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The Decline of State Politics

When in May 2015, after the first round of the presidential elections in Poland, it turned out that the then popular president Bronisław Komorowski was likely to lose his office and the aging rocker Paweł Kukiz is growing as a political leader of the younger generation, most observers of the Polish politics fell into a stupor. Over the last five years it was widely recognized as a fact that younger cohorts of voters vote for the centrist-liberal parties, while right-wing opposition is structurally incapable of a real competition for the presidency. The president, whom contrary to this assumption, the ground began to fall apart under his feet, made jerky movements to turn the tide of events, but it was already impossible to change the already decided fate. His sudden decision to organise referendum about a radical change in the electoral system, taken in an atmosphere of panic, between the two rounds of elections, was to be an attempt to take over the key electoral slogan of Paweł

Kukiz, and consequently, the votes of rebellious young electorate. It, however, did not happen and could not have happened, since the character of a bit clunky president who is made fun of in the social media has already begun to be perceived in the collective imagination as a negative icon which focused this rebellion. A peculiar coincidence of political awkwardness of the president and rhetorical contestation of the political system presented by a rock star, turned out to have an accidental beneficiary, namely Andrzej Duda – not widely known lawyer from Krakow whose candidacy for the presidency was put forward a few months earlier by the right-wing opposition leader, Jarosław Kaczyński, without any hope of a viable electoral victory over current president who still enjoyed high popularity. In terms of personal image, Andrzej Duda was almost the exact opposite of the incumbent head of state: young, handsome, hardworking, accessible and, above all, devoid of arrogance and self-confidence so distinctive for Komorowski. However, more importantly, what proved to be a strong support for Duda was distinctly social-patriotic manifesto of his party, whose main points deceptively resembled the slogans of relatively recent victorious presidential campaign of the head of the French left-wing party, François Hollande: reduction of the retirement age, benefits for the young people, defending national industry against global competition and the opposition to the German dominance in the European Union.

The contemporary interpretations of those events have gone in two different directions. Leftist intellectuals perceived in them primarily a “rebellion of the precariat,” namely how it was explained, for example, by Marek Beylin: “the rebellion of young people who do not have a permanent job, seek temporary employment, earn little and see that they have no chance of stability.”¹ The subject of the social contestation, which resulted in an unexpected electoral defeat for Komorowski, was supposed to be a liberal model of the state through which a great crowd of employees has been pushed by the system out of the zone of secure jobs and employee benefits and forced to a risky pursuit of modes of earning a living on the open market as

1 See “What happened? What will happen? An attempt to diagnose the election year (the first round),” a record of the debate in the Batory Foundation on June 15, 2015.

“entrepreneurs out of necessity.” This entire phenomenon was to be not so much of specifically Polish nature, but to be a rather late parallel to “outraged” movements in Western Europe and America, while the justification for its “youthful character” (as Aleksander Smolar has put it) was supposed to be the very fact that this young generation of Poles was particularly affected during the eight-year rule of the Civic Platform (Platforma Obywatelska) by forced employment under the so-called “junk employment contracts,” as people referred to various forms of non-tenured employment. This interpretation has even caused (though, admittedly, rather short-lived) revival of leftist circles and journalists, dissociating themselves from the Civic Platform government, as being incapable of any response to the aspirations of this generation of Poles who were born already in a free country to a better social status. This trend of the public debate flared, for example, in “Gazeta Wyborcza,” where the existing committed supporters of Donald Tusk declared themselves as citizens strongly disappointed with these governments, significantly contributing in this way – most likely against their own intentions – to a continuous increase of the support for right-wing opposition.²

In an alternative interpretation, the meaning more significant than social factors was attributed to the very evolutionary system of authority, which (as argued, for example, by the sociologist, Tomasz Żukowski) “finally had to be simply refreshed.”³ Apparently surprising results of the elections were to be, in fact, inevitable consequences of the mode of governance created by the prime minister, Donald Tusk, and his party, which could be referred to as “reactionary” one. In the classic nineteenth-century meaning, reactionary authority is the one that continually expresses general satisfaction with the prevailing state of affairs and makes this satisfaction its entire political program. In such case the mission of authority becomes the defence of the status quo, which in the case of Donald Tusk government perfectly correlated with the propaganda tactic of presenting the opposition as an unpredictable group that poses danger for the country. Over

2 See the article of Marek Beylin in “Gazeta Wyborcza”: <http://wyborcza.pl/1,75968,18056588,Potraktujmy_powaznie_ten_bunt.html>.

3 See “Polish politics 2015,” a record of the debate in the Batory Foundation on 18 November 2015.

time, the rule of such a system must inevitably trigger not only an increasing effect of fatigue with the authorities, but also the collective “anti-system” emotions, just like the one which temporarily enabled the rebellious rocker to reach the peaks of Polish politics. In the latter case, this emotion was further strengthened by the propaganda of an utter delegitimization of the authority exercised by the Civic Platform, consequently pursued by the opposition party, the Law and Justice, at least since the crisis around the Smolensk catastrophe, as being exercised by the “comprador elites” for the foreign and not Polish benefit. The theory of “refreshing” could explain – far better than the social hypothesis – the reasons why the language in which both the Law and Justice as well as the supporters of Paweł Kukiz articulated their opposition to the rule of the Civic Platform proved to be a conservative and nationalist language. This theory nicely matched with the political figure of the winner of the presidential elections: Andrzej Duda. As an absolute “homo novus” for most voters, he was elected by the votes of exactly those who wished to “refresh” the system.⁴

The problem of interpreting those May events is fundamental to such an extent that there was then sealed the direction of the subsequent abrupt political changes in Poland. On the one hand, the trend triggered by a surprise defeat for Bronisław Komorowski within the next few weeks transformed the Civic Platform into a crumbling political group which rapidly started to lose public support. This effect was exacerbated by the feeling of impulsiveness and constant irritability of its leader – the prime minister, Ewa Kopacz. At the beginning of the summer 2015 it has become widespread in Poland that the Civic Platform no longer fights for power, but for survival. On the other hand, collective “anti-system” emotions which contributed to the extraordinary success of Paweł Kukiz in May 2015 (more than 1/5 votes) turned out to be shallow and unstable, as revealed in September, when there had to ultimately take place the referendum, initiated by the former president, in respect of revolutionary changes in the electoral system. The said plebiscite that was perceived as an obstacle

4 Cf. the survey of the Public Opinion Research Centre: <<http://www.tvp.info/20594639/cbos-o-wyniku-wyborow-przesadzila-chec-zmiany-poglady-kandydatow-mniej-istotne>>.

(though for different reasons) both for weakening the Civic Platform and for the Law and Justice, forging continuously ahead, ended in a fiasco, because voters simply did not take part in it. Both parties have taken a consistent effort to persuade their followers about the “unreasonableness” of the referendum, whose only real function was to be – according to their opinion – “pouring public money down the drain.”⁵ The ease with which the parties succeeded in “sabotaging” the project of the reform of the electoral law, clearly showed that the May rebellion does not transform into a real movement to reform the state and the political phenomenon of Kukiz political party will be nothing more than a kind of “flash party” (as noted by the sociologist Tadeusz Szawiel), namely an ephemeral phenomenon, well known already from the recent history of Polish politics. It was then that, after September’s spectacular victory of the party over the idea of the referendum on repairing the country, it became clear that the following change of power will by no means result in a more ambitious state politics. Just a week after an overwhelming success of the Law and Justice in October 2015, Rafał Matyja wrote with an anxiety in “New Confederacy”:

If the right-wing hegemony is brought down to a common front in the cultural war, it (...) will not be a factor of a creative change of the system, but it will end up with a sterile rhetoric and disputes incomprehensible to the public. There may be, in turn, absence of what could become the most serious political legitimacy, namely the ability to set new rules and to give them validity, to strengthen public institutions and to ensure greater maneuverability of the administration.⁶

The concern raised by Matyja had to be strengthened by the very political process of building a new government in which the candidate for the prime minister had a strikingly marginal role. Shortly before her formal nomination, the most influential news portal, associated with the new authorities, spread the news that the party president is very reluctant to the said candidate and is looking for a way to

5 The typical opinion of the party was expressed by Jarosław Gowin: <http://www.rdc.pl/informacje/referendum-ws-jow-ow-bezsensowne-pieniadze-wyrzucone-w-bloto-posluchaj/>.

6 R. Matyja, *The Law and Justice in the Shoes of the Civic Platform*, <<http://www.nowakonfederacja.pl/pis-w-butach-po/>>.

withdraw from the organization's commitment to nominate her as the prime minister.⁷ It is true that soon after that the party spokesman denied these news, but in an internal flow of information within the Law and Justice there had been embedded the belief that Beata Szydło is the head of the government only due to the promise hastily made in this matter during elections and most probably only for a short period of time.⁸ When in the Warsaw headquarters of the party there had been initiated the "interviews" of the candidates for members of the government and the debate on its organisational shape, the then official candidate for the prime minister was sent on vacation, as she was very tired with successive election campaigns and "earned a few days of rest."⁹ The media reluctant to the Law and Justice criticized or even tried to ridicule the fact of Jarosław Kaczyński's controlling the new authorities from the "back seat," while Kaczyński himself did not formally take any state functions. From the perspective of the ability of the new government to undertake institutional reforms, it was not the fact of "the strategic leadership" concentrated in the hands of the party leader that posed a danger for the future, but rather the procedure – undertaken before the eyes of the public – of a deliberate weakening of the authority and the political position of the people that were to take the highest posts in the state, in particular the future head of government. It was hard to avoid the impression that this humiliating procedure was deliberately made as a demonstration. One of the key intellectuals of the Law and Justice, the sociologist Jadwiga Staniszkis, disapprovingly described it as "the process of humiliating and formatting politicians so that they became conformists."¹⁰ Ultimately, when in November 2015 there

7 <<http://wpolityce.pl/polityka/269886-nasz-news-rowniez-profesor-piotr-glinski-jest-kandydatem-na-premiera-rzadu-prawa-i-sprawiedliwosci-kogo-wskaza-wladze-pis>>.

8 Cf. P. Majewski, *The backdrop of night meetings of the Law and Justice*, <<http://www.rp.pl/polityka/310289859-kulisy-nocnych-narad-w-pis.html>>.

9 <http://wiadomosci.wp.pl/kat,1342,title,Beata-Szydlo-na-urlopie-Zapracowala-na-kilka-dni-spokoju,wid,17948395,wiadomosc.html?ticaid=116555&_ticrsn=3>.

10 <<http://wpolityce.pl/polityka/272619-tylko-u-nas-prowokacyjny-wywiad-prof-staniszkis-kaczynski-ustawil-sie-w-rolu-w-ktorej-skladane-sa-mu-holdy?strona=3>>.

was formed the new Council of Ministers, this was not accompanied by any organizational decisions which would create hopes of rebuilding the centre of the government, the organisation which was struggling in times of the prime minister, Donald Tusk, of breaking the “department-oriented mode of governance,” destructive for the quality of governance, or intending to create a strategic politico-intellectual base for the government.¹¹ What came as striking was also the organizational awkwardness of the new government, which revealed itself in the process of creating new ministries (Development and Energy), which at least until the end of 2015 did not obtain the ability to function normally.¹²

A harbinger of “small stabilization” as a viable state program of the Law and Justice has already been the July presentation of political program delivered by the then candidate for the prime minister – Beata Szydło – during the party convention in Katowice. That what struck most in it was the absence of any issues devoted to repair programs in respect of the state, its political system and institutions. For many years, the politicians of the Law and Justice, along with the intellectuals gathered around it, formulated a diagnosis of serious dysfunctionality, not to say decay of political institutions of the Third Polish Republic under the rule of the prime minister Donald Tusk, the politician focused on his personal authority and disrespectful for the needs of institutional reforms. The intellectuals supporting the Law and Justice have even created an exaggerated, yet spectacular thesis about the “extinction of the state” under the rule of the Civic Platform. It is true, nevertheless, that this thesis has never led its authors to any work – complex as it may be – on the reforms of numerous dysfunctional public institutions, while no such studies were either inspired by the leader of the party, always more persuaded to the politics of exchanging the elites, while being sceptical about reformatory ideas. Nevertheless, the Law and Justice indeed raised in the past some institutional issues, like for example flawed local

11 Cf. J. Rokita, S. Starnawski, *The plan to build the state. 20 ideas to improve the quality of governance*, the Analyses Centre of the Jagiellonian Club, 2015, <<http://cakj.pl/wp-content/uploads/2015/11/Plan-budowy-pa%C5%84stwa-na-www.pdf>>.

12 See, for example: <<http://energetyka.defence24.pl/280141,ministerstwo-energii-na-razie-dwoch-pracownikow-normalna-praca-od-1-stycznia>>.

government judicial system or structural degradation of the quality of universities. But now, as the candidate of the Law and Justice for the prime minister presented the long awaited manifesto, defining the point of view of the party on the state politics, in more than an hour-long speech, she utterly ignored the entire diagnosis of the state, so characteristic for the Law and Justice. Beata Szydło appealed more to the human desire of “small stabilization”, and in her view the mission of the Law and Justice was to grant new benefits, lower the retirement age, or force lower prices of medicines (“medicine must be cheap!”).¹³ The mission of implementing new social justice has almost completely superseded the mission of reconstructing or even just repairing the state structures. The governance program, reduced in such way, was subsequently confirmed by the newly appointed prime minister in the exposé delivered by her in the parliament.

Yet, before the new government managed to agree on and to submit its first flagship social projects, the entire state politics has been focused on a series of protracted conflicts oriented on the exchange of personnel in various institutions in the public sector. The political logic of such a course of events has been clear from the very beginning: if the project of institutional reconstruction of the state has not been deliberately undertaken, the measure of the political breakthrough in the form of gaining an absolute parliamentary majority by the Law and Justice was the reconstruction of the personnel. This was in conformity with the traditional doctrine preached by the leader of the Law and Justice, which states that “human factor” is the foundation of real political transformations, while the faith in the political power of institutional reforms is typical for politicians being to a considerable extent simply naive. Kaczyński proclaimed the said thesis even in the first years after Poland’s gaining its independence, in the polemic against the then Solidarity government which clearly preferred structural reforms over personnel decommunization of the state. When holding the function of the prime minister, he explicitly stated this view in the famous speech delivered in June 2007 in

13 <<http://wpolityce.pl/polityka/265131-beata-szydlo-na-konwencji-pis-w-polsce-nie-trzeba-nikomuzabierac-trzeba-tylko-uczciwie-rzadzic-przeczytaj-przemowienie>>.

Radom. The first violent political conflict over the issue of personnel reconstruction of the state arose almost immediately after the formation of the parliament and the government, and its somewhat accidental igniter became a greedy incident of filling by the then ruling party, the Civic Platform, yet non-existent vacancies in the Constitutional Court. This procedure clearly violated a well-established parliamentary custom, according to which the parliament of a given term of office fills in only those vacancies in the Constitutional Court which arise before the end of this term. Hence, the Law and Justice, acting quite legitimately, even before the October elections, challenged in the Constitutional Court the resolution adopted at the end of the previous term, which allowed the previous majority to violate the existing good practice, absolutely valid until this incident. However, when soon after this the Law and Justice gained the entire power, it withdrew its earlier appeal, simultaneously adopting an ad hoc episodic act of law which invalidated the previous appointment of judges and enabling the new majority to take over the vacancies in the Constitutional Court, including those that arose also during the previous parliamentary term of office. Such an imitation of the tactics of "conquest of the institutions," initiated in this case before the elections by the Civic Platform, has soon reformulated the nature of the conflict from the initially inter-party battle for the judicial posts to a more and more dramatic constitutional conflict, whose parties became the parliamentary majority held by the Law and Justice and the Constitutional Court that defended its own authority. In this way, there took place further exchanges of blows between the parliamentary majority and the Constitutional Court, which, on the one hand, assumed the form of laws and resolutions of the Sejm, enacted in violation of the rules of good legislation, and, on the other hand, the form of the judgments and orders of the President of the Constitutional Court, focused solely on blocking their effects. That exchange of blows between the two constitutional authorities soon proved to have surprisingly vast political consequences. There indeed has taken place a divergence of public opinion, as reflected, among others, in pro and anti-government street demonstrations, brutalization of political debates, a series of interventions on the part of European politicians, which only aggravated the conflict, and finally the implementation of the EU rule of law control procedures

against Poland, thus resulting in a sudden drop in the value of the Polish currency.

The developing logic of a rapid and comprehensive reconstruction of the state personnel, as it seems, for a long time blocked the possibility of returning to ambitious politics and to any serious program of state politics. The inevitable price to pay for the subsequent steps that are taken in the field of human resources must be an increased loosening of a growing number of public institutions, for which the new government does not have either any innovative concepts of their reorganisation, or any political opportunities for such projects, because they would most often require a constitutional majority in parliament. Hence, it appears that the minimum objective set by the new government is to strain the attacked institutions to the extent that they are not in the future realistically able to object or resist. This seems to be a current minimalist goal of the Law and Justice both in relation to the Constitutional Court as well as to the civil service and the public media. As for the civil service, the government ensured the elimination of open and competitive selection procedures for senior positions in administration, thus putting an end at one stroke to the shy issue, typical of all the successive Polish governments, of the so-called "bids rigging." Since now, it will no longer be necessary to simulate respect for "unbiased and objective" procedures, since these procedures have been simply gotten rid of. If this state of affairs was maintained in the future, it would mean that the party winning the elections could on the first day legally dismiss a few thousand key officials in the state and replace them with their party activists and the proximal and distal relatives. What has indeed taken place so far, yet slowly and in secret, reluctantly and with great risk, henceforth will be open and public. Somehow, this model of political system is simpler and cleaner, only that the administration will henceforth be governed by changing party and family clans, treating the state as a field to conquer. A similar phenomenon can be observed in the public media. The new government has so far postponed a previously announced project of an overall decommercialization and structural reorganization of this sector by introducing an ad hoc act of law on dismissing the managers of the public radio and television. When analysing the motives of such a strategy, one of the opposition leaders, having Solidarity roots, noticed that the politicians and activists

of the Law and Justice “are pleased with the current victory as much as they enjoyed the overthrow of communism in 1989.” This somewhat psychological remark is worth quoting here because it seems to nicely illustrate the axiology and emotions of the people currently holding the power, namely the emotions that accompany the politics of personnel reconstruction: many of them have the subjective sense of regained independence.

It can be therefore in all likelihood assumed that the political strategy of the new government will be focused on three basic pillars. The first is a personnel politics aiming at getting rid of the staff related to the Civic Platform, with a declared view of restoring a form of political balance in the face of an absolute dominance of the opponents of the Law and Justice in the entire public sector. The price for this operation will be bending the law, undermining the successive institutions, continuous divergence of the public opinion, international troubles of the state, and – perhaps most importantly – strengthening of an increasingly greater circle of people set aside by the Law and Justice and having hostile attitude towards the new government. The second is the mission – crucial for the Law and Justice’s concept of new social justice – of extending social benefits, which will inevitably encounter the resistance of the budget, thus raising the danger of capital flight and international speculation around a weak Polish zloty. The third, finally, are “counter-reformation” steps on the front of the global cultural war, thanks to which Poland may, at least temporarily, face braked trends for the revolutionary reconstruction of the model of the family and upbringing. It is clear that in this triad there is no place either for the reforms of the public institutions, and even less, for a real recovery of a stronger subjectivity of the state, once postulated by the intellectuals associated with the Law and Justice.¹⁴ There is indeed possible a chaotic reorganization of some public sectors (e.g. education, health or the media), but having rather the purpose of a manifestative withdrawal of liberal reforms undertaken in the last quarter of a century of independence and a restoration, in its consequence, of something like the status quo ante. At the same time, a possible motive for conducting them would be not so much

14 Similarly, for example, M. Cichocki, <<http://www.teologiapolityczna.pl/marek-a-cichocki-czy-jeste-my-zdolni-do-podmiotowej-polityki/>>.

any coherent vision of a more efficient state structure, but rather proving wrong the policies conducted throughout the last quarter of a century. This type of politics is motivated by the aspirations to a certain “status” rather than the interest of the state. It focuses more on emulation or the triumph of one’s own arguments, so far ignored and rejected, sooner than on achieving the desired institutional order. Even if the Law and Justice wished to revisit the plans for structural reforms in such sectors as the media or the judiciary, they will be most probably furiously fought against, as the further steps in the political plan of the party to “conquer the state,” both by the parliamentary opposition as well as by the stakeholders concerned. The ultimate cost of a passionate conflict around the personnel revolution undertaken by the Law and Justice has to be a virtual paralysis of such a policy for which the reference point would be to remedy the state and restore its subjectivity. An apt point of view was in this respect expressed by one of the most penetrating right-wing analysts in December 2015 in “New Confederacy”:

The right-wing abandoned the state program, understood as the reconstruction of rules and institutions (...) And thinking in terms of state as a whole evaporated from the media with a distinct right-wing orientation and ceased to be a reference point for many intellectual groups supporting the political formation exercising the power today. It was abandoned by all of those who derive satisfaction from the effectiveness of how the Law and Justice takes over the Constitutional Court and who are waiting for the acquisition of the public media.¹⁵

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15 R. Matyja, *Party war instead of restoration of the state*, <<http://www.nowakonfederacja.pl/partyjna-wojna-zamiast-naprawy-panstwa/>>.

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