Horyzonty Polityki
2016, Vol. 7, Nº 20

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DOI: 10.17399/HP.2016.072007

Another Theory of Partisan

Abstract

RESEARCH OBJECTIVE: To reread Carl Schmitt's theory of the partisan and by doing so present another theory of partisan.

THE RESEARCH PROBLEM AND METHODS: Partisan war is treated as a war method rather than a phenomenon. The method is interpretive, based on historical facts.

THE PROCESS OF ARGUMENTATION: At first the author retells and present Carl Schmitt's theory of the partisan. Then the author applies this theory to 19th century European history with a special focus on Polish-Lithuanian history. Based on this historical account the authors presents his own theory of another partisan.

RESEARCH RESULTS: Another theory of partisan ties the figure of partisan and partisan war as the specific phenomenon to the concrete historical and geographical space. This theory highlights the specific modern European character of the partisan war and presents the Polish-Lithuanian partisan history as the model of such war. Seen through the lenses of the national sovereignty and the sovereign dictatorship, this history represents the case par excellence of transition from the order of the 18th century to the modern European republic of the 21st century. The partisan then is first of all the citizen. Brought to the extreme by the enemy he takes the sovereign decision to resist and this way brings the political idea of republic to its concrete existence.

Suggested citation: Gailius, B. (2016). Another Theory of Partisan. *Horyzonty Polityki*, *7 (20)*, 141-158. DOI: 10.17399/HP.2016.072007.

CONCLUSIONS, INNOVATIONS AND RECOMMENDATIONS: "The Theory of Partisan" by Carl Schmitt was the rare if not the only attempt at building a finished and conclusive theory of the phenomenon, which seemed so important for the modern European history. Therefore it is fair and reasonable to treat Schmitt as a central figure of the "partisan" thought. His concept of partisan as the specific figure of the modern war is especially valuable and allows to see Polish-Lithuanian as well as European history in another perspective.

Keywords:
partisan, Schmitt, Polish-Lithuanian history

INNA TEORIA PARTYZANTA

Streszczenie

CEL NAUKOWY: Celem artykułu jest odczytanie na nowo teorii partyzanta Carla Schmitta, aby dzięki temu zaprezentować nową teorię partyzanta.

PROBLEM I METODY BADAWCZE: Wojnę partyzancką traktuje się raczej jako metodę prowadzenia wojny niż zjawisko. Metoda jest sposobem objaśniania opartym na faktach historycznych.

PROCES WYWODU: Autor najpierw przypomina i omawia teorię partyzanta Carla Schmitta. Następnie konfrontuje ją z historią Europy XIX wieku, koncentrując się zwłaszcza na historii polsko-litewskiej. Opierając się na tym historycznym zestawieniu, autor prezentuje własną, inną teorię partyzanta.

WYNIKI ANALIZY NAUKOWEJ: Inna teoria partyzanta łączy postać partyzanta i wojny partyzanckiej jako zjawiska specyficznego z konkretnym wymiarem historycznym i geograficznym. Teoria ta podkreśla specyficznie współczesny, europejski charakter wojny partyzanckiej, ukazując polsko-litewską historię partyzantki jako model takiej wojny. W optyce suwerenności narodowej i suwerennej dyktatury teoria ta reprezentuje przypadek *par excellence* przemiany porządku XVIII stulecia we współczesną europejską republikę XXI wieku. Partyzant jest wówczas pierwszym spośród obywateli. Doprowadzony do ostateczności przez wroga podejmuje suwerenną decyzję stawienia oporu i tym sposobem realizuje polityczną ideę republikańską.

WNIOSKI, INNOWACJE, REKOMENDACJE: "Teoria partyzanta" Carla Schmitta była rzadką, jeśli nie jedyną próbą zbudowania i zwieńczenia teorii zjawiska, które wydaje się tak istotne dla współczesnej historii europejskiej. Dlatego wypada potraktować Schmitta jako zasadniczą postać myśli „partyzanckiej". Jego koncepcja partyzanta jako charakterystycznej postaci współczesnej wojny

jest szczególnie wartościowa i pozwala ujrzeć w innej perspektywie historię zarówno polsko-litewską, jak i europejską.

Słowa kluczowe:
partyzant, Schmitt, historia polsko-litewska

INTRODUCTION

Quite paradoxically, "The Theory of Partisan" by Carl Schmitt was the rare if not the only attempt at building a finished and conclusive theory of the phenomenon, which seemed so important for modern European history. During the 19th and 20th century the small war, the guerrilla war, the partisan war, the resistance or whatever else the thing was labeled received much attention not only from historians, but from artists, politicians, military experts and even economists. Still it was always more usual to treat the partisan war as a method rather than as a phenomenon. It was the phenomenological approach that made Schmitt exclusive.

Therefore, it is fair and reasonable to treat Schmitt as a central figure of the "partisan thought." His concept of partisan as the specific figure of the modern war is especially valuable. The scope presented by Schmitt leads to more than one conclusion. It is especially clear fifty years after the publication of the "Theory of Partisan." Therefore it is reasonable to consider another theory of partisan.

Another theory of partisan ties the figure of partisan and partisan war as the specific phenomenon to the concrete historical and geographical space. This theory highlights the specific modern European character of the partisan war and presents the Polish-Lithuanian partisan history as the model of such war.

Seen through the lenses of the national sovereignty and the sovereign dictatorship, this history represents the case par excellence of transition from the order of the 18th century to the modern European republic of the 21st century. The partisan then is first of all the citizen. Brought to the extreme by the enemy he takes the sovereign decision to resist and this way brings the political idea of republic to its concrete existence.

THE PARTISAN OF SCHMITT

"The Theory of Partisan" is one of the least independent opuses of Schmitt. Therefore this theory may only be interpreted in the context of other studies. One of those studies is mentioned in the under title: "The Theory of Partisan" is "A Commentary/Remark on the Concept of the Political." The hint towards the other contextual study is given in the more subtle and more Schmitt-like way. If the reader is patient enough to read "The Theory of Partisan" to the last sentence, the strange reward waits in it: "The theory of the partisan leads into the concept of the political, in the question concerning the real enemy and a new nomos of the earth" (Schmitt, 2004a, p. 68). The mentioning of the "nomos of the earth" clearly indicates the interconnection between "The Theory of the Partisan" and the much more famous book of Schmitt "The Nomos of the Earth in the International Law of the *Jus Publicum Europaeum.*" Thus any analysis of the concept of partisan provided by Schmitt is only possible with the constant reference to the two opuses mentioned above. Occasionally other studies of Schmitt also provide additional background which enables to understand certain theses and expressions more precisely.

"The partisan fights irregularly" (Schmitt, 2004a, p. 3). This is the way that Schmitt starts building his concept. The irregularity is dependent on the regularity and thus the partisan becomes counter posed to the state. And not only to the particular enemy-state, but to the concept of state or the interstate order itself. This motive becomes most clear when Schmitt quotes Carl von Clausewitz:

> The guerrilla war was for him (Clausewitz – B.G.), as for the other reformers in his circle, preeminently a political matter in the highest sense of the word, of an almost revolutionary character. The declaration of arming the people, insurrection, revolutionary war, resistance and uprising against the established order, even when it is embodied by a foreign occupation regime – is something really new for Prussia, something 'dangerous' which – so to speak – falls outside the sphere of the judicial state (Schmitt, 2004a, p. 31).

The "established order" for Schmitt has a particular appearance of the *ius publicum Europaeum*, which was the central object of the opus "The Nomos of the Earth in the International Law of the *Jus Publicum*

Europaeum." Schmitt has repeatedly declared his applause to the fundamental rationality and realistic approach of that order.

For Schmitt the central feature of the *jus publicum Europaeum* (the international order which lasted from the 17th century until the World War I) is the replacement of the principle of *iusta causa* with the principle of *iustus hostis* in the concept of the just war. Schmitt claims that in the *jus publicum Europaeum* the war was just not because of its reasons, but because of the reciprocal recognition of the sovereign status that the enemy preserves despite entering into conflict. The concept of *iustus hostis* was closely related to the certain personification of the state that was characteristic of the epoch. In effect the war started to resemble the duel.

In the "Theory of Partisan" Schmitt particularly states that the subsequent failure of the concept of *iustus hostis* in the modern epoch "was a great misfortune, for with those containments of war, European man had succeeded in accomplishing a rare feat: the renunciation of criminalizing opponents at war, in other words, relativizing enmity, the negation of absolute enmity". Then he proceeds: "It really is something rare, indeed improbably human, to bring people to the point of renouncing the discrimination and defamation of their enemies" (Schmitt, 2004a, p. 64).

This idea is central to all the theory of partisan. The partisan for Schmitt is first of all the figure, which in the context of duel-like European wars brings back the question of *iusta causa*. This Schmitt has in mind, when he speaks of „a spark from Spain." It is a spark, which is helped by the strong revolutionary wind and makes the whole building of the *jus publicum Europaeum* catch the fire.

According to Schmitt, the people who took up arms against the Napoleonic army in Spain just wanted to drive away the hated conquerors and oppressors. But the officers of the Prussian army saw in the Spanish *guerrilleros* a new method of fighting. Schmitt considers Clausewitz as the main representative of this Prussian military thought. After that the communist revolutionaries took up the idea of partisan as the new figure of modern war. Lenin and Mao developed the new Spanish method of fighting into the new type of war. The war in which the limited enmity grounded in the principle of *iustus hostis* is replaced by the real enmity represented by the partisan. Such development already destroys the foundations of the *jus*

publicum Europaeum by bringing back the principle of *iusta causa*. But according to Schmitt the evolution of the partisan into the revolutionary does not stop here. As the communist cause is absolute, it turns the real enmity of the partisan into the absolute enmity of the revolutionary and thus makes the total war at least theoretically global. This way Schmitt draws the specific trajectory of the "spark from Spain." Through space and time this spark travels from the concrete past into the unknown future. The theory of partisan that Schmitt develops is based on the particular historical analysis or even the particular interpretation of history. All this theoretical construction is held together by the one central idea which is also the central idea of the political thought of Schmitt.

Schmitt thought and wrote in a rather complicated manner. The pattern of his thoughts reminds not the usual "winding road," but rather the map, where crossroads and roads not taken are nevertheless seen. This feature of the great mind makes it difficult to identify the personal "winding road" of the thinker and thus to criticize him. However, with all due cautiousness it seems that one particular road of this map is more important than the others. It is the road, which leads to the degradation of the modern state.

One can take almost any opus of Schmitt and find there the clear conclusion about the failure of the modern state. The modern state is doomed in the sphere of myth, because it is marked with the symbol of leviathan. Schmitt describes this in the commentary of Hobbes that Schmitt himself labeled his "only esoteric book" (Schmitt, 1996a). The modern state is unable to produce a stable political form similar to the Roman Catholic Church. This idea is clearly seen behind the reflections on the Roman Catholic Church that were written by Schmitt in the early period of his academic life (Schmitt, 1996b). The modern state surrenders the *jus publicum Europeum* to the American international law and thus destabilizes Europe – one of the unwritten conclusions of the opus on the *jus publicum Europeum* (Schmitt, 2006). The modern state is strangled by its own concept of legality, because the concept of legality may transform the state into the totalitarian machine of producing orders – Schmitt expressed this idea when he examined the importance of legality to the totalitarian government. This short, but important work came out after World War II (Schmitt, 2001). And this is by no means exhaustive list of the books

and articles of Schmitt that in one way or another suggest the idea of the degradation of modern state.

Not surprisingly the question of the state is also the central question of the Schmitt's theory of partisan. The modern state is the main source of regularity and legality that provides the necessary opposition to the irregular and not-exactly-legal identity of the partisan. The state is also at the core of the *jus publicum Europaeum* and it is through the state that this magnificent building catches fire from the partisan spark from Spain. It seems that at every crossroad of his mental map Schmitt was more inclined to choose the road leading to the collapse of the modern state. Therefore he inevitably described the partisan as the (even if unwilling) destroyer of the state.

The position of Schmitt may be questioned even if one does not get into the discussion concerning the concept and the situation of modern state. Both could be subject for debate, but the doom of the modern state as Schmitt saw it is by no means proven. Therefore the different approach to the evolution of the partisan and especially to the relation between the partisan war and the contemporary European state seems entirely possible. Proceeding with the metaphor of the intellectual map, our effort to build another theory of partisan means that we will stop at one of the crossroads determined by Schmitt and try to explore an alternative road.

THE ALTERNATIVE HISTORICAL PERSPECTIVE

"In the longer view of things the irregular must legitimize itself through the regular, and for this only two possibilities stand open: recognition by an existing regular, or establishment of a new regularity by its own force. This is a tough alternative" (Schmitt, 2004a, p. 53). Throughout "The Theory of Partisan" this is the only occasion when Schmitt admits that the partisan war contains not only the destructive, but the constructive element as well. However this "establishment of a new regularity" is apparently understood by Schmitt not as the essential circumstance of theoretical importance, but rather as the occasional side effect of the globalizing guerrilla warfare. The fact that some new states or new orders arise as the result of partisan wars does not affect the general picture of the *jus publicum Europeum* catching fire.

It is at this crossroad that another theory of partisan takes different direction and goes its own way. The idea that the partisan war is the essential way of achieving the new order of public life or even the completely new state has its own historical path that may not be easily ignored.

Spain against Napoleon is a good place to start as it is the acceptable starting point both to Schmitt and to most other researchers of the partisan war. It was not the mere irregularity that best defined the Spanish *guerrilleros*. Moreover, the political component of the war was not limited to the defense of the king and the faith – the way it is presented quite often. The partisan war against Napoleon apparently revived the old Spanish tradition of juntas (the local committees of self-government) and strengthened the idea of the citizenship. The best proof of this is the Spanish constitution of 1812 which was the direct result of the partisan war (Payne, 1973).

The main novelty of this constitution was the actual proclamation of the national sovereignty. This was by no means new or revolutionary idea. The claim that the power of the king stems from the nation may be found already in the scholastic works (Suarez, 2012; but the idea of the sovereignty of nation (or the thinking simmilar to this idea) does not exclusively belogn to Francisco Suarez and was more or less the general attitude of the School of Salamanca). However the particular genesis of this idea and its relation to Spain is not the object of this paper. It is enough to state here that the constitution of 1812 was definitely the new order of public life in Spain.

It could be argued that this constitution was quickly suspended by the king after his return to the throne and therefore it (the constitution) had little effect on the life of the state. But it should be taken into account that the suspension of constitution was not the simple act of repression.

Actually the strife over the constitution of 1812 opened the age of coups d'état and revolutions that troubled Spain more or less constantly until the end of the civil war in 1939. Thus still the partisan war affected the certain "spread" of the Spanish society, the necessity to face the internal problems such as they were. Since the beginning of the partisan war against Napoleon there was no coming back to the political order of pre-war Spain. This statement is quite sufficient for our purposes here.

The history of 19th century France is first of all the history of the revolution, not partisan war. However the idea of the partisan struggle was extensively discussed by the French military thinkers since the war of Vandée. The particular actualization of this problem happened during the 1870-1871 war with Prussia, when the *franc tireurs* first appeared on the stage. The concept of the partisan war was so strongly settled in the French spirit of that time that Captain Devaureix, who published the study on guerrilla warfare in 1880, described this type of war as "eminently French" (Laquer, 2010, p. 119). The most important actualization of the partisan character of France was of course the anti-Nazi resistance during the World War II.

The idea that the partisan war could be not only the act of resistance, but also the event that establishes the new order of state was theoretically developed in Italy. This idea was first systematically conceptualized by Carlo Bianco and later overtaken by Giuseppe Mazzini and other proponents of the united Italy (Laquer, 2010).

However it was in the Polish-Lithuanian commonwealth that the specific modern European concept of partisan war took its final shape. It is worth to put here the lengthier quote which states the opinion of Schmitt on the history of Polish-Lithuanian commonwealth:

> The kingdom of Poland had not overcome the stage of feudalism, and had not reached the organizational level of modem European states. It was no state, and thus, in the last third of the 18th century, could be divided among states. It did not have the power to launch a defensive state war to prevent the divisions and land-appropriations of Polish soil by neighboring states (1792, 1793, 1795). However, throughout the 19th century, the Polish question continued to challenge the interstate spatial order of European international law, and to keep alive the distinction between people (nation) and state. This had ramifications for international law (Schmitt, 2006, p. 166).

Here again we face the very precise formulation of problems even if the lack of the precise knowledge may also be indicated. Schmitt apparently was well informed about the problem of international politics that he labels "the Polish question," but not about the history of Poland and Lithuania or about the Polish (and Lithuanian; it was the same in the first half of 19th century) political thinking.

It could be admitted that the Polish-Lithuanian commonwealth "had not reached the organizational level of modem European states."

But in that case the elite of the commonwealth had the strikingly precise comprehension of what was lacking and what was finally lost in the 18th century.

Since the beginning of the divisions of the commonwealth the Polish-Lithuanian nobles as well as politically active intellectuals and people of the slowly appearing middle class saw the independent political order (which could then be only comprehended in the form of the state) as their ultimate goal. This goal or idea provided the background for every Polish-Lithuanian political effort, be it the publication of book or construction of the particular political entity.

During the first half of the 19th century these initiatives usually played along the lines of international situation in Europe. First there was the effort to make use of Napoleon war against Russia and establish the semi-independent Dukedom of Warsaw. Then followed the more elaborated project, the so called "kongresowka."

During the 1815 congress of Vienna some prominent Polish figures (most important of them – Prince Adam Jerzy Czartoryski) presented the plan to create the Kingdom of Poland (it included only part of actual territory of the Polish-Lithuanian commonwealth), which had to be related with Russian empire by the personal union of the crown. I. e. the Russian tsar acquired the separate title of King of Poland and thus recognized Poland as a separate political entity.

Historians are often skeptical about the actual independence and importance of the "kongresowka." If the state has special relations with some other state, it is always difficult to draw a clear line between independent existence and the marionette status. However, the war of 1830-1831 serves as the best proof of at least semi-independence that the Kingdom of Poland enjoyed in the years 1815-1830.[1]

The second half of 19th century saw radical changes both in the Polish-Lithuanian political ideas and their realization. The harsh policy of the tsar Nikolai I prevented all possibilities of the quasi--statehood at the side of the Russian empire. The strategies of regaining the independent state were more and more often build on "all

1 Traditionally the events of 1830-1831 are defined as the uprising. But in reality it more resembled the war than the uprising: there was the Polish army and the Russian army, the ultimatums and messages were exchanged between governments, etc.

or nothing" basis. Together with that the partisan war involving masses of people and not the diplomatic tricks was seen as the most important condition for success.

In this context the study of Polish concept of partisan war by Emanuel Halicz is of particular importance. In his opus Halicz traced the origins of the Polish theory of partisan war back to Tadeusz Kościuszko and analyzed the development of this theory throughout the 19th century. Halicz stressed the growing importance and changing concept of the nation in the works of Polish military thinkers of the time acknowledging also the decisive influence of the insurgent practice. Interestingly enough, he concluded describing the Polish partisan struggle as the transition: "These struggles [of the 19th century] helped undermine the feudal system, to develop a national consciousness among the broad mass of the people and opened up a road to a modern Polish society" (Halicz, 1975, p. 190).

Both Halicz and other researchers described the mid 19th century turn of the Polish intellectual and political activity as the radicalization. However the concept of radicalization is too closely related to socialist and even revolutionary thinking. Therefore this concept is not the most suitable description of the situation which the Polish society faced after the war of 1830-1831.

It would be more exact to state that from the mid 19th century Polish-Lithuanian commonwealth the state was more often seen as the society of citizens rather than the representation of the monarch, as the civitas as opposed to the empire.

This meant a much wider national self-realization and caused the certain feeling of common cause in relations with the French or Italian revolutionaries. But the secret Polish political underground was never radical by French or Italian standards. The best proof of this is the easiness with which the professional revolutionaries, the nobles and the bourgeoisie used to unite in efforts against Russia once the opportunity arose.

Quite differently than in Italy and France, the theoretical concept of the order-establishing guerrilla war was repeatedly realized in the Polish-Lithuanian commonwealth on a really grand scale. One has to agree with Schmitt that the actual practice of the partisanship, of the partisan war brings the theoretical thinking to its definite conclusion.

From this point of view the January uprising of 1863 was the event of the utmost importance. This uprising not only united different groups of Polish society against the Russian empire, but also established the underground state.

Even the concept (not mentioning the practice) of the underground state would be a misunderstanding for Clausewitz and, likely, to Schmitt himself. This idea is incompatible with the concept of modern state. The modern state of Schmitt provides (through its monopoly of politics and legal system) the criterion for the "ground level." Therefore "underground" there may exist only criminal organizations or revolutionary parties, but not states.

However, the underground state that developed in Polish--Lithuanian commonwealth during the January uprising of 1863 was neither a criminal organization nor a revolutionary party. The order brought about by the up risers had the necessary features of political form as were described by Schmitt. The Polish National Government of 1863-1864 had its own legal system and administrative apparatus. It also occupied the very particular physical space and had a certain aesthetical representation.[2]

Although short-lived the example of the Polish National Government was very important as the concrete realization of the main new political idea of the 19th century Europe. The January uprising of 1863 proved that the partisan war against oppressor actually produces the new political order.

Moreover the Polish National Government, although fundamentally grounded in the Polish-Lithuanian political tradition, was produced "out of nowhere," without any directly preceding political form. It was the partisan scenario *par excellence*.

Needles to say, the experience of 1863-1864 made a huge impact on the further development of Polish and Lithuanian politics. Right after the uprising the national-cultural division began to appear and deepen between the Polish and Lithuanian people. It finally resulted

2 Schmitt described the political form as three-dimensional: legal order, bureaucratic apparatus and aesthetical form. (Schmitt, Roman Catholicism, 1996). The conclusions concerning the Polish National Government are based on the classic book on Polish history (Davies, 2002) as well as old-fashioned, but well-done Lithuanian analysis (Fajnhauz, 1991).

in the political division and two new 20th century states instead of the 18th century commonwealth.

But the tradition of the underground state transcended the Polish--Lithuanian division and influenced both countries. It is usually mentioned that the Polish National Government of the 1863-1864 "inspired" the establishment of the Polish underground state of the 1939-1944. However, this was not the only occasion. The ability of the people to establish spontaneous political form was evident in 1918, when both Polish and Lithuanian national states were born. In Lithuania the underground order also developed in 1944-1953 as the reaction to the Soviet occupation.

Therefore the Polish-Lithuanian experience may serve as the legitimate alternative of the Maoist China and Southern American movements as described by Schmitt. In the Polish-Lithuanian end of the trajectory of the "spark from Spain" we see a very different and specifically European development of the idea of partisan. It may not be summed up by simply labeling it, as Schmitt does, "intermediate stage" (Schmitt, 2004, p. 12).

IUSTITIUM, PARTISAN DICTATORSHIP AND THE MODERN REPUBLIC

The partisan is the citizen at war. Such is the central thesis of another theory of partisan. The European concept of partisan is deeply rooted in the European republicanism. Thus the partisan and the citizen are two sides of the same coin.

This explains the strange military situation of partisan. Schmitt correctly indicates that the partisan as the figure of war is different from all other known types of non-military combatants. One of the most important definitive features of the partisan is the very high level of political engagement. This leads Schmitt to the conclusion that the partisan may evolve into the fighter of the revolutionary war.

But the challenge that the partisan poses is not first of all the abstract revolutionary challenge against "the established order," as was described by Clausewitz. The partisan first of all challenges the particular sovereignty and monopoly of the military action prescribed to the formal state institutions. The political engagement of

the partisan first of all concerns his right to fight from the point of view of his own national law. The implications of the international law are thus only of secondary nature[3].

Without the possibility of the partisan war the national sovereignty and the ultimate role that the modern European political thought has put on the citizen would become empty concepts. To Schmitt belongs the great thesis that sovereign is the one who decides on exception (Schmitt, 1985). The partisan war is the expression of the concrete sovereign decision of the particular political nation.

Arming himself and thus becoming the partisan the citizen confronts the enemy directly. This way he oversteps the last boundary of norm and announces the state of the real exception[4]. His military actions are directed against the enemy, but his political claim concerns the army and other institutions of his own state, of the previous order.

The partisan claims the sovereignty to himself and does so on the basis of his citizenship. This concerns two particular decisions. First of all, the partisan decides on the exception itself. It is the partisan who in the end determines that the state of exception has come and the ultimate means of fighting are possible.

Secondly, the partisan takes over the decision concerning the end of the war. This way he comes into the traditional sphere of sovereignty and decides on war and peace. The war with the European republic is over only after the partisan war is over.

This idea was already clear in times of the Kościuszko Uprising. In a sense the whole first half of the 19th century could be defined as the prolonged Polish-Lithuanian partisan resistance against the division of the Commonwealth. Only in 1864 the commonwealth nation was finally defeated and the Polish-Lithuanian split marked the beginning of the new political forms.

The vision of the citizen standing behind the government institutions not only symbolically, but in the concrete way is not

3 The remarks of Schmitt concerning the impact of the partisan war on the European international law deserve special attention. Therefore this paper does not deal with the placement of the European partisans in the sphere of international law as well as with the relation between the just war and the partisan war.

4 On different levels of exception see: Schmitt, 1985, p. 5-8; Шмитт, 2005.

exceptionally modern. In this context it is worth to remember the book of Giorgio Agamben dealing with the state of exception.

In this book Agamben brought to new life the ancient Roman concept of *iustitium*. In the event of crisis (*tumultum*) the Senate of Rome could pass the final decree of the Senate (*senatus consultum ultimum*) which declared the state of exception (*iustitium*) and called all the magistrates and citizens to take whatever measures necessary to defend the republic (*rem publicam defendant, operamque dent ne quid respublica detrimenti capiat*). Agamben argues that with this decree the Senate of Rome actually used to suspend the law, merge the private and public spheres together and endowed the Roman citizens with the sort of "floating *imperium*" (Agamben, 2005, p. 41-51).

The parallel between the Roman *iustitium* and the modern partisan war as the similar versions of the state of exception is obvious.[5] However, the certain fundamental difference also appears at once.

The Roman citizen saw the Roman order as eternal. The juristic thought of Rome, if classified according to Schmitt, represents the almost ideal case of concrete order-thinking.[6] Therefore, the *tumultus* and the *iustitium* that followed could only be understood as temporary interference of eternal order. This brought the concept of *iustitium* close to being understood as the opposition of order – as the disorder even if it was not considered anarchy.

The modern European partisan represents the decisionist type of juristic thought. He is the one who makes the decision in the state of exception and produces new order. This impression is strengthened by the fact that the modern partisan war means the collapse of the old order. Through the intermediary figure of partisan the citizen comes into the very front of politics as the *ultima ratio* of the modern European republic. He makes the sovereign decision and steps back after the peace is restored and the new order established.

Such comprehension itself leads to the question of the provisional order that develops *during* the partisan war. It is interesting to note

5 It has to be noted that the term "state of exception" is taken for granted for the purposes of this paper. The discussion concerning the particular features and different modes of the state of exception is beyond the scope of this particular piece.

6 Schmitt indicated three types of juristic thought that are based on the ultimate understanding of law as norm, decision or order. (Schmitt, 2004).

that Schmitt himself best conceptualized such order tying it, however, not to the partisan war, but to revolution.

In his major opus on dictatorship Schmitt developed a special concept of sovereign dictatorship. During the revolution the person or persons that assume the leadership of the state act on the supposed consent of the nation, the *volonté générale*. On the one hand the rule of such persons has all the features of the classical dictatorship: it oversteps the law, it is temporary and bound to the particular goal (the establishment of the new order). On the other hand the revolutionary dictator (or dictators) acts as if he was himself the sovereign, because there exist no formal mandate issued by the real sovereign (the nation) as the *volonté générale* cannot be formally expressed without the proper institutions of representation (Шмитт, 2005).

The concept of the sovereign dictatorship enables to explain the partisan war as the particular political mechanism.[7] It is apparently the mechanism of transition from the certain old order to the new one. This idea leads to the conclusion of another theory of partisan.

CONCLUSION

Another theory of partisan ties the figure of partisan and partisan war as the specific phenomenon to the concrete historical and geographical space. If the Polish-Lithuanian partisan history is seen through the lenses of the national sovereignty and the sovereign dictatorship, then it represents the case *par excellence* of transition from the order of the 18th century to the modern European republic of the 21st century.

Whether or not this transition was related to the revolutionary thought and particularly to the legacy of the French revolution is the subject of the separate discussion. At the first impression, however, such parallel would unreasonably broaden the concept of revolution. As was mentioned before, the idea of the national sovereignty was not in itself revolutionary. The same might be said of the idea of republic.

7 For the more extensive analysis of the sovereign dictatorship in the context of partisan war see: Author, 2011; Author, 2012.

Moreover, the Polish-Lithuanian commonwealth was understood as the republic long before the French revolution. In fact, it might be argued that the republican consciousness was one of the factors that made the Polish-Lithuanian commonwealth the model of the European political transition. In other words, exactly the fact that, according to Schmitt, the Polish-Lithuanian commonwealth did not become the state in the full sense of the respective epoch enabled this society to produce the new type of state ahead of the time.

Of course the modern European republic is in many ways different of the tradition of Polish-Lithuanian commonwealth. The particular features of the modern order and the specific way that the idea of republic is understood and fulfilled in the present age are also beyond the scope of this paper. One thing, however, is certain – the concept of the modern European republic is built on the concept of the partisan war.

The partisan war proves the fact that the *res publica* of the particular political nation actually exists, that the common cause of the citizens is not only a symbol or metaphor, but concrete political reality. Therefore the particular partisan wars are historically important for particular republics. But if the republicanism is the prevailing political idea in contemporary Europe, then even the concept or the theoretical possibility of the partisan war is "eminently European"[8]. In the republican context the partisan war becomes a sort of myth which serves as the foundation even to those European republics that do not have in their history particular chapters of the partisan resistance.

8 As usual, it is the paradox that proves the truth. The fundamental or even the founding importance of the partisan war to the modern European republic is proved by one of the most ironic remarks ever made towards the European partisans: "For the most Europeans the war was over in 1940 or some other time when their respective country was occupied. However, they could not escape the legacy of the Resistance. They had to resist and many people, of course, resisted after the fact" (Taylor, 1994, p. 185).

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