



Horyzonty Polityki
2023, Vol. 14, N° 47



ŁUKASZ JUREŃCZYK

<http://orcid.org/0000-0003-1149-925X>
Kazimierz Wielki University in Bydgoszcz
lukaszjurenczyk@ukw.edu.pl

DOI: 10.35765/HP.2392

President Biden's administration towards the quality of democracy and the rule of law in Poland

Abstract

RESEARCH OBJECTIVE: The aim is to analyze and evaluate the attitude of the American administration to the issue of compliance with the principles of democracy and the rule of law in Poland in the context of the war in Ukraine.

THE RESEARCH PROBLEM AND METHODS: The main question is whether the war in Ukraine influenced the approach of President Biden's administration to the issue of the quality of democracy and the rule of law in Poland? The analysis is carried out in the perspective of the concept of quality of democracy. The author interviewed American researchers and used the method of analyzing the content of text sources.

THE PROCESS OF ARGUMENTATION: The first part covers a theoretical framework for the quality of democracy and the rule of law. The second part presents a synthetic presentation of the main elements of the dispute in Poland around these values. The next two parts cover the approach of the American administration to legal changes in Poland affecting the quality of democracy and the rule of law.

RESEARCH RESULTS: The war in Ukraine silenced American criticism of Poland. This is because the US strategic security interests take precedence over other values and interests. However, when the war in Ukraine is over, this problem may return and weigh heavily on Polish-American relations, especially if Democrats remain in power.

Suggested citation: Jureńczyk, Ł. (2023). President Biden's administration towards the quality of democracy and the rule of law in Poland. *Horizons of Politics*, 14(47), 49–69. DOI: 10.35765/HP.2392.

CONCLUSIONS, INNOVATIONS, AND RECOMMENDATIONS:

The political and legal dispute in Poland concerning the quality of democracy and the rule of law contributes to the international discussion on this topic. In the mainstream Western literature, there is a serious criticism of the actions of the Polish authorities, sometimes conducted without taking into account the weaknesses of contemporary liberal democracy. The illiberal trend in Poland and other countries in the region, especially in Hungary, fuels criticism of these actions.

KEYWORDS:

democracy and the rule of law, Polish-American relations, war in Ukraine, American administration, the Law and Justice government

INTRODUCTION

In the United States, there is great concern about the quality of democracy and the rule of law in Poland, despite the fact that the problem of the autocratization of Hungary is more emphasized (Goldgeier, 2022). However, this does not apply to the entire US society and political elites, but mainly to politically and socially engaged liberal, left-wing and progressive circles, including those centered around the Democratic Party. Many other Central and Eastern European countries have been also facing challenges to democracy. This mainly concerns the concept of liberal democracy, which the West implemented decades ago, including values such as tolerance (George, 2022). According to Michael Miller (2022), who focuses his research on the issues of democratization and autocratization, among American scholars specializing in democracy and foreign policy there is a general recognition, that there's been a classic democratic erosion in Poland. This recognition translates into the perception of changes taking place in Poland by the American authorities, especially from the Democratic Party.

The aim of the article is to analyze and evaluate the attitude of the American administration to the issue of compliance with the principles of democracy and the rule of law in Poland, with particular emphasis on the impact of the outbreak of war in Ukraine. Its purpose is not to analyze legal changes in the area of judicial independence and media freedom in Poland, but to analyze the reactions of the American authorities to these changes, including after the outbreak of the war

in Ukraine. The main research problem is the question whether the war in Ukraine influenced the approach of President Biden's administration to the issue of the quality of democracy and the rule of law in Poland? In order to answer this question, the author interviewed researchers of democracy and foreign policy from research centers in Washington and New York. The interviews were individual, non-standardized, unstructured and in-depth. The selection of interview participants was influenced solely by their scientific interests and their willingness to be interviewed. Factors such as political sympathies, ideological beliefs and world views had no influence on the selection of interviewees. The interviews were conducted face to face in a formula resembling a natural conversation. This made it possible to develop selected threads of the interviews, in which researchers specialize. Moreover, the author used the method of analyzing the content of text sources to analyze the statements of representatives of American administrations. The war in Ukraine caused the issue of the quality of democracy and the rule of law in Poland to be overshadowed by the role Poland plays in helping Ukraine. President Biden's administration suspended the criticism of the Polish authorities, which stems from the superiority of the strategic interests of the United States in the field of security over other interests and values. After the war in Ukraine, this problem may return and become a source of controversy in Polish-American relations, especially if Democrats are in power. Moreover, pushing the anti-liberal agenda may hinder the promotion of Polish interests in the West, including in the US.

THEORETICAL FRAMEWORK

The considerations are undertaken in the perspective of the concept of the quality of democracy, which makes it possible to determine at what stage a democracy is. This concept applies in particular to the European Union countries where the political regime has not yet changed, but there are differences in the degree to which the model of liberal democracy is preserved (Szymański, 2020, p. 60). John Höglström (2011, p. 3) defines a quality of democracy as: "the level of legitimacy in a democratic system in factors of democratic norms as participation, competition, equality and rule of law." According

to Larry Diamond and Leonardo Morlino (2004, pp. 21–22), the following eight dimensions are particularly relevant when examining the quality of democracy: freedom; the rule of law; vertical accountability; responsiveness; equality; participation; competition; and horizontal accountability. They define a good democracy as one that: “accords its citizens ample freedom, political equality, and control over public policies and policy makers through the legitimate and lawful functioning of stable institutions.” Marlene Mauk (2021, p. 2) points out that the quality of democracy is a characteristic of the political system, i.e. the object of trust. According to her, factors such as: political freedoms; procedural fairness; free and fair elections; and accountability are the aspects of democratic quality that influence citizens’ attitudes toward the political system. Morlino (2011, p. 195) argues that the quality of democracy depends on procedures (proper procedures of representative democracy which enhance the rule of law), content (effective citizenry through civil liberties and social equality) and outcomes (legitimization of a democratic regime, and vertical <citizen-politician> and horizontal <inter-institutional> responsibility). Richard Bellamy and Sandra Kröger (2021, pp. 4–5) point out that states engaged in democratic backsliding progressively undermine three components of the minimal definition of democracy, such as: free and fair electoral system; civil and political rights inherent in the democratic process; and independent legal and judicial institutions. These actions serve to suppress the opposition and allow governments to govern without control. In the West, liberal democracy is considered a model democracy, but it is not without flaws. As noted by Arkadiusz Lewandowski (2022, p. 89), contemporary research on liberal democracy and its regression requires going beyond the demoliberal perspective, also adopting one that critically focuses on the processes inside liberal democracy. Jan Zielonka (2018, pp. 43–45) points to the necessity of Popper’s openness to criticism, which may bring benefits in the form of necessary corrections of contemporary liberal democracy.

Inseparable from the concept of the quality of democracy is the issue of the rule of law. Jeremy Waldron (2008, pp. 6, 8) believes that the rule of law is a multi-faceted ideal. However, he points to a key element of this concept:

a requirement that people in positions of authority should exercise their power within a constraining framework of public norms, rather than on the basis of their own preferences, their own ideology, or their own individual sense of right and wrong.

According to him, the rule of law is violated when institutions that are supposed to uphold the law and procedures are undermined. For this reason the rule of law is associated with political ideals such as the separation of powers and the independence of the judiciary. Belamy and Kröger (2021, p. 4) believe that central to the rule of law are legal and judicial institutions possessing enough independence and integrity to uphold democratic processes and rights against pressures to bias them to favour the incumbents.

THE QUALITY OF DEMOCRACY AND THE RULE OF LAW IN POLAND

Since the Law and Justice (*Prawo i Sprawiedliwość* – PiS) government took power in November 2015, Poland has remained in the forefront of the fastest autocratizing countries in the world, as shown by reports of Western institutions that study issues of democracy and freedom. According to the *Liberal Democracy Index* prepared by the Varieties of Democracy (V-Dem, 2023, p. 44) between 2015 and 2022, Poland recorded a decrease in score from 0.80/1 to 0.43/1. Disturbing data on changes in Poland is presented by the Washington-based Freedom House. According to *Nations in Transit* report, in the discussed period, the quality of democracy score in Poland dropped from 5.79/7 to 4.54/7 (Freedom House, 2023a), and according to *Freedom in the World* report the freedom score in Poland dropped from 93/100 to 81/100, of which political rights from 38/40 to 34/40, and civil liberties from 55/60 to 47/60 (Freedom House, 2023b). In turn, the *World Press Freedom Index* prepared by Reporters Without Borders (2023) shows that Poland in the field of media freedom fell from 18th to 66th place in the world, with a drop in the score from 87.3/100 to 65.6/100. The most serious controversies are related to changes in the independence of the judiciary, freedom of the media and civil liberties. The illiberal trend in the Polish government also manifests itself in

socio-ideological issues, including campaigns against LGBTQI+ communities and Islamic refugees, and the removal of women's right to terminate pregnancy (Gwiazda, 2021, pp. 585–587). On these issues, however, there are also large divisions in the West, including in the US. Nevertheless, Western research institutes, think-tanks, non-profit organizations, and literature on the subject most often define the political regime in Poland as illiberal democracy (as opposed to the liberal paradigm), electoral democracy (in which, despite the decline in the quality of democracy, reasonably free and fair elections are maintained) or hybrid democracy (composing both democratic and authoritarian solutions). There are, however, more far-reaching terms, such as creeping authoritarianism (Kotwas, & Kubik, 2019, p. 461).

In the context of President Joe Biden's administration's perception of the quality of democracy and the rule of law in Poland, the two most important issues are the independence of judiciary and freedom of media. In the context of the independence of the judiciary, the dispute over the Constitutional Tribunal (*Trybunał Konstytucyjny* – TK) first took place. The parliament dominated by the PiS canceled the election of five judges to the Tribunal by the previous parliament dominated by the Civic Platform (*Platforma Obywatelska* – PO), electing another five judges, which started the so-called “Constitutional crisis” (Bunikowski, 2018, pp. 285–286). Both sides of the political and legal dispute accused each other of the illegality of the election of judges and the politicization of the TK.

The Supreme Court (*Sąd Najwyższy* – SN) and the National Council of the Judiciary (*Krajowa Rada Sądownictwa* – KRS) became next areas of conflict. Bills proposed by PiS to change the functioning of these institutions were vetoed on 31 July 2017 by President Andrzej Duda, who presented new bills, adopted on 8 December by the Parliament. The amendments, among others, shortened the tenure of SN judges who had reached retirement age, which was lowered to 65, ended the term of office of all KRS members and introduced new rules for their election. However, the most serious controversy was caused by the establishment of the Disciplinary Chamber (*Izba Dyscyplinarna* – ID). On the date of passing the laws, the Venice Commission (2017) issued an opinion that they are contrary to the principle of the separation of powers, as they give control over the judiciary to the ruling party and

the president. On 24 June 2019 the European Court of Justice (ECJ, 2019a) ruled that lowering the retirement age of judges was against EU law and on 19 November 2019, the ECJ ruled that neither the ID nor the new KRS offered sufficient guarantees of independence (ECJ, 2019b). The European Network of Councils for the Judiciary (ENCJ) in September 2018 suspended, and in October 2021 excluded the KRS from among its members due to failure to meet the requirement of independence from the executive. On the other hand, on 21 April 2020, the TK (2020) ruled that the ECJ ruling on the KRS was incompatible with the Polish constitution. On 26 May 2022, the Disciplinary Chamber was liquidated, but in its place the Chamber of Professional Responsibility (*Izba Odpowiedzialności Zawodowej* – IOZ) was established, which, according to international institutions, including the European Commission, does not guarantee the independence of judges in Poland.

In the context of media freedom on 22 June 2016, the Sejm and the President appointed members to a new institution – the National Media Council (*Rada Mediów Narodowych* – RMN). The RMN has the right to appoint and dismiss the management of individual public media. On 11 August 2021 PiS deputies submitted a bill, which was supposed to remove loopholes allowing entities from outside the European Economic Area to own more than 49% of shares in television and radio stations. According to opponents the change in the law was aimed at TVN, a television station owned by the American Discovery Group, which criticized the government. The National Broadcasting Council (*Krajowa Rada Radiofonii i Telewizji* – KRRiT) delayed the extension of the license of the TVN24 news station for 18 months, finally granting it on 22 September 2021, four days before the previous license expired. After the amendments to the Broadcasting and the Cinematography Act was passed by the parliament, it was vetoed by President Duda on 27 December 2021.

As for the dispute over the judiciary, the PiS postulates the need to replace the judicial elites dominated by the communists and their successors, and to restore its effectiveness. The opposition, in turn, believes that the legal changes are an attack on the independence of the courts and judges, and are aimed at their control by the executive. As for the media, the government believes that the media in Poland are dominated by foreign capital and therefore it is necessary

to re-Polonize them and restore balance on the media market. According to the opposition, the public media have become the government's propaganda mouthpiece, and the PiS has also tried to silence the private media that are critical of it. Beyond these main areas of contention, other controversies have emerged in recent years, including draft amendments to the Electoral Code during the COVID-19 pandemic (Skrzypek, 2021, p. 39).

REACTIONS OF AMERICAN ADMINISTRATIONS TO CHANGES IN THE AREAS OF DEMOCRACY AND THE RULE OF LAW IN POLAND

The anti-liberal trend of the Law and Justice government raises serious controversy, especially in the liberal-leftist political elites of Western Europe, but also of the United States. Legal changes regarding the Constitutional Tribunal raised concerns of President Barack Obama who in a conversation with President Andrzej Duda during the NATO summit in Warsaw in July 2016 stated: "the rule of law, independent judiciaries, and a free press" are "at the heart of our alliance" and called for action to sustain democratic institutions in Poland (Prezydent.pl, 2016). During the presidency of Donald Trump, controversial changes were introduced in Poland to the functioning of the Supreme Court and the National Council of the Judiciary. President Trump, however, did not react to these changes, which, in the opinion of critics, undermined the independence of the judiciary in Poland. These critics pointed out that the passivity was due to Trump's political support for illiberal and Eurosceptic groups, including in Poland and Hungary (Appel, 2019, pp. 8–9). As Paula Ganga (2022) states, President Trump did not criticize Poland because he was ideologically close to the conservative-populist Law on Justice party. Nevertheless, the Department of State (DoS, 2017a), under the leadership of Secretary Rex Tillerson, issued several statements criticizing the legal changes in Poland, claiming that they: "undermine judicial independence and weaken the rule of law in Poland". The DoS (2017b) also opposed actions that undermined media freedom in Poland, emphasizing that: "free and independent media are essential to a strong democracy",

and stressing the special importance of democracy for Polish-American relations (Department of State, 2017c). As Stephen Biddle (2022) states, this was possible because President Trump was not interested in these kinds of details of current US policy:

Donald Trump was never and is not today interested in policy. It bores him. He doesn't care about it. He's interested in theater and he's interested in conflict, not all this kind of nitty gritty, boring trivia about Rex Tillerson's messages to some foreign country.

Tillerson's successor – Secretary Mike Pompeo did not decide to officially criticize the changes introduced by the Polish authorities, despite the fact that the DoS (2020) observed international criticism regarding the restriction of the independence of the judiciary and the politicization of public media. In addition, during this period, members of the US Congress, including bipartisan groups, as well as the US ambassador to Poland – Georgette Mosbacher, stood up for the independence of the judiciary and freedom of the media.

During the presidential campaign in the USA, the issue of the condition of democracy and the rule of law in Poland became even more controversial. When Joe Biden, who was running for the office, spoke about the development of the totalitarianism in the world, he unfortunately juxtaposed Poland, Hungary and Belarus: "you see what is happening from Belarus through Poland and Hungary and the rise of totalitarian regimes in the world." At the same time, he criticized his opponent Donald Trump for supporting political "thugs" (cm / kb, 2020). According to Kimberly Morgan (2020), under President Trump there was no effort to support democracy in Poland because his administration was contemptuous of democratic institutions such as the European Union and NATO. The administration of President Biden has made strengthening and supporting democracy a pillar of US domestic and foreign policy, including support for free media and independent judiciary, and is forward leading in support of LGBTQI+ rights (The White House, 2021). In the first year of his office, these priorities were also applied in relations with Poland (Fried, 2021). The importance of the values of liberal democracy for Biden's administration was confirmed by the election of Mark Brzezinski as the US ambassador to Poland. During the hearing in the US Senate, he expressed his great commitment to these values:

I will continue to promote our shared commitments to uphold fundamental freedoms and the rule of law as essential to democracy and central to the U.S.-Polish relationship. In particular, I will continue to underscore to Polish authorities the importance of an impartial judiciary, independent media, and respect for the human rights of all, including LGBTQI+ persons and members of other minorities. (Brzezinski, 2021).

On 11 August 2021, Secretary of State Antony Blinken stood up for media freedom in Poland, responding to the bill that threatened the TVN television station belonging to the American group – Discovery. The official statement reads: “This draft legislation threatens media freedom and could undermine Poland’s strong investment climate.” Secretary Blinken stated that the actions of the Polish authorities were against the commonly held democratic values and called for the defense of these values “not only in words, but also in deeds” (Department of State, 2021a). On 17 December 2021, the DoS issued the following statement:

The United States is deeply troubled by the passage in Poland today of a law that would undermine freedom of expression, weaken media freedom, and erode foreign investors’ confidence in their property rights and the sanctity of contracts in Poland,

and called on President Duda to: “Defend the constitutional principles of freedom of speech, freedom to engage in economic activity, property rights, and equal treatment under the law.” (Department of State, 2021b). The DoS reaction was an important factor in mobilizing Polish president to veto the bill, which was welcomed by the US administration (Department of State, 2021c).

In the months that followed, the importance of the values of liberal democracy and the rule of law in Polish-American relations was influenced by the geopolitical situation in Eastern Europe. At the beginning of 2022, the American administration was focused on the gathering of armed forces by Russia on the border with Ukraine. In early February, the US authorities welcomed President Duda’s proposal to dismantle controversial Poland’s Disciplinary Chamber, which, in their opinion, threatened the independence of judges (Department of State, 2022a). The appointment of the Chamber of Professional Responsibility in place of the ID did not receive an official

response from the DoS Since the outbreak of the war in Ukraine, the US administration has avoided raising the issue of the condition of democracy and the rule of law in Poland.

DISCUSSION ON THE SIGNIFICANCE OF THE VALUES OF DEMOCRACY AND THE RULE OF LAW IN POLISH-AMERICAN RELATIONS DURING THE WAR IN UKRAINE

Sovereign Ukraine is invariably an important element of the Polish *raison d'état*, as it is a barrier to Russia's aggressive policy (Burlyuk, 2017, p. 319). For the United States, supporting Ukraine is important from the point of view of reaffirming its primacy in the world and its leadership role in the Western bloc. The authorities of Poland and the US unequivocally condemned "the unprovoked and unjustified" Russian aggression and assured the support of the sovereignty and territorial integrity of Ukraine (The White House, 2022b). Poland, next to the USA, plays a key role in supporting Ukraine. Poland opened its borders to Ukrainian refugees, temporarily hosting even over 3 million people, providing them with food, healthcare, education and other social services (Grady, 2022). Poland plays a key role as a central hub for Western supplies to Ukraine, including US arms and military equipment, making it a potential target of retaliation by Russia. Moreover, in the first months of the war, Poland was the second largest donor of military aid to Ukraine, after the USA and before Great Britain (PAP, 2022). For years, Poland has also been one of the most fierce critics of Russia's imperial policy and a strong advocate of far-reaching sanctions against this state (Jančoškova, 2017, p. 234).

Representatives of the American administration have repeatedly expressed their admiration and gratitude to Poland for its support of Ukraine and its citizens. For example, on the anniversary of the Polish Constitution of 3 May 1791, Secretary Antony Blinken said:

Poland has responded with great generosity, leadership, and resolve at this moment of crisis. The United States greatly values Poland's steadfast support for Ukraine and its warm welcome to millions of

innocent civilians escaping the brutality of Russia's war of choice. (Department of State, 2022b).

Following the outbreak of the war, the United States doubled the number of military personnel stationed in Poland to approximately 10,000. Poland, in turn, significantly increased purchases in the USA for various types of weapons and military equipment, which favors the tightening of allied relations (Department of State, 2022d). It is also worth mentioning that at the beginning of November 2022, Poland decided to choose the American company Westinghouse as a technological partner in the implementation of the civil nuclear program (Department of State, 2022c). The above decisions and actions of the Polish authorities are very beneficial for the United States, which helps to mute American criticism regarding the quality of democracy and the rule of law in Poland.

Problems with democratic standards in Poland and the closeness of the Law and Justice government to the Donald Trump administration caused a cooling in US-Polish relations after President Joe Biden took the office. The new administration looked at the Polish authorities with no enthusiasm and was skeptical about them. If the war in Ukraine had not broken out, the issue of the condition of democracy would weigh heavily on Polish-American relations and difficult discussions on this issue would be held. After the war broke out, President Biden, during his visit in Rzeszów, said not a word about issues concerning the quality of democracy, justice and freedom in Poland. Also members of his administration, including Vice President Kamala Harris, Secretary of State Antony Blinken and Secretary of Defense Lloyd Austin, did not mention that. Congress delegations visiting Poland during the war in Ukraine also refrained from addressing these issues. According to Michael Doyle (2022), now Poland "has a token green pass" because of the role it's playing in hosting Ukrainian refugees. However, he believes that when the war is over and the political direction in Poland does not change, this matter will return to the agenda. Steven Pifer (2022) also confirms that the issue of defending democratic norms is overshadowed by Polish-American cooperation to help Ukraine. However, he believes that when the war is over, "there will be more attention to what's going on within Poland". According to him, however, sanctions may be

implemented mainly by the European Union, such as denying some of the development funds, rather than by the US. Carnegie Endowment experts believe that the EU may also reduce the pressure on democratic backsliding in Poland for a while due to its vital role in managing refugee flows out of Ukraine (Youngs, 2022). According to Pierre Morcos (2022), the governments of some Western European countries, including for example France, have been less vocal about the issues of democracy and the rule of law at least in Poland, due to Polish aid to Ukraine. Unity and cohesion within the EU and NATO are now more important than these internal disputes. It is worth noting, however, that President Emmanuel Macron has been taking actions on the international arena that are not conducive to this unity, as exemplified by his visit to China in April 2023. Besides, there are countries, including Germany, that do not change their position on Polish issues. On the other hand, Germany's relatively small support for Ukraine irritates both the Polish and US authorities.

James Goldgeier (2022) believes that due to Poland's role in helping Ukraine during the war, nobody is going to bug Poland about the quality of democracy. According to him, this issue began to disappear in the US narrative even before the war, when Belarus threatened the security of the Polish border in autumn 2021 by illegally sending emigrants from the Middle East to Poland. However, he believes that after the war in Ukraine, the problem of the quality of democracy in Poland will come back as a set of issues, probably more so, as long as there's a Democrat in the White House. If there is a change to a Republican, it will not be such an important issue for American administration, as the Republicans themselves struggle with the problem of their commitment to democracy.

As M. Miller (2022) notes, the US does care about democratic values and principles and attach importance to the promotion of democracy in the world. Washington, however, is flexible in this regard, as it has to balance other values and interests. Vital security and economic interests mean that sometimes it "might be worth looking the other way". Regardless of whether there is a democratic backsliding and an increase in populism in Poland, the United States has shown that military interests are superior to political differences (Zabakhidze, 2021, p. 15). P. Ganga (2022) believes that the USA cares about promoting democracy but it cares more about its strategic interests,

and therefore uses the entire range of foreign affairs toolbox. For this reason, with the outbreak of the war in Ukraine, the issue of the quality of democracy in Poland was eclipsed. S. Biddle (2022) believes that values are important in Polish-American relations, including the commitment to democracy and the rule of law and the opposition to authoritarianism. According to him, because of the war in Ukraine, Poland is benefiting enormously by being willing to step up and allow trans shipment of arms to Ukraine. That is perceived by most Americans as a heroic acceptance of risk on behalf of the defense of nonaggression norms and democracy.

Before the war, the American media did not pay much attention to the issue of a state of democracy in Poland, because it was not dramatic enough to attract the attention of American audiences. Currently, the American media devotes much more attention to Poland in the context of its support for Ukraine. The presented image of Poland is unequivocally positive, unlike before, when some media, mainly left-wing ones, strongly criticized Poland for abandoning democracy (Miller, 2022). According to Sharon Wolchik (2022), after the war, problems in Poland such as the rule of law, democracy, and human rights, including LGBTQI+ and women's rights, will return to the debate in the United States, because they are important for the United States in relations with Poland. However, it should not be expected that their tone will be greater than it was before the war, the more so as the positive image of Poland and the Polish authorities presented during the war in Ukraine may persist.

On 24 March 2022, President Biden announced the launch of the European Democratic Resilience Initiative (EDRI) to bolster democratic resilience, advance anti-corruption efforts, and defend human rights in Ukraine and its neighbors. The US Congress has promised to provide up to \$ 320 million to address immediate and medium-term needs of the EDRI (Youngs, 2022). During the war in Ukraine, the American authorities still emphasize the attachment to defending and strengthening democratic governance, democratic institutions, media freedom, human rights, and the fight against corruption in Ukraine and its neighbors, as well as the importance of protecting especially vulnerable populations, including LGBTQI+ (The White House, 2022a). However, they avoid making appeals to Poland regarding the above-mentioned issues. J. Goldgeier (2022) notes that after the war in Ukraine

there will probably be a serious debate within the EU and NATO about democracy in that country. According to him, if Ukraine is successful in the effort to actually tackle corruption and really succeed as a democracy, that will put pressure on Poland in terms of the protection of the principles of democracy and the rule of law.

M. Miller (2022) notes that the issue of security, including cooperation in NATO, plays an extremely important role in Polish-American relations. He said: "turning Poland into an enemy over something like democracy would be an enormous cost to the United States". For this reason, after the war in Ukraine, the US administration will criticize the Polish authorities for the anti-democratic notion, but it is practically impossible for it to react with real sanctions against Poland or a clear loosening of security and economic relations. The most important thing for the USA is that there are still multiparty elections in Poland, and details on deeper norms of democratic legitimacy or a consolidation of power at the top don't matter as much.

It is also worth taking a broader look at the problem of the quality of democracy. The war in Ukraine has significantly deepened the rift between the nationalist, authoritarian bloc gathered around China and Russia and the capitalist, liberal democracies of the West. This has intensified the rivalry that constitutes a kind of new Cold War (Doyle, 2022). J. Goldgeier (2022) believes that: "Now is a time for all the NATO members to recommit to democracy and we need to do whatever we can to help each other push back against anti-democratic forces". In the face of the growing threat from undemocratic revisionist powers, the West must strengthen positive democratic values and commitment to the law, which underpin its subjectivity in the global scene. By using democratic mechanisms, Poland will be able to achieve more on the international arena than by cutting its foundations and thus sticking in a dispute with at least some of its Western allies.

CONCLUSIONS

Legal changes in Poland initiated by the Law and Justice government raise concerns, both in the European Union and the United States, about the quality of democracy and the rule of law. However, these

issues are emphasized mainly by liberal, left-wing and progressive circles. The reactions of President Biden's administration in its first year in office showed that these controversies cooled Polish-American relations. This, in turn, could lead to a partial isolation of Poland in the international arena, due to its disputes with the institutions of the European Union and Western European powers. However, the outbreak of the war in Ukraine caused the American administration to silence criticism of the Polish authorities. Poland's key role in helping Ukraine and Ukrainians strengthens Polish-American relations, because the US prioritizes its strategic security interests. However, after the end of the war, the question of the quality of democracy and the rule of law is likely to become an important issue in Polish-American relations again, especially if the Democrats remain in power. This will be facilitated by the criticism of the illiberal trend in Poland in the mainstream Western scientific literature and media. Nevertheless, one should not expect a significant reduction in cooperation with Poland, let alone American sanctions. This is due to the dominant importance of security interests in Polish-American relations, especially in the context of an unstable situation in the CEE region. Besides, according to the American authorities, the issue of compliance by European states with democracy and the rule of law lies primarily with the institutions of the European Union. Anyway, the activities of the Polish authorities aimed at leveling out social and economic differences should not take place at the expense of the quality of democracy and the rule of law. This leads, among other things, to limiting the ability to pursue Polish interests in the West.

REFERENCES

- Appel, H. (2019). Can the EU Stop Eastern Europe's Illiberal Turn? *Critical Review: A Journal of Politics and Society*, 31(3-4), 255-266. DOI: 10.1080/08913811.2019.1647956.
- Bellamy, R., & Kröger, S. (2021). Countering Democratic Backsliding by EU Member States: Constitutional Pluralism and 'Value' Differentiated Integration. *Swiss Political Science Review*, 27(3), 619-636. DOI: 10.1111/spsr.12448.
- Biddle, S. (2022, May 5). *Interview given to the author*. New York: Columbia University.

- Brzezinski, M. (2021, December 1). *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/imo/media/doc/120121_Brzezinski_Testimony.pdf (accessed on: 16th Nov. 2022).
- Bunikowski, D. (2018). The Constitutional Crisis in Poland, Schmittian Questions and Kaczyński's Political and Legal Philosophy. *Journal of Contemporary European Studies*, 26(3), 285–307. DOI: 10.1080/14782804.2018.1498771.
- Burlyuk, O., & End, S. (2017). Different Means: The Evolution of Poland's Support for Ukraine at the European Level. *East European Politics and Societies and Cultures*, 31(2), 311–333. DOI: 10.1177/0888325416687637.
- Cm/kb (2020, October 16). *Biden Categorises Poland alongside Belarus and Totalitarian Regimes*. TVP World. <https://polandin.com/50360761/biden-categorises-poland-alongside-belarus-and-totalitarian-regimes> (accessed on: 16th Nov. 2022).
- Department of State (2017a, July 21). *Poland: Independence of the Judiciary. Press Statement*. <https://2017-2021.state.gov/poland-independence-of-the-judiciary/index.html> (accessed on: 16th Nov. 2022).
- Department of State (2017b, December 12). *Poland: National Broadcasting Council's Fine on TVN24. Press Statement*. <https://2017-2021.state.gov/poland-national-broadcasting-councils-fine-on-tvn24/index.html> (accessed on: 16th Nov. 2022).
- Department of State (2017c, September 28). *Department Press Briefing – September 28, 2017*. <https://2017-2021.state.gov/briefings/department-press-briefing-september-28-2017/index.html> (accessed on: 16th Nov. 2022).
- Department of State (2020). *Poland 2020 Human Rights Report. Executive Summary*. U.S. Embassy & Consulate in Poland. https://pl.usembassy.gov/wp-content/uploads/sites/23/hrr_2020_poland.pdf (accessed on: 16th Nov. 2022).
- Department of State (2021a, August 11). *Poland's Troubling Legislation. Press Statement*. <https://www.state.gov/polands-troubling-legislation/> (accessed on: 16th Nov. 2022).
- Department of State (2021b, December 17). *Weakened Media Freedom in Poland. Press Statement*. <https://www.state.gov/weakened-media-freedom-in-poland/> (accessed on: 16th Nov. 2022).
- Department of State (2021c, December 28). *Secretary Blinken's Telephone Call with Polish Foreign Minister Rau*. <https://www.state.gov/secretary-blinkens-telephone-call-with-polish-foreign-minister-rau/> (accessed on: 16th Nov. 2022).

- Department of State (2022a, February 4). *Secretary Blinken's Meeting with Polish Foreign Minister Rau*. <https://www.state.gov/secretary-blinkens-meeting-with-polish-foreign-minister-rau/> (accessed on: 16th Nov. 2022).
- Department of State (2022b, May 3). *Poland's National Day. Press Statement*. <https://www.state.gov/polands-national-day/> (accessed on: 16th Nov. 2022).
- Department of State (2022c, November 2). *Poland's Announcement on Westinghouse Nuclear Technology Selection. Press Statement*. <https://www.state.gov/polands-announcement-on-westinghouse-nuclear-technology-selection/> (accessed on: 16th Nov. 2022).
- Department of State (2022d, 31 October). *U.S. Security Cooperation With Poland. Fact Sheet*. <https://www.state.gov/u-s-security-cooperation-with-poland/> (accessed on: 16th Nov. 2022).
- Diamond, L., & Morlino, L. (2004). The Quality of Democracy: An Overview. *Journal of Democracy*, 15(4), 20–31. DOI: 10.1353/jod.2004.0060.
- Doyle, M. (2022, April 27). *Interview given to the author*. New York: Columbia University.
- European Court of Justice (2019a, June 24). *The Polish legislation concerning the lowering of the retirement age of judges of the Supreme Court is contrary to EU law*. Press Release No 81/19. Judgment in Case C-619/18. *Commission v Poland*. <https://curia.europa.eu/jcms/upload/docs/application/pdf/2019-06/cp190081en.pdf> (accessed on: 16th Nov. 2022).
- European Court of Justice (2019b, November 19). Judgment of the Court (Grand Chamber) in Joined Cases C585/18, C624/18 and C625/18. <https://curia.europa.eu/juris/document/document.jsf?text=&docid=220770&pageIndex=0&doclang=EN&-mode=lst&dir=&occ=first&part=1&cid=419729> (accessed on: 16th Nov. 2022).
- Freedom House (2023a). *Nations in Transit 2022*. <https://freedomhouse.org/country/poland/nations-transit/2022> (accessed on: 16th Nov. 2022).
- Freedom House (2023b). *Freedom in the World 2023*. <https://freedomhouse.org/country/poland/freedom-world/2023> (accessed on: 16th Nov. 2022).
- Fried, D., & Wiśniewski, J. (2021, July 16). *Poland and the United States: What's right, what's not, and what's next*. Atlantic Council. <https://www.atlanticcouncil.org/in-depth-research-reports/issue-brief/poland-and-the-united-states-whats-right-whats-not-and-whats-next/> (accessed on: 16th Nov. 2022).
- Ganga, P. (2022, May 24). *Interview given to the author*. New York: Columbia University.

- George, J. (2022, May 23). *Interview given to the author*. New York: Columbia University.
- Goldgeier, J. (2022, May 16). *Interview given to the author*. Washington D.C.: American University.
- Grady, J. (2022, September 28). *Polish Foreign Minister: Ukraine Needs More Money, Military Equipment from Allies*. USNI News. <https://news.usni.org/2022/09/28/polish-foreign-minister-ukraine-needs-more-money-military-equipment-from-allies> (accessed on: 16th Nov. 2022).
- Gwiazda, A. (2021). Right-wing populism and feminist politics: The case of Law and Justice in Poland. *International Political Science Review*, 42(5), 580–595. DOI: 10.1177/0192512120948917.
- Högström, J. (2011). *Quality of Democracy: A Comparative Study. Paper presented at the first IPSA-ECPR Joint Conference: Whatever Happened to North-South?, Sao Paulo 16th-19th February 2011*. DOI: 10.13140/RG.2.1.3747.2482.
- Jančoškova, V. (2017). Regional cooperation in Central and Eastern Europe and its implications for the EU, *European View*, 16, 231–238. DOI: 10.1007/s12290-017-0460-8.
- Kotwas, M., & Kubik, J. (2019). Symbolic Thickening of Public Culture and the Rise of Right-Wing Populism in Poland. *East European Politics and Societies and Cultures*, 33(2), 435–471. DOI: 10.1177/0888325419826691.
- Lewandowski, A. (2022). Endogenne źródła kryzysu demokracji liberalnej jako przedmiot badań. *Horyzonty Polityki* 13(44), 85–104. DOI: 10.35765/HP.2299.
- Mauk, M. (2021). Quality of Democracy Makes a Difference, but Not for Everyone. *Frontiers in Political Science*, 3, 1–14. DOI: 10.3389/fpos.2021.637344.
- Miller, M. (2022, April 26). *Interview given to the author*. Washington D.C.: George Washington University.
- Morcos, P. (2022, May 11). *Interview given to the author*. Washington D.C.: Center for Strategic and International Studies.
- Morgan, K. (2022, May 5). *Interview given to the author*. George Washington University. Washington D.C.
- Morlino, L. (2011). *Changes for Democracy: Actors, Structures, Processes*. Oxford: Oxford University Press.
- PAP (2022, August 16). *Poland second largest donor of military aid to Ukraine – German think tank*. The First News. <https://www.the-first-news.com/article/poland-second-largest-donor-of-military-aid-to-ukraine---german-think-tank-32424> (accessed on: 16th Nov. 2022).
- Pifer, S. (2022, April 29). *Interview given to the author*. Washington D.C.: Brookings Institution.

- President.pl (2016, July 8). *Polish and US Presidents Meet in Warsaw*. <https://www.president.pl/en/news/art,209,polish-and-us-presidents-meet-in-warsaw.html> (accessed on: 16th Nov. 2022).
- Reporters Without Borders (2023). *2022 World Press Freedom Index*. <https://rsf.org/en/index>.
- Skrzypek, M. (2021). Democratic Backsliding in Poland on Example Drafts Amendments in Electoral Code during the COVID-19 Pandemic. *Polish Political Science Yearbook*, 50(2), 37–50. DOI: 10.15804/pps202105.
- Szymański, A. (2020). Podejścia teoretyczne do badania demokracji i autokracji na poziomie lokalnym i regionalnym. *Polityka i Społeczeństwo*, 2(18), 57–74. DOI: 10.15584/polispol.2020.2.5.
- The White House (2021, December 8). *FACT SHEET: The Biden-Harris Administration is Taking Action to Restore and Strengthen American Democracy*. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/08/fact-sheet-the-biden-harris-administration-is-taking-action-to-restore-and-strengthen-american-democracy/> (accessed on: 16th Nov. 2022).
- The White House (2022a, March 24). *FACT SHEET: The Biden Administration Announces New Humanitarian, Development, and Democracy Assistance to Ukraine and the Surrounding Region*. <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/24/fact-sheet-the-biden-administration-announces-new-humanitarian-development-and-democracy-assistance-to-ukraine-and-the-surrounding-region/> (accessed on: 16th Nov. 2022).
- The White House (2022b, June 17). *Statement by President Joe Biden on Support for Ukraine and Call with President Zelenskyy of Ukraine*. https://pl.usembassy.gov/support_ukraine/.
- Trybunał Konstytucyjny (2020, 21 April). *Spór kompetencyjny między Sejmem RP a Sądem Najwyższym oraz między Prezydentem RP a Sądem Najwyższym*. <https://trybunal.gov.pl/postepowanie-i-orzeczenia/komunikaty-prasowe/komunikaty-po/art/11048> (accessed on: 16th Nov. 2022).
- Venice Commission (2017, 8 December). *CDL-AD(2017)031-e. Poland – Opinion on the Draft Act amending the Act on the National Council of the Judiciary; on the Draft Act amending the Act on the Supreme Court, proposed by the President of Poland, and on the Act on the Organisation of Ordinary Courts*. [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)031-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)031-e) (accessed on: 16th Nov. 2022).
- V-Dem (2023). *Democracy Report 2023. Defiance in the Face of Autocratization*. https://v-dem.net/documents/29/V-dem_democracyreport2023_lowres.pdf (accessed on: 16th Nov. 2022).

- Waldron, J. (2008). The Concept and the Rule of Law. *Georgia Law Review*, 43(1), 1–61.
- Wolchik, L. (2022, May 18). *Interview given to the author*. Washington D.C.: George Washington University.
- Youngs, R. (2022, July 20). *Autocracy Versus Democracy After the Ukraine Invasion: Mapping a Middle Way*. Carnegie Europe. <https://carnegieeu-rope.eu/2022/07/20/autocracy-versus-democracy-after-ukraine-invasion-mapping-middle-way-pub-87525> (accessed on: 16th Nov. 2022).
- Zabakhidze, R. (2021). *United States partnerships with Georgia and Ukraine: Prospects for advancing military cooperation*. Washington D.C.: Middle East Institute.
- Zielonka, J. (2018). *Kontrrewolucja. Liberalna Europa w odwróceniu*. Warszawa: Wydawnictwo PWN.

Copyright and License



This article is published under the terms of the Creative Commons Attribution – NoDerivs (CC BY- ND 4.0) License <http://creativecommons.org/licenses/by-nd/4.0/>