the communist ideology which enslaved people. After the Cold War, the US made the promotion of liberal values on the ashes of the Eastern Bloc one of its main strategic goals. In recent years, however, there has been serious controversy over the condition of democracy in the United States itself. According to numerous researchers, the presidency of Donald

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Trump has generated concerns about democratic backsliding and authoritarianism in the US. Citing the cross-national measures of democracy as the Varieties of Democracy Project (V-Dem), Bright Line Watch, and Freedom House, they indicate that the US political system was slipping toward "illiberal democracy" or "mixed regime"¹. This called into question the ability of the US to effectively promote liberal values in the world. These fears vanished with the seizure of power by the Joe Biden administration, which is firmly committed to democratic values.

After the Cold War, Poland joined the American-led free world and benefited from US-promoted liberal values, including democracy and the rule of law². The successes of democratization and consolidation of the political system in Poland in the 1990s meant that at the end of the decade there was a belief that it was practically impossible to withdraw from democracy towards authoritarianism³. Political theories suggested that the outcome of liberalization in Poland was "overdetermined", because there were cultural, historical, economic, and security reasons for it. However, the reforms introduced in recent years by the Law and Justice (Prawo i Sprawiedliwość - PiS) government reveal the fragility of the foundations for liberal norms and values in Poland⁴.

The aim of the paper is to show the importance of democratic backsliding as the main barrier to Polish-American cooperation for the promotion of democracy. The main research problem is contained in the question, what is the significance of departing from the values of liberal democracy in Poland for Polish-American cooperation for democracy? For the United States, the democratization of Central and Eastern Europe was of strategic importance after the Cold War. In recent years, we have noticed clear symptoms of some countries in the region, including Poland, departing from the values of liberal democracy. The most serious problem is undermining fundamental democratic values, such as the independence of the judiciary and freedom of the media. In recent years, Polish-American cooperation for the promotion of democracy has come to a halt. American authorities criticize democratic backsliding in Poland. The level of this criticism varies depending on who is in power in

¹ J.M. Grumbach, *Laboratories of Democratic Backsliding*, Sites Google, <https://sites.google.com>, 2021 (24.01.2022).

² A. Lanoszka, *Poland in a time of geopolitical flux*, „Contemporary Politics”, 2020, vol. 26, issue 4, pp. 458, 470.

³ G. Ekiert, J. Kubik, *Contentious Politics in New Democracies: East Germany, Hungary, Poland, and Slovakia, 1989–93*, „World Politics”, 1998, vol. 50, issue 4, pp. 579–580.

⁴ H. Appel, *Can the EU Stop Eastern Europe's Illiberal Turn?*, „Critical Review. A Journal of Politics and Society”, 2019, vol. 31, issue 3–4, p. 258.

the United States. Currently, the criticism has been placed in the background of security issues that dominate in cooperation between the US and CEE, including Poland. During the research the method of analyzing text sources was used.

Literature on democratic backsliding

In recent years have been published a number of articles analyzing the phenomenon of democratic backsliding on the example of individual regions, including Africa⁵, Asia-Pacific⁶, Latin America⁷, and Central and Eastern Europe⁸. There are positions comparing this phenomenon in different regions, for example North America, Latin America, Eastern Europe, and Africa⁹ and comparing the phenomenon in countries representing various regions, for example Hungary, Turkey and Venezuela¹⁰. We can find many papers devoted to the analysis of democratic backsliding on the example of selected countries, for example Bangladesh, Thailand and the Philippines¹¹, Venezuela¹², and Greece¹³. There are also a number of articles on democratic backsliding in the US, mainly in the context of the presidency of Donald Trump, but also the growing influence of lobbying groups on political processes¹⁴. In the case of Central

⁵ L. Rakner, *Don't Touch My Constitution! Civil Society Resistance to Democratic Backsliding in Africa's Pluralist Regimes*, „Global Policy”, 2021, vol. 12, issue S5.

⁶ A. Croissant, *Beating Backsliding? Episodes and outcomes of democratic backsliding in Asia-Pacific in the Period 1950 to 2018*, Universität Heidelberg, <https://www.uni-heidelberg.de>, 2020 (20.01.2022).

⁷ T. Piccone, *Latin America's struggle with democratic backsliding*, Brookings, <https://www.brookings.edu>, 2019 (24.01.2022).

⁸ O. Babinova, O., *Backsliding of Democracy in Central and Eastern Europe: The Reasons and Possibilities for Suspension Examples of Hungary and Some Other Countries*, „Humanities and Social Sciences: Latvia”, 2020, vol. 28, no. 1.

⁹ S. Haggard, Kaufman R., *Backsliding. Democratic Regress in the Contemporary World*, Cambridge 2021.

¹⁰ O. Agestam, *The Patterns of Democratic Backsliding. A systematic comparison of Hungary, Turkey, and Venezuela*, Semantic Scholar, <https://www.semanticscholar.org>, 2018 (24.01.2022).

¹¹ J. Lorch, *Elite capture, civil society and democratic backsliding in Bangladesh, Thailand and the Philippines*, „Democratization”, 2021, vol. 28, issue 1.

¹² J. Corrales, *Democratic backsliding through electoral irregularities: The case of Venezuela*, „European Review of Latin American and Caribbean Studies”, 2020, no. 109.

¹³ D.A. Sotiropoulos, *The Backsliding of Democracy in Today's Greece*, Friedrich-Ebert-Stiftung. <http://library.fes.de>, 2018 (24.01.2022).

¹⁴ J.M.M. Portzer, *Democratic Backsliding in the U.S. and Why the Rest of the West Should Care*, „Inquiries. Social Sciences, Arts & Humanities”, 2020, vol. 12, no. 2.

and Eastern Europe, this phenomenon is most often discussed on the example of Hungary¹⁵, comparisons between Hungary and Poland¹⁶, and also on the example of Poland itself¹⁷.

Systemic changes taking place in recent years in the CEE countries have pushed the issue of democratic backsliding to the center of political and academic debates concerning the future of the European Union¹⁸. The erosion of the principles of a democratic state of law is noticed in many European Union member states of the region, including Hungary, Poland, Romania, Croatia, Lithuania, Slovakia, Slovenia and the Czech Republic¹⁹. Anna M. Meyerrose argued that the EU policy favored the democratic backsliding by increasing executive power and limiting states domestic policy space, which stunts institutional development. This was supposed to weaken national democratic institutions and allow the executive to manipulate them²⁰. However, there is a dispute whether in all of the mentioned countries there is hard evidence confirming the unequivocal departure from the principles of liberal democracy²¹.

Theory of democratic backsliding

According to David Waldner and Ellen Lust²² backsliding as distinct from transitions across regime types, involves relatively fine-grained

¹⁵ V. Ženatá, *Democratic Backsliding from the Perspective of Europeanization: The Case of Hungary*, Saarbrücken 2014.

¹⁶ M. Varga, A. Buzogány, *The Foreign Policy of Populists in Power: Contesting Liberalism in Poland and Hungary*, „Geopolitics”, 2021, vol. 26, issue 5.

¹⁷ M. Skrzypek, *Democratic Backsliding in Poland on Example Drafts Amendments in Electoral Code During the COVID-19 Pandemic*, „Polish Political Science Yearbook”, 2021, vol. 50, issue 2.

¹⁸ R. Bellamy, S. Kröger, *Countering Democratic Backsliding by EU Member States: Constitutional Pluralism and ‘Value’ Differentiated Integration*, „Swiss Political Science Review”, 2021, vol. 27, issue 3.

¹⁹ A. Lüthmann [et. al.], *State of the world 2017: autocratization and exclusion?, „Democratization”*, 2018, vol. 25, no. 8, p. 1326-1327; I. Krastev, *Eastern Europe’s Illiberal Revolution*, Foreign Affairs, <https://www.foreignaffairs.com>, 16.04.2018 (24.01.2022).

²⁰ A.M. Meyerrose, *Building Strong Executives and Weak Institutions: How European Integration Contributes to Democratic Backsliding*, The Political Economy of International Organization, <https://www.peio.me>, 2021 (24.01.2022).

²¹ J. Hradický, *Explaining Diverging Paths: Democratic Backsliding in the Context of Democratic Inoculation in Central Europe*, Central European University, <https://www.etd.ceu.edu>, 2021 (24.01.2022).

²² D. Waldner, E. Lust, *Unwelcome Change: Coming to Terms with Democratic Backsliding*, „Annual Review of Political Science”, 2018, vol. 21, p. 95.

degrees of change. "Backsliding entails a deterioration of qualities associated with democratic governance, within any regime. In democratic regimes, it is a decline in the quality of democracy; in autocracies, it is a decline in democratic qualities of governance". Backsliding is a phenomenon that follows the past successes of the democratization process²³. Democratic backsliding is a composite process containing multiple developments, and there is no consensus among researchers about its main characteristics. For example, some focus on elite competition, and others on rule of law²⁴.

Nancy Bermeo²⁵ distinguished several types of democratic backsliding: open-ended coups d'état, executive coups, and blatant election-day vote fraud, promissory coups, executive aggrandizement and strategic electoral manipulation and harassment. She noted that the first three types of democratic backsliding are now rare, while the others are increasing. The specificity of contemporary forms of backsliding is the legitimizing of changes by institutions that should promote democracy. The present manifestations of backsliding, however, are less authoritarian, less durable and easier to reverse than traditional, hard and long-term dictatorships. According to her, this difference paradoxically reflects democracy's advance and not its retreat.

Ellen Lust and David Waldner²⁶ systematized democratic backsliding theories by grouping them into six thematic theory families: political leadership; political culture; political institutions; political economy; social structure and political coalitions; and international factors. The authors evaluated the hypotheses about democratic backsliding derived from individual families of theories. On the other hand, Haemin Jee, Hans Luedersy, and Rachel Myrick²⁷ attempted to present a unified concept of democratic backsliding. In their considerations, they started from defining a representative democracy on the basis of three fundamental freedoms: freedom of choice; freedom from tyranny; and equality in

²³ L. Cianetti, J. Dawson, S. Hanley, *Rethinking "democratic backsliding" in Central and Eastern Europe – looking beyond Hungary and Poland*, „East European Politics”, 2018, vol. 34, issue 3.

²⁴ A. Gora, P. de Wilde, *The essence of democratic backsliding in the European Union: deliberation and rule of law*, „Journal of European Public Policy”, 2020, vol. 29, issue 3, p. 2.

²⁵ N. Bermeo, *On Democratic Backsliding*, „Journal of Democracy”, 2016, vol. 27, no. 1.

²⁶ E. Lust, D. Waldner, *Theories of Democratic Change. Phase I: Theories of Democratic Backsliding*, Washington D.C. 2015.

²⁷ H. Jee, H. Luedersy, R. Myrick, *Towards a Unified Concept of Democratic Backsliding*, ReadCube, <https://www.readcube.com>, 18.04.2019 (24.01.2022).

freedom. They argue that to achieve these freedoms, political institutions must fulfill three functions vis-à-vis political representatives: empower citizens to elect representatives in free, fair, and contested elections; constrain elected representatives through intra- and extra-governmental constraints; and enable elected representatives to effectively govern by ensuring high levels of state capacity and a shared understanding of basic facts.

Ireneusz P. Karolewski²⁸ pointed out that the democratic backsliding theory must take into account three basic aspects: societal, institutional and processual. In the societal aspect, changes in the nature of citizenship towards spectatorship, passivity and plebiscitary understanding of democracy are of particular importance. The institutional aspect comes down to state capture, which can be of two types: the party state capture and the corporate state capture. While the former type is observed in Poland and the Czech Republic, the latter is characteristic for the United States. Within the processual aspect, follows dismantling of relevant liberal-democratic institutions such as the rule of law. In the meantime, however, cyclical democratic elections are held, in which the majority of society appoints political authorities. This may therefore lead not so much to fully fledged authoritarianism but rather constitutes a retrogression to semi-democracy.

American support for the democratization of Poland

The American strategic culture has a deeply rooted sense of responsibility to spread democracy and liberal values throughout the world²⁹. Due to the tragic historical experiences resulting from geopolitical conditions, including the vicinity of Russia and Germany, Poland is primarily looking for a guarantee of security in the United States³⁰. At the end of the Cold War, the US supported Poles' efforts to return to the community of democratic states. In the early 1980s, President Ronald Reagan's administration backed the Solidarity movement - the democratic opposition in Poland - in the fight against the communist regime³¹. At that time, the

²⁸ I.P. Karolewski, *Towards a Political Theory of Democratic Backsliding? Generalising the East Central European Experience*, [in:] *Illiberal Trends and Anti-EU Politics in East Central Europe*, eds. A. Lorenz, L.H. Anders, Cham 2021.

²⁹ S. Brooks, *American Exceptionalism in the Age of Obama*, New York 2013, p. 13.

³⁰ R.J. Lieber, *The United States and Europe: Explaining the Transatlantic Bonds*, [in:] *American Foreign Policy in a Globalized World*, eds. D.P. Forsythe, P.C. McMahon, A. Wedeman, New York 2006, p. 275.

³¹ A. Moens, *The Foreign Policy of George W. Bush: Values, Strategy, and Loyalty*, New York 2016, p. 213.

National Endowment for Democracy (NED) and several affiliated institutes were established in the US, which initiated the era of democracy promotion that dominated world affairs for over the next three decades³².

With the end of the Cold War, Poland entered the path of transition and systemic transformation based on the principles of liberal democracy and the rule of law. The United States supported financially and expertly the democratization of Poland and other Central and Eastern European countries³³. It was initiated by the adoption by the US Congress in 1989 of the *Support for East European Democracy* (SEED) Act and authorization of \$300 million for the creation of Enterprise Funds to promote democracy and economic liberalization in Poland and Hungary. Since 1995, the promotion of democracy has become one of the pillars of the United States Agency for International Development (USAID), and was implemented, among others, by the Center for Democracy and Governance, established a year earlier. In the years 1993-2001, Poland received \$62.5 million from USAID to support democracy and the rule of law³⁴. The American support for the aspirations of Poland and other CEE countries for membership in NATO was also aimed at consolidating liberal values in this part of the world, especially in the context of the failure of Russia's democratization policy³⁵. For this reason, in 1995, at the request of the US, NATO adopted a number of basic requirements for membership in the Alliance, including the adoption of a democratic political system, a free market economy and civilian control over the military³⁶.

The successes of Polish political reforms in the 1990s were noticed in the United States, which administrations began to perceive Poland as a potential leader and closest ally in CEE³⁷. Poland was also perceived as the cradle of the fight for freedom and democracy, which is why during their visits to Poland, American presidents, mainly Republican, delivered important speeches on these fundamental values. For example, on June 15, 2001, President George W. Bush delivered at the University of War-

³² H.R. Nau, *Ronald Reagan*, [in:] *US Foreign Policy and Democracy Promotion: From Theodore Roosevelt to Barack Obama*, eds. M. Cox, T. J. Lynch, N. Bouchet, New York 2013, p. 143.

³³ A. Toje, *America, the EU and Strategic Culture. Renegotiating the transatlantic bargains*, New York 2008, p. 100.

³⁴ N. Bouchet, *Democracy Promotion as US Foreign Policy. Bill Clinton and democratic enlargement*, New York 2015, pp. 38, 41, 70.

³⁵ B. van Apeldoorn, N. de Graaff, *American Grand Strategy and Corporate Elite Networks: The Open Door since the end of the Cold War*, New York 2016, p. 128.

³⁶ J. Dumbrel, *Clinton's Foreign Policy. Between the Bushes, 1992-2000*, New York 2009, p. 127.

³⁷ N. Bouchet, *op.cit.*, p. 88.

saw the most important speech from his entire trip around Europe³⁸. He spoke about the American-Polish "unity of values" and about the "spiritual strength" that Poland gave to Europe and the world. He said that "Lift up your hearts" was the story of Poland and of a new Europe, which was to give hope to the whole world for freedom³⁹. In turn, President Donal Trump, in an important speech at Krasiński Square in Warsaw on July 6, 2017, emphasized the importance of the historic struggle of Poles for freedom, independence, family and faith as the foundation of the West. He emphasized the struggle of Poles for these values alongside Americans. He also spoke about the defense of democratic Europe and Poland's place in this group as well as attachment to "the rule of law" and "the right to free speech and free expression"⁴⁰.

Polish-American cooperation in promoting democracy

The United States involved Poland in global activities for the promotion of democracy, including within the idea for the Community of Democracies (CoD) introduced by the Secretary of State, Madeleine Albright. In 2000, the first ministerial meeting of 106 countries took place in Warsaw, during which the *Warsaw Declaration Toward a Community of Democracies* was adopted⁴¹. The document assumed joint action to promote and strengthen democracy, including respect and uphold core democratic principles and practices. The permanent secretariat of the CoD was located in Warsaw. The US and Poland continue to be involved in the initiative's activities⁴², but its role has diminished. As part of deepening cooperation in this area, in 2011 a Polish-American strategic dialogue for the promotion of democracy was initiated, which was to include the countries of Eastern Europe, but also Asia, North Africa and the Middle East. It was the first US bilateral strategic dialogue of this kind in the world⁴³.

³⁸ A. Moens, *op.cit.*, p. 116.

³⁹ *Remarks by the President in Address to Faculty and Students of Warsaw University*, The White House, <https://georgewbush-whitehouse.archives.gov>, 15.06.2001 (12.01.2022).

⁴⁰ *Remarks by President Trump to the People of Poland*, The White House, <https://trumpwhitehouse.archives.gov>, 6.07.2017 (12.01.2022).

⁴¹ *Warsaw Declaration: Toward a Community of Democracies*, Community of Democracies, <https://community-democracies.org>, 27.06.2000 (20.01.2022).

⁴² *Deputy Secretary Biegun's Remarks at the 20th Anniversary Community of Democracies Virtual Conference*, Department of State, <https://2017-2021.state.gov>, 26.06.2020 (12.01.2022).

⁴³ R. Zięba, *Polityka zagraniczna Polski w strefie euroatlantyckiej*, Warszawa 2013, p. 128.

In turn, in the preamble of the joint declaration on the Polish-American strategic partnership of September 18, 2018, the parties confirmed "respect for and commitment to common democratic values and principles, including freedom, independent institutions, and human rights."⁴⁴

At the beginning of the 21st century, the United States implemented the concept of democratization of the Greater Middle East as part of global war on terror. The aim was to overthrow undemocratic regimes and promote liberal values, which critics described as a manifestation of American imperialism⁴⁵. Poland supported these efforts by engaging in military missions in Iraq and Afghanistan, even though it had no obvious interests in those countries. In practice, by supporting the United States, the Polish authorities primarily wanted to promote the principle of intra-allied solidarity within NATO⁴⁶. However, during the global war on terror, the US used practices that were against the basic principles of democracy and human rights. A prime example was the secret Central Intelligence Agency (CIA) prisons, where illegal methods of detention and interrogation were used. Such an installation was located, among others, in Poland, which resulted in international criticism⁴⁷. The idea of democratization of the Greater Middle East ultimately failed with the Taliban regaining power in Afghanistan in August 2021.

The United States needs a stable, democratic, and rule-of-law Europe to work together to counter the authoritarian influence of its main rivals, including China and Russia. Poland focuses on the promotion of democracy in Eastern Europe and remains critical of countries that infringe on these actions, mainly Russia⁴⁸. For this purpose, in 1997, Poland established non-profit organisation – the Polish Foundation of Market Transformation “Know-How” as a forum for sharing its experiences of democratic and capitalist transformation. In 2013, Poland relaunched the organization under the name the Solidarity Fund PL, an agency providing support for democratic changes. On the initiative of Poland and Sweden, in 2009 the European Union launched the Eastern Partner-

⁴⁴ *Safeguarding freedom, building prosperity through Poland-US Strategic Partnership*, Prezydent.pl, <https://www.prezydent.pl>, 18.09.2018 (12.01.2022).

⁴⁵ H. Gardner, *American Global Strategy and the “War on Terrorism”*, New York 2005, p. 21-22.

⁴⁶ D. Haglund, *The US–Canada relationship: How ‘special’ is America’s oldest unbroken alliance?*, [in:] *America’s ‘Special Relationships’: Foreign and domestic aspects of the politics of Alliance*, eds. J. Dumbrell, A.R. Schäfer, New York 2009, p. 71.

⁴⁷ W. Aslam, *The United States and Great Power Responsibility in International Society: Drones, rendition and invasion*, New York 2013, pp. 100, 109.

⁴⁸ C. Buchanan-Ponczek, *What Can We Do about Poland and Hungary?*, Center for European Policy Analysis, p. 6, <https://cepa.org>, 2018 (20.01.2022).

ship, which is to promote democracy in its eastern neighbors. Poland and the United States were also involved in supporting democratic revolutions in Eastern Europe⁴⁹, including the Revolution of Roses in Georgia in 2003, the Orange Revolution in Ukraine in 2004, the Euromaidan Revolution in Ukraine at the turn of 2013 and 2014, and 2020–2021 Belarusian protests. The Polish government continues to promote democracy in Eastern Europe, despite its regression in the country⁵⁰. In recent years, however, it has not promoted the values of liberal democracy that are characteristic of most Western countries.

American reaction to the democratic backsliding in Poland

Poland, next to Hungary, is referred to as the most egregious case of democratic backsliding in the European Union⁵¹. The changes introduced in Poland are most often compared to those that previously took place in Hungary⁵², but also in Belarus (Budnikowski, 2018), Russia⁵³, and Turkey⁵⁴. According to the *Liberal Democracy Index* prepared by the Varieties of Democracy Project, Poland is the world's most autocratizing country with 31 percentage points decline (from 0.80 to 0.49) between 2015 and 2020⁵⁵. According to the Freedom House - *Nations in Transit* report, between 2015 and 2021, Poland recorded a drop in the quality of democracy from 5.79 to 4.57. It was the biggest deterioration in the quality of democracy among nations in transit, even ahead of Hungary⁵⁶. In turn, when it comes to the Freedom House - *Freedom in the World* ranking, between 2015 and 2021, the level of freedom in Poland dropped from 93/100 to 82/100, of which

⁴⁹ L.A.M. Bandeira, *The Second Cold War: Geopolitics and the Strategic Dimensions of the USA*. Cham 2017, pp. 47-52.

⁵⁰ T. Petrova, S. Aydın-Düzgit, *Democracy Support Without Democracy: The Cases of Poland and Turkey*, Carnegie Endowment. <https://carnegieendowment.org>, 5.01.2021 (20.01.2022).

⁵¹ L.D. Kelemen, *The European Union's authoritarian equilibrium*, „Journal of European Public Policy”, 2020, vol. 27, issue 3, p. 482.

⁵² H. Nyssönen, *The East is different, isn't it? – Poland and Hungary in search of prestige*, „Journal of Contemporary European Studies”, 2018, vol. 26, issue 3, p.

⁵³ A. Yatsyk, *Biopolitical conservatism in Europe and beyond: the cases of identity-making projects in Poland and Russia*, „Journal of Contemporary European Studies”, 2019, vol. 27, issue 4.

⁵⁴ T. Petrova, *op.cit.*

⁵⁵ V-Dem. (2021). *Autocratization Turns Viral: Democracy Report 2021*, <https://www.v-dem.net>, 2021 (12.01.2022).

⁵⁶ *Nations in Transit 2021. The Antidemocratic Turn*, Freedom House, <https://freedomhouse.org>, 2021 (12.01.2022).

political rights from 38/40 to 34/40, and civil liberties from 55/60 to 48/60⁵⁷. According to the *World Press Freedom Index* compiled by Reporters Without Borders, between 2015 and 2021, Poland fell from 18th to 64th place among 180 classified countries, and its result changed from 12.71/100 to 28.84/100 (the lower number, the greater freedom)⁵⁸.

The first issue that aroused international controversy was opposition to the EU's migration policy. Further burning points were legislative changes in the field of digital surveillance on citizens, suppression of freedom of assembly, the Public Prosecutor General's office, the Police, control of public media, and criminalization of blaming Poles for participating in the Holocaust⁵⁹. The government's discriminatory campaign against LGBT communities has also raised concerns. The most disturbing are, however, attacks on independent democratic institutions, especially the judiciary, and limiting the operation of free media⁶⁰.

In the area of the judiciary, there was a struggle for three main institutions - the Constitutional Tribunal, the Supreme Court, and the National Council of the Judiciary. Legal changes led to the replacement of members of these institutions. In the opinion of many national and international entities, including the European Court of Justice, at present these institutions do not guarantee the independence of the judiciary from the executive. Particular controversy was raised by the Disciplinary Chamber established within the Supreme Court, which in practice may become a tool for putting pressure on judges⁶¹. In the media area, legal changes have led to an exchange of members of the management boards and supervisory boards of public media, and politicize it and marginalize the role of the National Broadcasting Council, which was to be the guardian of media freedom in Poland⁶². The government also tried to prevent the broadcasting of the most influential opposition news television - TVN24, owned by the American company - Discovery. President Duda, however, decided to veto the so called "Lex TVN".

⁵⁷ *Freedom in the World. Poland*, Freedom House, <https://freedomhouse.org>, 2021 (12.01.2022).

⁵⁸ *2021 World Press Freedom Index*, Reporters Without Borders, <https://rsf.org>, 2021 (12.01.2022).

⁵⁹ A. Yatsyk, *op.cit.*, p. 463.

⁶⁰ V. Jančořeková, *Regional cooperation in Central and Eastern Europe and its implications for the EU*, „European View”, 2017, vol. 16, p. 233.

⁶¹ *Judgment of the Court (Grand Chamber) in joined cases C-585/18, C-624/18 and C-625/18*, European Court of Justice, <https://curia.europa.eu>, 19.11.2019 (12.01.2022).

⁶² P. Surowiec, M. Kania-Lundholm, M. Winiarska-Brodowska, *Towards illiberal conditioning? New politics of media regulations in Poland (2015–2018)*, „East European Politics”, 2020, vol. 36, issue 1, pp. 34–35.

Due to systemic changes, Poland entered a collision course with the institutions of the European Union and many Western European states. For these reasons, in December 2017, a formal investigation on the basis of the Article 7 of the Treaty on European Union (TUE) was initiated against Poland, as the first country in the history of European integration. The aim of the European institutions is to determine the existence of a serious and persistent breach by Poland of the fundamental principles of the EU, including democracy and the rule of law. The consequence of the procedure may be the suspension of some of Poland's membership rights, including the right to vote in EU institutions⁶³. The American authorities also reacted to the disturbing systemic changes in Poland.

President Barack Obama expressed his concern about the legal changes concerning the Constitutional Tribunal in Poland, stressing the fundamental importance for democracy of values such as "the rule of law, independent judiciaries, and a free press"⁶⁴. President Trump's administration was more restrained in the face of the illiberal trend in Poland. Nevertheless, the Department of State, headed by Rex Tillerson, issued several press statements criticizing the legal changes in Poland. The statements urged the Polish authorities to back down from actions undermining the independence of the judiciary and freedom of the media. They emphasized that "healthy and strong democracy in Poland is a vital component of U.S.-Polish relations."⁶⁵ Criticism from the State Department died down with Mike Pompeo assuming the leadership. However, the bipartisan groups of the US Congress reacted decisively to the systemic changes in Poland, calling on the Polish authorities to respect the basic principles of democracy and the rule of law. Debates on democracy in Poland and CEE were also conducted in several committees of US Congress and government agencies, including the U.S. House Foreign Affairs Subcommittee on Europe, Energy, the Environment and Cyber, and the Commission on Security and Cooperation in Europe. The US Ambassador to Poland, Georgette Mosbacher, repeatedly called for the independence of the media, including the right to exist for the TVN station. In turn, her successor, Ambassador Mark Brzeziński assured that he would insist that the Polish authorities would

⁶³ European Union, *Consolidated Version of the Treaty on European Union*, article 7, EUR-Lex, <https://eur-lex.europa.eu>, 26.10.2012 (12.01.2022).

⁶⁴ *Polish and US presidents meet in Warsaw*, Prezydent.pl, <https://www.prezydent.pl>, 8.07.2016 (12.01.2022).

⁶⁵ *Department Press Briefing – September 28, 2017*, Department of State, <https://2017-2021.state.gov>, 28.09.2017 (12.01.2022).

adhere to values such as: "impartial judiciary, independent media, and respect for the human rights of all, including LGBTQI+ persons and members of other minorities"⁶⁶.

The consternation in Poland was caused by the unfortunate statement of presidential candidate Joe Biden: "you see what is happening from Belarus through Poland and Hungary and the rise of totalitarian regimes in the world"⁶⁷. To suggest that totalitarianism was being born in Poland was unfounded, but it clearly showed Biden's negative approach to the problem of democratic backsliding. With the assumption of power by President Biden, expectations increased for a more determined stance in defending the principles of a democratic state of law. Secretary of State Antony Blinken emphasized the need to defend democratic values in Poland, strongly criticizing the attacks on the TVN station independent of the Polish government⁶⁸. At the beginning of December 2021, the Summit for Democracy was held in the USA, attended by representatives of 112 countries. The US allies who experienced the greatest regression in democracy, ie Hungary and Turkey, were not invited to the summit. There were speculations that Poland might not be invited as well, which, however, did not happen. Given the democratic backsliding, Poland was described by some commentators as awkward guests⁶⁹. Later, however, the issue of democratic backsliding in Poland was overshadowed by the security issue in connection with Russia's aggression against Ukraine. The United States has focused on strengthening the security of NATO's eastern flank, including Poland.

Conclusion

The United States has been the leader of the democratic world for decades. After the Cold War, they played an important role in the democratization of post-communist Central and Eastern Europe, including Poland. The successes of the political transition and transformation of

⁶⁶ M. Brzezinski, *Opening Statement of Mark Brzezinski Nominee to be the U.S. Ambassador to the Republic of Poland Senate Foreign Relations Committee*, U.S. Senate Committee on Foreign Relations, <https://www.foreign.senate.gov>, 1.12.2021 (20.01.2022).

⁶⁷ Cm/kb, *Biden categorises Poland alongside Belarus and totalitarian regimes*, Poland In, <https://polandin.com>, 16.12.2020 (24.01.2022).

⁶⁸ *Poland's Troubling Legislation. Press Statement*, Department of State, <https://www.state.gov>, 11.08.2021 (12.01.2022).

⁶⁹ T. Piccone, *The awkward guests: Parsing the Summit for Democracy invitation list*, Brookings, <https://www.brookings.edu>, 7.12.2021 (24.01.2022).

Poland as well as the unequivocally pro-American attitude of the Polish authorities resulted in a rapid tightening of Polish-American relations. The United States plays a key role in Poland's foreign and security policy, and the state is trying to build its international position on the basis of the closest possible allied relations with the US. For these reasons, Poland also joined the US activities to promote democracy, both in Eastern Europe and in other parts of the globe. The adoption and promotion of the values of democracy and the rule of law have traditionally played an important role in Polish-American relations. These efforts had some effect in Eastern Europe, but were unsuccessful in Afghanistan and Iraq.

Poland's deviation from the values of liberal democracy and the rule of law limited the possibility of Polish-American cooperation for the promotion of democracy. In recent years, the United States has criticized the systemic changes in Poland perceived as democratic backsliding. Particularly strong criticism concerns the undermining of the independence of the judiciary and freedom of the media. These changes are disappointing for the US because it previously perceived Poland as the leader of democratic changes in Central and Eastern Europe. Poland continues to support democratic changes in Eastern Europe, including in Belarus and Ukraine. However, promoting the fundamental principles of democracy abroad while undermining democratic values at home is problematic.

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Regres demokracji jako przeszkoda dla polsko-amerykańskiej współpracy na rzecz promowania demokracji

Streszczenie

Stany Zjednoczone od dziesięcioleci są głównym promotorem wartości demokratycznych na świecie. Po zimnej wojnie promowanie tych wartości w Europie Środkowo-Wschodniej, w tym w Polsce, było ich ważnym celem strategicznym. Polska, dążąc do jak najściślejszych stosunków z USA, włączyła się w działania na rzecz promocji demokracji w Europie Wschodniej i innych częściach świata. Choć miało to wymierne skutki w sąsiedztwie Polski, to w ramach misji wojskowych w Afganistanie i Iraku zakończyło się fiaskiem. W ostatnich latach polsko-amerykańska współpraca na rzecz promocji demokracji została ograniczona ze względu na demokratyczny regres w Polsce. Władze amerykańskie skrytykowały zmiany prawne w Polsce, które ograniczają niezależność sądownictwa i wolność mediów, a także inne działania naruszające zasady liberalnej demokracji i rządów prawa. Krytyka ma ograniczony wpływ na zatrzymanie regresu demokracji w Polsce. Ponadto wraz z wybuchem wojny na Ukrainie kwestia demokratycznego odstępstwa zostaje przyćmiona przez militarne aspekty współpracy polsko-amerykańskiej.

Słowa kluczowe: stosunki polsko-amerykańskie, promowanie demokracji, regres demokracji, niezależne sądownictwo, wolne media