



# Emerging Markets:

## A Review of Business and Legal Issues

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# Emerging Markets: A Review of Business and Legal Issues

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## Elena Popova

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## **Some aspects of improving the effectiveness of administrative services in Ukraine**

Development of Ukraine as an independent and democratic state determines the need for creating an effective system of public administration which provides quality services to society. To achieve this, during the administrative reform an ideology of “serving society” is implemented, as a fundamental principle of the functioning of public administration. The following problems are being solved: the formation of stable and effective organization of the executive, organization of professional and politically neutral and open public service; a system of capable local self-government; strengthen citizen status in relations with authorities.

However, there are still insuperable stereotypes between officials and citizens imposed by the Soviet system. Ukrainian citizens have no confidence in the possibility of receiving a quality service and to high quality administration services despite an increase in the competence of public servants and officials of the local self-government, their desire to proceed with democratic institutional standards, close interaction with the public.

Improving the efficiency of public administration, including quality of administrative services, will promote the economic growth, progress and development of the civil society. We distinguish general social effectiveness and effectiveness of organization and functioning of the subjects.

General social efficiency of state management is achieved with by two system components: the state with its bodies and officials and the society with its managed objects and local self-government structures [1, p. 352]. Effectiveness of service activity of administrative authorities is provided by establishment of an adequate system of their organization and functioning and it is determined by monitoring the public opinion.

In Ukraine monitoring of public opinion and quality of administrative services is provided by the following structures: Center for Adaptation of Civil Service to the Standards of the European Union through anonymous survey of consumers of these services, and some public organizations (through annual pilot surveys of consumers). The following criteria are considered: results (satisfaction of needs of individuals and legal entities in administrative service); timeliness (providing an administrative service in a statutory period); accessibility (actual ability of individuals and legal entities to ask for administrative service); convenience (needs and interests of consumers); openness (information on administrative service); respect to a person (polite attitude to a recipient of an administrative service); professionalism (appropriate level of qualification of employees of an administrative body) [2].

But social effectiveness has a generalized, subjective nature and it does not show the contribution of each of the named components. That's why in order to set appropriate level of efficiency of public bodies service in addition to social efficiency it is necessary to consider the effectiveness of organization and functioning of administrators as well as effectiveness of activities of administrative bodies and officials.

Efficiency of organization and functioning of subjects of administrative services depends on a proper functioning of mechanism of social relations at the national level, its integrity, consistency, balance and so on. At the same time there are certain contradictions and irregularities in enforcement activity because of a lack of an effective mechanism for the use of certain norms on each link.

Therefore, there're the following conditions which make the effective functioning of the system of administrative services possible: creation of a conceptual framework adopted to realities and prospects for economic and social development of the society; adequate definition of institutional and legal framework, realization of the rights, freedoms and lawful interests of individuals and legal entities; developing the only consistent rules on procedure of interaction between the authorities and individuals; organization of a regular control of the relevant activities.

However, service activity of administrative bodies in Ukraine needs further improvement and it is characterized by the following features: lack of a common vision to determine the definition of the conceptual apparatus of the institution of administrative services and, as a result, disagreement on these issues in the lawmaking activity; in 2012 Verkhovna Rada (Parliament) adopted the Law of Ukraine “On Administrative Services” that already requires some improvement, lack of common rules for the procedure of interaction between the authorities and individuals that leads to a high level of administrative discretion and as a result of it, to a low level of quality of service, increasing corruption factors, inefficient activities of administrative bodies.

Inconsistency of the legal framework makes impossible a proper control of relevant activities of executive bodies thus creates a basis for the development of corruption, self-will of officials it limits the rights of individuals. Besides that, a low level of lawmaking activity, false, inconsistent provisions lead to their automatic duplication in enforcement processes.

Considering hereinabove, it is explained, that the management efficiency can be defined as a full achievement of the real and socially useful concrete administrative purpose at the minimum cost of resources in optimum terms, taking into account the circumstances of an external and internal character.

So, the basic directions of the increase of an efficiency of granting by the enforcement authorities of Ukraine of administrative services are: the perfection of general legislation in the sphere of administrative services granting; orderliness of the procedure of such services granting by an acceptance of the corresponding procedural legislation; streamlining of operating lists of administrative services, an establishment of the fixed size of a payment for each administrative service, taking into account its social and economic value as well as the corresponding legislative fixing; differentiation of the control supervising functions as well as the functions of administrative services granting; appropriate level and timeliness of law enforcement activities, in particular, by the realization of standardization and regulation of the administrative services granting etc.; working out and use of the system of effective stimulus as concerning both the authorized subjects of objects and corresponding officials; wide use of the alternative

organizational forms of service activities realization, ensuring of the appropriate control after the activities of subjects granting administrative services, the involvement of public representatives in the control and estimations of an efficiency of the activities of enforcement authorities as well as to the administrative services granting.

An improvement of a quality and efficiency of granting by enforcement authorities of administrative services will promote the constructive cooperation between the addressees of services and authorized bodies, as well as the increase of the level of a trust to the power, social stability and the formation of a civil society.

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## **Googlehunt or trials to control Google's expansion – on the liability of the search engines' operators**

**Summary:** *ISPs' liability has become a subject of heated discussions all over the world. In the centre of interests there are intermediaries who, for example, provide hyperlinks or deliver positioning tool services. The activity in question is not explicitly exempted from liability. As a result, minute details decide upon its qualification under the exoneration premises; hence, the devil's in the details where it comes the question of ISPs "to be or not to be". American, German, French and Belgian courts have recently dealt with cases concerning Google's complementary tools: Google Images, Google Videos, Google Suggest and Google News. Prior to that, Google Books and Google Adwords were taken to court. The article is an attempt to present the current line in judicature as well as its impact on Polish legislation.*

Thomas Jefferson used to say: "I am certainly not an advocate for frequent changes in laws and constitutions. But laws and institutions must go hand in hand with the progress of human kind<sup>1</sup>" and the issue of the Internet Service Providers' liability is certainly a matter of progress and the case where law is chasing after the rapidly changing reality.

### **I. Google Books case<sup>2</sup> (The USA)**

Chronologically speaking, in 2004 Google announced its plans to digitize works stored in libraries of several research universities and make them available to the public. The announcement provoked an avalanche of protest coming from authors and publishers who demanded to be asked for authorization and to be granted a part of income. The Google's response was that the activity constituted "fair use" under §107 the Copyright Act, 17 U.S.C. and only those works rights to which had expired would be available in integrity. As far as other works were concerned, only "snippets" of them were to be publically available until the author's

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<sup>1</sup> Inscription on the Thomas Jefferson Memorial in Washington, D.C. Initially appeared in a letter from Thomas Jefferson to Samuel Kercheval of 12<sup>th</sup> July 1816. Available at: <http://www.nps.gov/thje/memorial/inscript.htm>  
DOA: 10th July 2011.

<sup>2</sup> *Authors Guild v. Google Inc.*, No. 05 CV 8136 (S.D.N.Y. filed Oct. 28, 2008).

permission was obtained. But the argumentation did not seem satisfactory to the Authors' Guild and the American Association of Publishers who filed the suit against Google. The decision upon the case was extremely important to the whole publishing industry since the case was certified to be a class-action lawsuit; therefore, the decision was binding for the whole community. In 2008 parties reached an agreement<sup>1</sup> under the Rule 23 of the Federal Rules of Civil Procedure which is derived from the common law writ of a "bill of peace"<sup>2</sup>. The terms of the settlement were found to be unfair for two main reasons. Firstly, as a result of Google paying the remuneration and sharing profits with authors and publishers (in the following proportion 1:2 for Google), those authors who oppose to digitization of their works would be required to follow the opt-out procedure. This might have led to overvaluation of the general copyright principles which require the authors' consent for exploitation of a work. It also gave rise to doubts concerning adequacy of class notice and class representation. Secondly, the settlement entitled Google to digitize orphaned works which according to the US Department of Justice provoked questions about the monopolistic threat of such solution. Also, according to James Grimmelmann<sup>3</sup> the settlement was considered to be problematic for other reasons. One of the provisions assumed the establishment of the Books Rights Registry – the body responsible for representation of authors' and publishers' interests. The institution might have posed an antitrust threat as an instrument of a cartel to set the price. Also, as far as orphan works are concerned, Google posed an antitrust threat that it would monopolize the downloading and book search market. In addition to that, consumers required protection and the settlement policy towards price discrimination and privacy was far from satisfactory. What is more, the copyright information databases needed to be available to public. Last but not least, there was a censorship threat over Google's activity. For the above reasons, the Circuit Judge Denny Chin, representing the United States District Court for the Southern District of New York, rejected the settlement. As far as Google's activity

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<sup>1</sup> See: *Proposed Settlement*, Authors Guild v. Google Inc., No. 05 CV 8136 (S.D.N.Y. filed Oct. 28, 2008); hereinafter the settlement.

<sup>2</sup> Source: <http://copyrightlitigation.blogspot.com/2011/03/sdny-google-books-settlement-rejected.html> DOA: 10th July 2011.

<sup>3</sup> J. Grimmelmann, *How to fix the Google Book Search Settlement?*, Internet Law Review, No. 10 (12)/2009, p. 1.



is concerned, it was found to infringe the authors' rights since many books were scanned without entering into contracts with rights holders and obtaining rights or licenses to copy the in-copyright works and make portions of them available to users<sup>1</sup>. Judge Chin suggested that the parties revisited the settlement with paying particular attention to replacing the opt-out solution with the opt-in one.

To sum up the case, Google's illicit activity concerning the Google Book Search Project was undeniable. Although the facts of the case seemed obvious and there was no argument that could cast a doubt on the infringing character of the project, the most important aspect of the case was that it paved the way to other trials concerning Google componential tools. Also, another trace of the trial can be noticed in the increase in the EU activity concerning orphan works. Another incentive to create a new regulation on orphan works was unsolved legal status which could become an obstacle preventing the works from becoming a component of European Digital Library projects. The creation of a legal framework which would facilitate digitalization and dissemination of works authors of which cannot be identified constitutes a core of the Digital Agenda for Europe. According to the new regulation (accepted by the European Parliament on the 13<sup>th</sup> September 2012) public institutions such as libraries, museums, education institutions or archives are allowed to disseminate orphan works on the Internet in non-commercial purposes. Such use of orphan works would be allowed only if diligent search of an author was conducted. A status of a work in one EU country will expand on the territories of other EU members. The draft has been criticized for cost-shifting onto potential users of the works, too narrow scope as well as lack of prescription date of actions aiming at nullification of the legal status of an orphan work. However, the directive on certain permitted uses of orphan works of 22<sup>nd</sup> February 2012 is a milestone in the process of regulation of legal status of the works right holders of which cannot be identified or cannot be located after a diligent search.

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<sup>1</sup> A. Glorioso, *Google Books: An Orphan Works Solution*, Hofstra Law Review No. 38/2010, p.971.

## II. Google Images case (Germany)

The German Federal Court of Justice announced a verdict towards Google Images on the 29<sup>th</sup> April 2010<sup>1</sup>. The core point of this significant decision was the problem of copyright infringement by search engines on the Internet in relation to the indexing services. The role of the Federal Court was to search for balance between the interests of rights holders and those of Internet Service Providers.

The activity of Google Images component consists in providing users with an image search engine that is capable of searching pictures on the basis of text strings. In order to do that, the Google searchbot ‘travels’ via websites and takes pictures which are indexed and stored in cache. The procedure not only allows access to images, it also speeds the access up. The site presents searching results in a form of thumbnails which contain links to original sites of storage. The applicant claimed that the activity of Google Images was an act of copying according to the meaning of the German Copyright Law. Although the resizing of the applicants works could be qualified as adaptation (requiring the right holder’s consent) under §23 UrhG<sup>2</sup>, the liability question could not be answered due to the inapplicability of German Copyright Law. The American law was applicable as the pictures were stored on servers located in the US (*lex loci delicti*).

Another issue taken under consideration by the court was whether the use of pictures infringed the author’s right to make a work available to the public, the right guaranteed by the §19a UrhG. The crux of the case was that Google’s activity was not restricted to providing users with web-pages-finding technology. It consisted in storing the pictures on Google’s proper servers so that the pictures were available to users irrespective of time or space. According to the Federal Court this constituted an infringement of the abovementioned right. Google’s defense was based on the right of citation upon §51 UrhG and right of making transient copy which were

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<sup>1</sup> Bundesgerichtshof (German Federal Court) verdict of 29th April 2010, I ZR 69/08 (Vorschaubilder).

<sup>2</sup> Gesetz über Urheberrecht und verwandte Schutzrechte. Available at: <http://www.gesetze-im-internet.de/urhgf/DOA>: 11<sup>th</sup> July 2011.

an integral and essential part of a technological process under §44a UrhG. The argument was dismissed by the court<sup>1</sup>.

Google's argumentation was also founded on the claim of an alleged license. Google maintained that the applicant had granted a license for making the work available to the public by uploading the pictures on the Internet. The court underlined that license as a disposition in *rem* requires *inter alia* that the author's will concerning the use of work be explicitly expressed. Consequently, the act of 'putting' pictures on the website cannot be qualified as such a disposition. What is more, such qualification is even more irrational if the author placed a copyright note on the works<sup>2</sup>.

Instead, what the Federal Court did was to refer to the exculpatory consent which is different from license in that the former grants no enforceable title or contract to the defendant. Instead, it justifies the use. As a result, the consent is not hedged by strict requirements. There is no requirement for explicit declaration of intent, so the implied consent *per facta concludentia* is entirely satisfactory. It was found that such consent was expressed by the applicant by putting the pictures on the website and making them available to the Google searchbot in spite of the fact that technologies preventing Google from indexing were available to the applicant. What is more, the court assumed that the consent was not withdrawn with the moment of informing Google about the author's opposition to indexing of her pictures. The enforceable withdrawal of consent would require the same action as the implied declaration did according to the rule *protestation factio contraria*. It was important that the withdrawal be announced to the general public; whereas, declaration being addressed to Google would be an act against the principle of equity and good faith. The court put particular emphasis on the fact that the applicant possessed effective protection tools against illicit copying and linking of her works<sup>3</sup>.

In an *obiter dictum*, the Federal Court referred to the liability exemption guaranteed to Search Engine Operators acting as host providers under article 14 Directive 2000/31/EG on

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<sup>1</sup> P.Zimbehl, *Google Images*, BGH Entscheidung vom 29.04.2010, I ZR 69/08, JIPITEC no. 3/2010, p. 190

<sup>2</sup> *Ibidem*

<sup>3</sup> P.Zimbehl, *Google Images*, BGH Entscheidung vom 29.04.2010, I ZR 69/08, JIPITEC no. 3/2010, p. 190



condition that the activity of the Search Engine Operator was limited to “purely technical, automatic and passive event” and there was no knowledge nor control over the data on the side of Google. Since the directive introduces horizontal protection, the exemption would be effective even though the concept of an implied consent was dismissed<sup>1</sup>. Consequently, for the above reasons, the court found Google not to be liable for copyright infringement.

Having a closer look at the verdict, one cannot help the impression that there were hidden reasons behind the decision. The Federal Court had to find balance between the interests of the rights holder and the access of the general public to information. A contrary decision would activate the avalanche of suits against Google which in a long-term perspective could lead to the destruction of the whole data basis. After Google Images, the existence of other componential data bases would be threatened. Imposing the obligation to ask for author’s permission each and every time Googlebot finds a new picture was claimed not only be a shortsighted decision but also the unrealistic one, especially when an author puts their own work onto the website and makes it available to the public. The availability of technical protective means is another important aspect. For there is a possibility to protect the website content via password which can be exclusively attributed to certain groups of recipients, the applicant who did not make use of the tool expressed an implied consent for her works to be ‘googlable’. Still, both the verdict and the argumentation give rise to the questions about the exclusive and absolute character of copyright as well as about the moment when modern copyright law passed the line between the opt-in and opt-out principle.

### III. Google Vidéos case<sup>2</sup> (France)

14<sup>th</sup> January 2011 was a doomsday for Google. The Court of Appeal in Paris announced four decisions concerning Google componential tools. Most significantly, the court held Google’s liability for making films and documentaries protected by copyright available to public

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<sup>1</sup> *Ibidem*, p. 191.

<sup>2</sup> Court of Appeal in Paris decision of 14<sup>th</sup> January 2011 concerning *The Factory and Canal+ and La société Bac Films v. Google France and Google Inc.* case. (CA Paris 14.01.2011, RG no. 09/11729, 09/11737, 09/11739, 09/11779 at [www.legalis.net](http://www.legalis.net)).

via Google Vidéos. The component in question is a platform that enables its users to upload and download animated pictures. The service is associated with the referencing of videos that had been placed on websites. The most important aspect of the service was that up to May 2011 users were able to download the stored content.

Three issues became the subject of the court's analysis. These were the following: the legal qualification of the service, Google's liability for storage of uploaded videos and Google's liability for the search engine activity.

Firstly, the court took under consideration two functions of the Google Vidéos services – its function as a host provider and as a search engine. Decisions on that two aspects were significant in the light of the LCNE (the act of 21<sup>st</sup> June 2004 on Confidence in the Digital Economy<sup>1</sup>) transposing Directive 2000/31/EG into the French legal system. In order to do that, the court had to examine whether the actions of Google Vidéos were neutral in relation to stored information<sup>2</sup>. As far as Google Vidéos is concerned, neutrality of actions requires that there was no possibility for Google to undertake actions concerning the uploaded material. As far as the search engine is concerned, neutrality implies that the process was totally automatic and it was carried out without any alterations or interference of people<sup>3</sup>.

The court decided that although the host provider was obliged to use all possible technical means in order to take down the illicit content or make the access to it impossible after having received the notice on infringing character of the material, this, in accordance with the disposition of the article 15 of the Directive 2000/31/EG, did not imply obligation to undertake antecedent control over the uploaded content uploaded. Imposition of such an obligation would constitute a violation of the article 6.I.2 LCEN. However, Google did not act with a due diligence in relation to a new link to the content that has already been claimed to be illicit.

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<sup>1</sup> *Loi n° 2004-575 du 21 juin 2004 pour la confiance dans l'économie numérique*, NOR : ECOX0200175L.

<sup>2</sup> The neutrality requirement appeared in the ECJ decision of 23<sup>rd</sup> March 2010 in *the Louis Vuitton v. Google* case (joint cases C-236/08, C-237/08 and C-238/08). See also:

<http://www.guardian.co.uk/media/2010/mar/23/google-louis-vuitton-search-ads> DOA: 12th July 2011

<sup>3</sup> See also the problem of qualification of actions as hosting in the Dailymotion case examined by the Court of Cassation, 1<sup>st</sup> District. Decision of 17<sup>th</sup> February 2011 no. 09-667896. Available at: [www.legifrance.gouv.fr](http://www.legifrance.gouv.fr) DOA: 12<sup>th</sup> July 2011.

Consequently, the privilege under article 14 of the Directive 2000/31/EG was no longer enforceable and Google was found to be liable for copyright infringement under L. 335-3 and L.335-4 of the French Intellectual Property Code<sup>1</sup>.

With regard to the question on the qualification of the search engine activity as hosting, the Court of Appeal stated that although the process was purely automatic the indexing services exceeded the scope of actions that can be qualified as hosting. The search engine not only offered the services of simple hyperlinks indexation but it also enabled its users to share links and to watch videos on the Google's website. According to the court, the possibility to open a video directly in Google's window distinguished Google's activity from hosting. As a result, Google could not benefit from a hosting privilege<sup>2</sup>.

#### **IV. Google Suggest case<sup>3</sup> (France)**

The *SNEP v. Google* case concerned another Google component – Google Suggest which suggests terms of an additional search while users type their queries. The French *Syndicat National de l'Édition Phonographique (SNEP)* accused Google of illegal activity due to the fact that it suggested music-searching users such key words as “torrent”, “megaupload” or “rapishare”. The three terms are commonly used to describe three ways of sharing illegal content. SNEP demanded permanent deletion of the terms from suggestions databases. The demand was based on the article L. 336-2 CPI and confirmed by le loi Hadopi<sup>4</sup> on the creation on the Internet. The demand allowed the applicant to introduce preventive measures. Unlawful character of such activity had to be measured by the realistic character of threat of the alleged crime to be committed. The court decided that the activity was not unlawful and found the prohibition to suggest the three words to be an ineffective measure. According to the Court of Appeal, the suggestions proper did not constitute direct attempt to infringe the copyright law.

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<sup>1</sup> A.Lucas-Schloetter, *Google face à la justice française et belge: Nouvelles décisions en matière de droit d'auteur*, JIPITEC 2/2011, p. 145.

<sup>2</sup> *Ibidem*.

<sup>3</sup> CA Paris 03.05.2011, *Snep v. Google*, RG no. 10/19845. Available at: [www.legalis.net](http://www.legalis.net) DOA: 13<sup>th</sup> July 2011.

<sup>4</sup> Loi no. 2009-669 du 12 juin 2009.



*The possibility of users infringing copyright was only hypothetical; therefore, the court dismissed the suit. Also, it was claimed that the illicit content would be accessible to users despite the prohibition. Still, the argument is more than debatable. It can be admitted that the removal of such terms from databases would not prevent all unlawful downloads, still it could considerably decrease their amount<sup>1</sup>.*

#### ***V. Google News case<sup>2</sup> (Belgium)***

Google News is a service which offers users access to a compilation of articles released by various media e.g. newspapers, television, radio. Search results consist of the title of publication, the name of medium where it appeared and the first two or three lines (at times, even a whole paragraph). Google News can also be opened without using the search tool bar. If so, a compilation of the daily news is presented to users.

In order to reach a verdict, the Belgian Court of Appeal investigated two aspects: caching services provided by Google Web and functioning of Google News proper. In connection with the first point, the court decided that Google's practices to store copyright articles on its proper servers and to enable users direct access to material on Google's website constituted a deed of copying and making available to public. Whereas, Google's normal practices consisting in instant search of material according to query typed by user were not found to be unlawful since in that case Google's role was limited to the search engine. Another matter that the court was to settle concerned liability exemption offered by the construction of fair use in relation to transitory copies. The argument was definitely rejected to permanent and systematic character of services. In connection with the second point, the court established that Google News presented significant extracts from the copyright articles. The extracts conveyed the main message of the articles so there was no need for the cybernatures to read the whole article<sup>3</sup>. Therefore; the

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<sup>1</sup> A.Lucas-Schloetter, *Google face à la justice française et belge: Nouvelles décisions en matière de droit d'auteur*, JIPITEC 2/2011, p. 147-148.

<sup>2</sup> CA Bruxelles 05.05.2011, Google v. Copiepresse et al., RG no. 2007/AR/1730. Available at: [www.copiepresse.be/Copiepresse5mai2011.pdf](http://www.copiepresse.be/Copiepresse5mai2011.pdf) DOA: 14th July 2011.

<sup>3</sup> CA Bruxelles 05.05.2011, Google v. Copiepresse et al., RG no. 2007/AR/1730, p.25. Available at: [www.copiepresse.be/Copiepresse5mai2011.pdf](http://www.copiepresse.be/Copiepresse5mai2011.pdf) DOA: 14th July 2011.

argument based on the right of citation was unfounded. Also, it was stated that all the articles were protected by copyright and their partial reproduction<sup>1</sup> or communication to public violated authors' moral rights. What is more, Google News' practices violated the rights holders' entitlement to have integrity of their work respected and their right to attribution.

The crux of the decision was the application of a three-step test in order to determine the existence of an implied consent and the applicability of Belgian law transposing the Directive 2000/31/EG. It was decided that Google News allowed access to the material which was unobtainable on the original websites unless users paid the due amount. Therefore, the authors were entitled to demand due remuneration for a new publication of their works. What is more, the Belgian court found the decision of the German Federal Court on Google Images more than debatable. It was acknowledged that imposing on authors an obligation to protect their work with the accessible technical means violates the general principle of copyright which was to obtain author's consent for use of their work. The court criticized the opt-out principle and concluded that the explicit, clear and prior authorization for exploitation of work is indispensable<sup>2</sup>. Moreover, the Belgian court disputed the decision of the French Court of Appeal to qualify Google Vidéos and Google Images activity as hosting due to their passive role and the complete automaticity of the process. According to the court, it was the European legislator's deliberate decision to exclude search engines from the liability exemptions of the Directive 2000/31/EG. Also, the activity of systematically storing the material in cache constituted much more than a mere content transmission; therefore, Google News could not invoke the exoneration premises under article 13 of the Directive 2000/31/EG. Also, the exoneration for hosting activity was inapplicable in the case. The role of Google News did not consist in simple stocking of information. On contrary, the information provided by Google News was selected, classified

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<sup>1</sup> *Ibidem*, p. 26. On the basis of the *lege non distinguente nec nostrum est distinguere* argument the court stated that there were no legal grounds to distinguish legal status of extracts from the complete works.

<sup>2</sup> A. Lucas-Schloetter, *Google face à la justice française et belge: Nouvelles décisions en matière de droit d'auteur*, JIPITEC 2/2011, p. 149.

according to certain order, partially reproduced and sometimes even modified. In that case, the neutrality argument was unfounded<sup>1</sup>.

In 2012 it seems there is no end to the Google News conflict. France, as well as Brasil, delivered an ultimatum to Google Inc.: either the company will reach an agreement with French media concerning Google's linking services or the French Parliament will enforce legal obligation for search engines offering services such as Google News to pay for linking to texts owned by French media companies or journalists<sup>2</sup>.

## **VI. Search engines and liability – the Polish solution**

In the face of legal uncertainty concerning search engines and imperial ambitions of the biggest search engine operators such as Google Inc. as well as the ever-growing demand for more advanced searching tools the Polish Ministerstwo Administracji i Cyfryzacji (Ministry of Administration and Digitalisation) prepared a draft of the amendment of the Act of 18<sup>th</sup> July 2002 on Providing Services by Electronic Means<sup>3</sup> (Ustawa z 18 lipca 2002 r. o świadczeniu usług drogą elektroniczną<sup>4</sup>) which implemented the provisions of the Directive 2000/31/EC. The proposal introduces additional exemption of liability for third party content aimed at operators of information location tools. The art. 14 (a) of the draft provides limitation of exemption for the operators of information location tools who provide users with searching services and for the purpose of the services make the information available. The prerequisites of the liability limitation are as follows:

- the operator does not have any knowledge on the illicit content or related activities;
- the operators does not upload the data nor modify them;
- the operator does not initiate the data transmission;

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<sup>1</sup> *Ibidem*, p. 150.

<sup>2</sup> See also: M.McGee, *After meeting with Eric Schmidt, France stands by threat to write law forcing Google to pay to link to news sites*, Search Engine Land Available at: <http://searchengineland.com/france-stands-by-threat-to-write-law-forcing-google-to-pay-to-link-to-news-sites-138063> DOA: 1st November 2012.

<sup>3</sup> The draft is available at: <http://mac.gov.pl/wp-content/uploads/2012/07/Projekt-u.%C5%9B.u.d.e.-13.07.2012-r..pdf> DOA: 20<sup>th</sup> August 2012.

<sup>4</sup> Publication in the Polish Journal of Publication no 144, item 1204, with further amendments.

- the operator does not choose the recipient of the data.

The proposal of a new regulation has been subject to critique as being considered unnecessary. Information location tools and related services are encompassed by the provisions concerning hosting services. Nonetheless, particular regulation in the field provides operators with certain dose of legal certainty which is a great asset for entrepreneurs' freedom of conducting business.

## **VII. Conclusions**

The analysis of the above decisions reveals one common pattern – in terms of Internet Service Providers and their liability there is no common standpoint. The Directive 2000/31/EG no longer reflects the current state of the digital art. Decision whether to qualify ISP's practices under copyright limitations and exemptions or under directival exoneration premises is often a matter of very detailed examination. Still, the court orders differ due to the fact that literal meaning of laws does not give straightforward answers. Consequently, extralegal factors come into play. Each of the abovementioned decisions is an attempt to set the right balance between the interests of three groups: right holders, ISPs and end-users. Google's main argument is founded on the unrealistic character of the demand to ask each and every right holder for permission to exploit their work. Legally speaking, this cannot constitute a solid argument and definitely does not justify the unlawful conduct. Nevertheless, the Googlehunt indicates another important problem – copyright management. Perhaps, the solution to Google's trouble would be to establish a world-wide organization responsible for the global collective management of copyright; therefore, Google, instead of asking each author separately for consent, could obtain such permission and pay due remuneration for exploitation to the organization in question. That will not be possible unless there is a unanimous consent reached as far as multiteritorial licensing is concerned. The draft of the directive on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online uses in the internal market



(version of 11<sup>th</sup> July 2012<sup>1</sup>) is supposed to be an answer to problems faced by some collecting societies with adapting to the online music distribution and management strategies, especially in a cross-border context. Another objective of the proposal is to facilitate ISPs obtaining multiteritorial licences for online music distribution. European regulation will harmonize standards of collective management; thus, improve the governance and clarify the rules of conducting collective managements. Centrum Cyfrowe (Digital Center): Projekt Polska in its opinion on the draft of the directive stated its satisfaction with the regulation and its main objectives; nonetheless, the center noticed that the scope of the regulation is limited to music works only<sup>2</sup>. EC considers regulation of collective rights management concerning other works not to be so urging. Nevertheless, in the opinion of Centrum Cyfrowe fragmentary regulation of collective rights management in an electronic context cannot be assessed positively. Partial regulation not only increases lack of legal uncertainty but also annihilates activities aiming at harmonization. Centrum Cyfrowe points out another imperfection of the regulation. Namely, the draft does not take into account users' interests which is of the utmost importance in the face of user-generated content. Although, it needs to be emphasized that the proposal of the directive is dedicated to one of the most pressing issued concerning works in the digital world – file-sharing.

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<sup>1</sup> Available at: [http://ec.europa.eu/internal\\_market/copyright/docs/management/com-2012-3722\\_en.pdf](http://ec.europa.eu/internal_market/copyright/docs/management/com-2012-3722_en.pdf) DOA: 1st November 2012.

<sup>2</sup>The common standpoint of Centrum Cyfrowe Projekt: Polska is available at: [http://centrumcyfrowe.pl/wp-content/uploads/2012/10/CC\\_Collective-Management\\_Stanowisko.pdf](http://centrumcyfrowe.pl/wp-content/uploads/2012/10/CC_Collective-Management_Stanowisko.pdf) DOA: 1st November 2012.

**Author: Konrad Popławski<sup>1</sup>**

## **TWO WAYS OF TRANSITION – COMPARISON OF THE ECONOMIC RESULTS ACHIEVED IN POLAND AND IN THE EASTERN GERMANY**

### **Abstract**

The aim of the paper is to assess the process of transition conducted in Poland and in Eastern Germany by comparing the macroeconomic indicators of both regions in the period 1991-2010. The joint characteristics for Poland and Eastern Germany are parallel preconditions for reforms characteristic for socialistic economies. Both regions had suffered from Soviet way of economic management and had many similar problems and imbalances after over 40 years of socialism. The main difference between these transitions were different ways of institutional changes. German Democratic Republic was absorbed by the Federal Republic of Germany and at once it started to be westernized and the basic institutional structures of West Germany were copied. Eastern regions of Germany had at once access to generous capital resources enabling to start rebuilding of their infrastructure. Nevertheless, Poland had to choose different way of development and with help of different international organizations tried to approach economic patterns of Western Europe on its own way. The quite radical program of reforms named from one of the author: the Balcerowicz plan led first to great slump and soon afterwards to fast revival of Polish economy, although Poland had rather small access to capital funds and had a burden of debts from socialistic times to pay back.

The author's intention is to try different method of assessment of success or failure of transition in both regions. The GDR development level is very often compared to the level of development of Western Germany and Poland is often set together with other Central Europe

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countries. The article fills that gap and tries to compare indicators of Poland and Eastern Germany. The structure of the article consists of three parts. Firstly, the author will describe the starting point of both countries and choices that were made according to way of development. Then the author will describe the instruments that were used and programs which were accessible for both regions. Finally the author will describe the results achieved and try to show conclusions comparing inputs and outputs of both countries.

### **Methodological note**

In this article different sources of scientific data were used. The author used various sorts of expertise of German and Polish research institutes, books, newspaper articles and Internet sources. The statistical data were drawn from national statistic offices of Poland and Germany and from websites of international organizations such as International Monetary Fund, World Bank or OECD. Such a comparison of data concerning German and Polish economies can be sometimes difficult to standardize as German and Polish institutions often use slightly different methods of constructing their indicators. However, such an approach lets observe trends occurring in both regions and also draw some general conclusions concerning paths of transition and growth taken by both countries.

For the purpose of the article the process of transition is defined as an economic, judicial and institutional change from the artificial socialistic economy to free market economy. However, the paper focuses mostly on the economic aspects of this process. Poland and GDR were influenced by similar socialistic way of economic management. The result of that was similar starting point of both economies after the collapse of the Soviet Union and similar challenges they had to deal with. In both countries the basic properties of socialistic economies were present such as high share in production of heavy industries and agriculture, whereas the share of services was quite low. In both countries for a long time demand exceeded supply of goods, which resulted in strong disequilibrium of both economies, which citizens were used to the life over their capacities. That was also a consequence of faulty allocation of resources to

ineffective industries. In both countries also the infrastructure was been neglected for a very long time and all the facilities were quite obsolete.

### **Transition in the former GDR**

In Germany prevails a common opinion that it was impossible for GDR to be integrated into West Germany similarly to what occurred in Central Europe as the situation was very different. Proponents of such a point of view think that close cultural proximity, small distance and lack of excise duty zone between both German parts after the unification could result in massive migration from the East to the West. According to this hypothesis there was a choice either to extend the West Germany or to rebuild the East Germany (Paque 2009, p. 16-19). First solution assumed rapid migration from the East to the West and inflow of migrants from GDR looking for some job and better living standards in the West. The second solution was chosen from the beginning to omit the consequences of vast wave of GDR migrants coming to the West. The German government took into account also the experiences of the migration of the Germans who moved from the areas of Central and Eastern Europe after the World War II. At that time due to those processes the population of Germans increased by 20%, whereas in 1992 the population increase by about 25%, so the comparison seemed justified (Paque 2009, p. 21).

From the beginning it was also obvious that the GDR would be integrated into the Federal Republic of Germany and the parties were not equal. Such an approach offered pros and cons for both sides. First of all the Eastern regions obtained an access to great resources of capital, investments and knowledge transferred from the West into the East. The German government send its experts to the East to lead the changes and to transform the eastern regions towards western pattern not always taking into account the assets already existing in the East. The model of West Germany was imposed to the eastern parts without analyzing, if that model indeed fits best the manufacturing base and the expectation of inhabitants of eastern part of Germany. On the other hand taking over of German institutions and their reliability caused that it was not necessary to found new institutions what under other conditions would last long time until they become efficient. Such a solution assumed different economic principles than in the rest of

Central and Eastern Europe. Politicians steering the processes of transition in the GDR were still under influence of German or do liberalism – political and economic doctrine stressing the need of strong institutions and fair market rules and significant role of state, These rules constituted the core of the German social market economy which let West Germany to experience very dynamic economic revival after the World War II.

Already before the unification of the two countries the economy of the GDR had been quite dependent on exports to West Germany, what was crucial to keep financing the debt of East Germany. In the period from 1980 to 1989 the share of its exports to the Federal Republic of Germany in the total exports had increased from 30% to 49% (Roesler 2002, p. 64). Those efforts under the framework of exports at all cost were economically justified and let the GDR to limit its foreign debt and increase efficiency of the economy in general. However, such a model was not sustainable, as it was built on deliveries of cheap oil from the USSR and could be only maintained until the oil shock from 1985, when the oil prices plummeted after 12 years of peaking (Roesler 2002, p. 65) and the economy, which could take advantage of more competitive oil prices no more, started to fall into debts again.

The process of unification became possible due to several political and socio-economic factors. First of all the world order changed since the USSR had been not able to keep control over its satellite countries. Apart from that the economic problems of GDR also intensified, because the uncompetitive economy could not develop under the policy of exporting at all cost. Besides, the social attitude to the unification in East Germany was also positive, as the citizens of that country no longer wanted to restrain their personal needs in inefficient economic system (von Prollius 2006, p. 247). In the moment, the process of unification of Germany began, the Eastern-German industry had been already obsolete and there was no capital to renew the manufacturing base necessary for keeping the production at high level. The politicians of the Federal Republic of Germany knew, therefore, that high capital outlays will be needed to get rid of this gap.

However, the first problem to deal with, was the unification of currency systems. In the centre of West-German plans was to satisfy the GDR citizens and to show them that the whole

process of westernization is beneficial to them. Thus western politicians decided to convert the currency of East Germany into D-Mark at the relation of 1 to 1, which was eligible to salaries and wages, pensions and in limited amount to savings (up to 6000 DM per person). The whole process helped GDR to reduce its indebtedness as corporate debts were converted in the relation 1 DM to 2 units of the currency of East Germany. Other solutions such as state control of currency conversion or free floating of East-German currency had not been seriously considered, as they would have undermined the standard of living of GDR inhabitants making them dissatisfied with the reforms and could have led to massive increase of migration to West Germany (Paque 2009, pp. 30-34).

In practice such a construction of currency conversion meant that over the night the salaries and wages of East Germans increased by 100% from 1/6 of West level to 1/3 of West level (von Prollius 2006, p. 251). It helped also to decrease the level of debt of East Germany. The reform was favorable also for GDR pensioners, who gained the same level of pensions as in the West Germany. Nevertheless, such a focus on keeping incomes in GDR high resulted in the slump in competitiveness of enterprises in East Germany, what can be only maintained by creation of social transfers from the West to the East. Some critics of the currency reform also stressed that such an approach took risk of awakening great expectations of rapid improvement of life standard in the society not in line with productivity growth, what finally resulted in great disappointment afterwards. It can be summed up that the politicians of the Federal Republic of Germany chose to improve the life standard of inhabitants at costs of enterprises, which from the beginning were condemned to losses as they could not maintain the competitiveness towards the western companies. They lost the cost advantage and had no protection period, which would have helped them to get accustomed to new economic order. The western concepts of restoration were taking into account this problem, however, it was assessed that in about 4 years the investments would allow the economy of eastern regions to revive and whole production equipment would also be massively improved, though those forecasts turned out to be dramatically overoptimistic (von Prollius 2006, pp. 257-259). However, it is also important to notice that an approach taken led to smoothly deal with the problem of inflation,



because GDR quite rapidly could have taken over the reputation of the Bundesbank, what let the prices to keep more stable than in other countries of Central and Eastern Europe.

An important part of the transition accounted for also privatization. The federal government created a special institution, which task was to conduct this process and get rid of state ownership in the East Germany. The institution had to take control over 8500 companies employing about 4 million people (Jahresbericht der Bundesregierung zum Stand der Deutschen Einheit 2010, p. 74). Until 2000 the eastern regions of Germany were going still through the transition period to fit the model of West Germany. Therefore, the public sector and excessive construction sector had to be diminished and manufacturing industry started to expand. The German economists assess that only after 2000 the eastern regions were advanced enough to start the process of long-standing and more stable growth.

### **Transition in Poland**

As it was mentioned before, the transition in Poland, which is often called transformation as it assumed much broader structural and socioeconomic changes than in the GDR and it was difficult to set the broader vision and direction of reforms, was based on different economic doctrine of neoliberalism. In the CEE countries much less pressure was put on the need of creation of strong state structures and institutions, what was not supported by the Washington consensus (Sadowski 2007, p. 35). The situation of Poland in 1990 was very different from the GDR conditions, although both countries had lived over 40 years under the economic order of socialism. Poland entered the transition having to challenge much worse economic circumstances, as throughout 1980s the Polish economy was constantly in recession after the introduction of the martial law in 1981 and because of vast debts inherited as a result of the credits taken by the socialistic regime in 1970s. Differently than in the GDR the members of Polish regime started to take over the state ownership to anticipate the soon breakup of the economic system (Małecki-Tepicht 2010, pp. 277-279). It was also obvious that Poland would also have to face the dramatic level of inflation, as throughout whole socialism the socialistic government very often decided to inject into the economy empty money and in consequence

already in 1989 the rate of inflation amounted to about 700% (Małecki-Tepicht2010, p. 278) and 585% in the following year (Malinowski 2010, p. 295). That meant in practice that the real demand largely exceeded real supply and it will take several years to get rid of the monetary overhang. Taking into account this precondition must lead to a conclusion that Poland had more difficult problems to deal with at the beginning of transition.

First stage of transition in Polish economy was conducted according to recommendations of such institutions as World Bank, International Monetary Fund, London Club and Paris Club, which were in favor of neoliberalism prescriptions. This approach to transformation was based on the privatization, liberalization, restriction of state influence and ownership and attempts to achieve monetary and fiscal equilibrium (Czyżewski, Grzelak 2005, p. 17). Although the whole process of transition in Poland officially began in 1990, important reforms had been made already 2 years before this date. For the economic situation of Poland the decisions made in 1988 had great meaning, when the new Wilczek's bill concerning economic activity was established giving more freedom in founding of enterprises. The act was created to let the representative of the ruling party to take over part of national property, though it was also a breakup for the ordinary entrepreneurs, who wanted to found their own business. According to some rough assessments this regulation let the spirit of entrepreneurship revive in Poland, what proves some assessments that only in 1989 about 400 thousands companies were founded, whereas in the period of 1990-1992 on average 250-300 thousands enterprises were emerging annually (Woźniak 2009, p. 3). In 1990 the package of reforms named from one of its main authors the Balcerowicz plan started to be introduced in Poland. The program of reforms, which was consulted with various international institutions, consisted of 6 chapters, which were showing its economic aims. The package targeted at stabilizing the economy, changing of the economic system, transforming of the social policy, achieving the international support, setting for achieving sociopolitical support and inflow of foreign capital (Żukrowska2010, p. 776). In the first stage of implementation assumed the transition of institutions, political system and judicial infrastructure. The second phase embraced reforms of financial and bank sector and changes in tax system, introduction of currency exchange and liquidation of state monopolies. The third part

covered re-privatization of state companies and rebuilding of capital market, what will resulted in creation of spirit of free entrepreneurship.

All those measures similarly to GDR were introduced quite rapidly, so the process was adopted in the form of shock therapy, which was assumed to be painful for the society in the short-run. Such a remedy for the problems of the Polish economy matched with diagnosis of the preconditions and was better tailored to the real needs of Poland than it occurred in the GDR. The authors of the program were convinced that main difficulties inherited by socialism are such qualities of the economy as excessive equality of incomes in the society, disproportionate state control (Mączyńska 2000, p. 273). Equally as in the case of GDR the costs of transition in Poland were largely underestimated. The plan assumed the decrease of industrial production by 5% and the amount of unemployed people equaling 400 thousands over the short time. However, already in the first year of transition – 1990, the unemployment rose to around one million (6,1% of the labor force) and to 2 million in the next year (11,8%) and constantly rising in the next 2 years. The industrial production slumped already in 1990 by 21% (Zagóra-Jonszta 1999, p. 5). The state also could not take control of inflation over the next 9 years after introduction of the program.

Later on criticism of the plan of Balcerowicz emerged among the economists, who assessed the costs of transition as high unemployment, slow income growth and too rapid privatization of enterprises at low price as too high (Zagóra-Jonszta 1999, p. 7). Main critics underlined that especially in the first stage of shock therapy applied in Poland means were confused with targets, so the low inflation, stable exchange rate or accessing the European institutions became more important than growth itself and the reforms turned out to be too costly (Kołodko 2004, pp. 8-9). Balcerowicz, on the other hand, stressed that the quite stringent process of transition let the state to create good conditions for liberalization of trade and export growth and entrepreneurship.

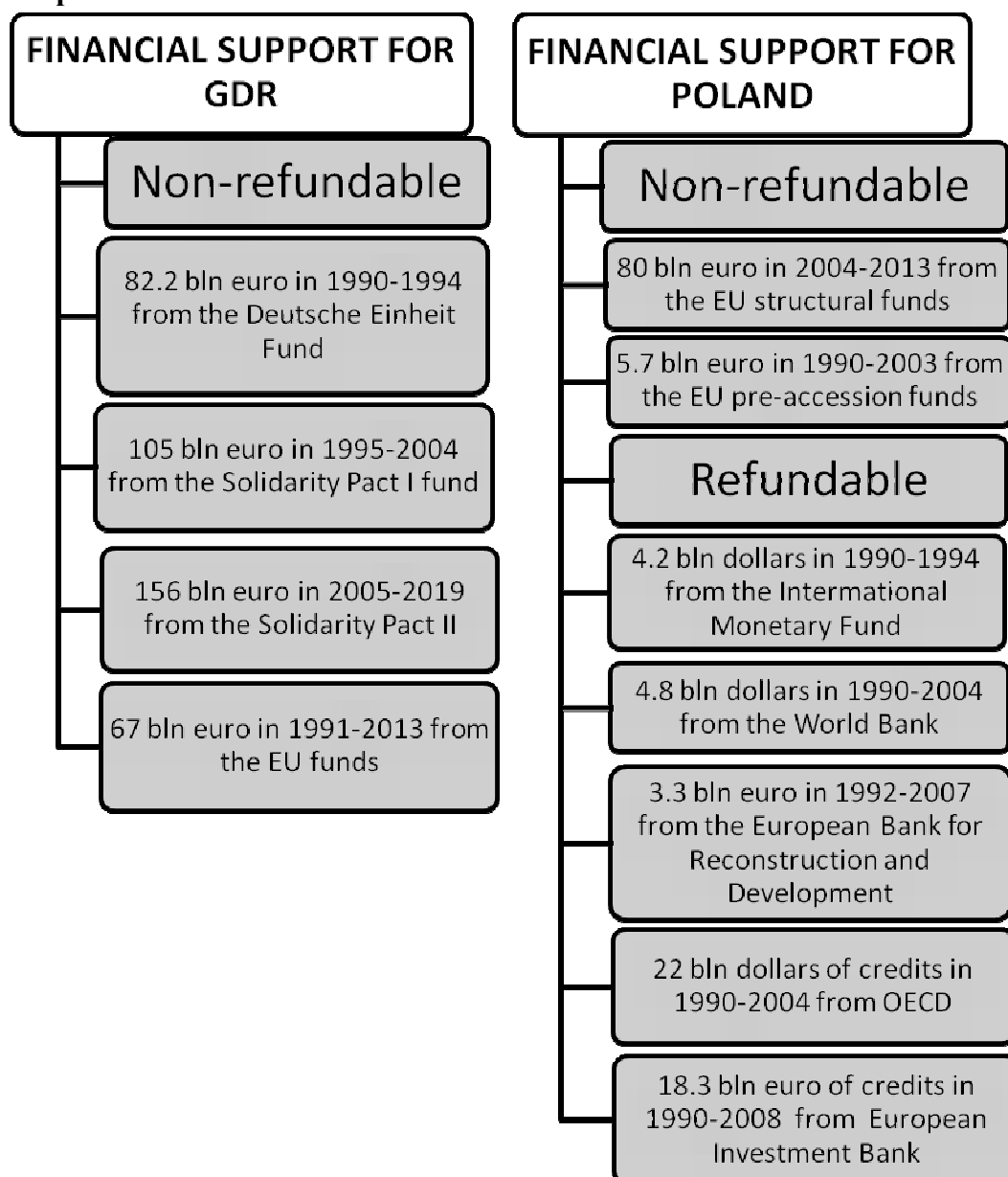
The situation of Poland started to improve only in 1994, when the inflation and unemployment started to decrease and GDP started to rise in more stable way. Especially the period between 1994 and 2000 let the Polish economy to return to equilibrium thanks to various

structural reforms. The effects of this could have been perceived by the society as good and real incomes started to increase and the inequalities in goods distribution to diminish thanks to what Poland could start to pay back its debts inherited after the era of socialism (Grzega 2009, p. 3).

### **Comparison of external financial support during the transition**

The beginning of transition meant something very different for the GDR and Poland. Both regions had to deal with problems of old manufacturing base and weak level of infrastructure, which required a lot of capital and technology and know-how inflow. Both countries also suffered from low level of savings and high level of indebtedness, what made them unable to finance capital intensive investment programs alone. Although both regions until that time had been affected by similar means, during the transition using the same instruments was impossible, as the GDR gained the access to vast external sources of non-refundable capital from Western Germany, whereas Poland could only use credits and loans offered by various international institutions, which mostly had to be returned after an investment was finished. These different circumstances implied that Poland could not start with rapid improvement of infrastructure, as it was too costly for the country, which was already highly indebted and had to negotiate with its creditors facilitation of credit conditions. At the same time west Germany was already investing huge amounts of money in the infrastructure of the GDR starting the complex program of reconstruction of GDR economy.

**Picture 1: Comparison of external capital sources accessible for both countries In the transition period**



**Source: Own calculations on the data accessible on the websites of IMF, EIB, World Bank, EBRD and Polish and German government**

The above summary show how generous were program aimed at reconstruction of the GDR financed by West Germany, whereas twice bigger Poland could count only on support of various international organizations, which rather offered cheap credits that could be used for very specific aims and were not complex solutions for the obsolete manufacturing facilities of

the Polish economy. GDR had an access to vast capital resources throughout whole 20 years of the transition period and even after 2011 can count on further prolonging of some programs, though in smaller scale than so far. Poland, on the other hand, obtained better than in the 90s access to non-refundable capital resources only after entering the EU. It is right now difficult to forecast, but after 2013 already in the next long-term budget of the EU, Poland has chances to negotiate the next big inflow of EU money, whereas the EU funds for east Germany are supposed to be decreased.

It is important to notice that Poland could not assign all the credits it become for investments as some part of them as for example the help from the International Monetary Fund was allocated for the refinancing of the credits already taken during the socialistic times. Only the agreements signed firstly with Paris and then with London Club, allowed the country to restructure its debt level.

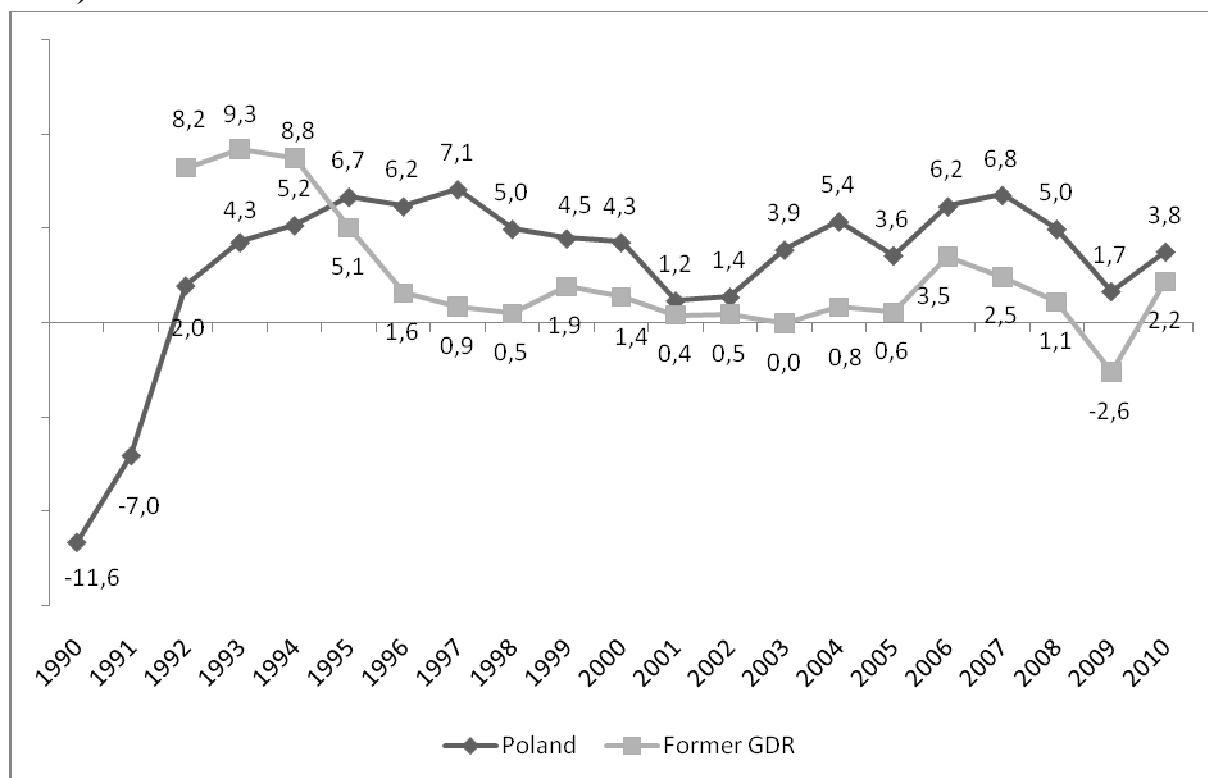
It cannot be ignored that apart from capital GDR could be supported by West German know-how and innovations, whereas Poland had no sources of knowledge transfer different than privatization. West German institutions took over the whole process of coordination of rebuilding of East Germany, what made the whole process much more efficient than in Poland.

### **Economic results of transition models of Poland and former GDR**

The comparison of results achieved by both countries especially taking into account capital resources accessible by both regions and somehow concerns the debate between the proponents of gradualism in transition and economists in favor of shock therapy. Although Poland could not count on such generous investment program as in case of former GDR, the economic effects of its economic way of transition turned out to bring much better economic results almost in all aspects.



**Graph1: Comparison of GDP rates (in constant prices) in Poland and former GDR(in per cents)**



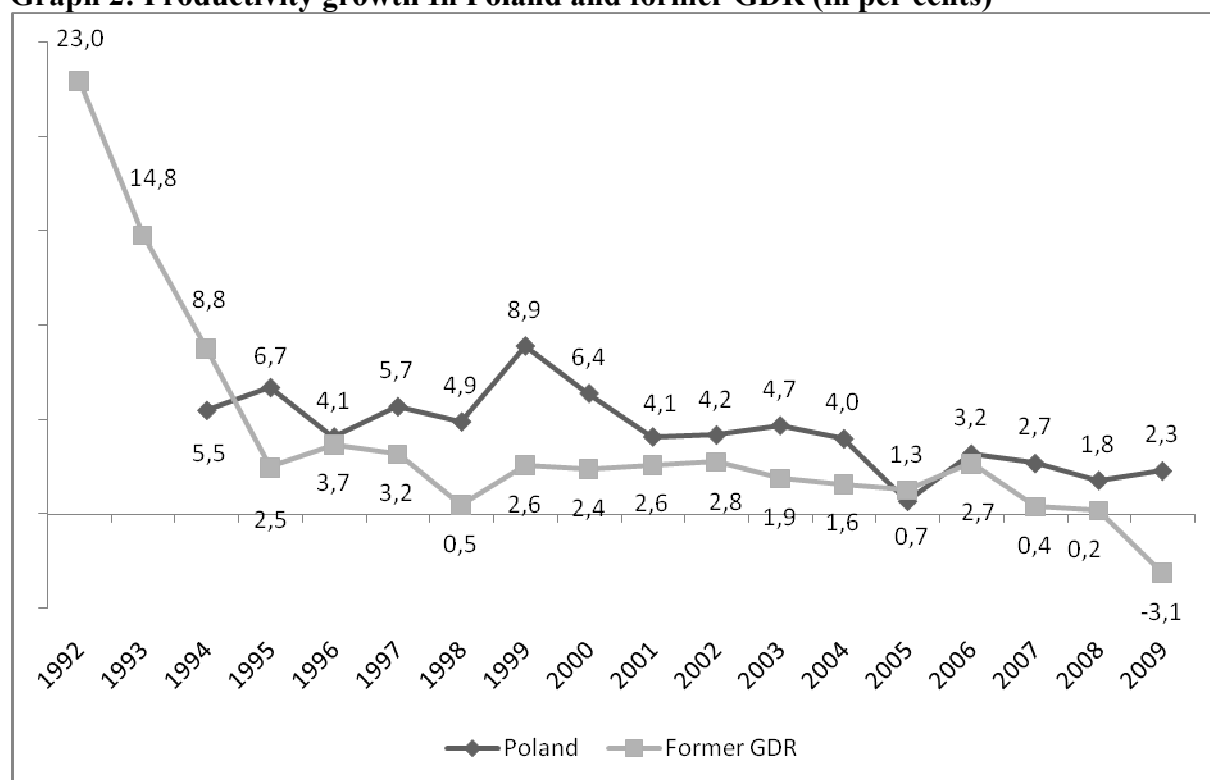
**Source: Eurostat, Federal Statistical Office of Germany**

The development of GDP was very different in both regions and it is the most visible indicator of different paths of transition taken by former GDR and Poland. In the period of 1992-1995 the economy of GDR recorded high level of GDP growth thanks to beneficial exchange ratio of eastern and western German currencies and transfers in the form of investment programs. However, later on the growth started to weaken and in the next 10 years it did not exceed the pace of 1%. Only in the period of 2006-2008 the GDP growth was higher than 1%. Interesting was also the situation of former GDR during the global financial crisis. The eastern regions of Germany has been affected by the consequences of the crisis to the lesser extent, what may be an implication of its smaller dependence on export in the opposition to western Germany. The recession was slighter as the GDP fell by 2,6%, whereas in Germany as a whole the decrease was sharper and amounted to 5%.

On the other hand, in Poland the development path was quite conversed as the economy at the beginning was growing at quite slow pace and in the years 1990-1991 the country was hit

by a very severe recession due to the shock therapy applied. However, the revival came quite quickly and in the period of 1993-2000 quite high growth of an average 5,5% per annum occurred. Later on during the period of 2001-2002 the mild GDP stagnation was recorded, which was though quite painful for the society. Since 2003 the period of quite stable growth was recorded and surprisingly the Polish economy managed so far to overcome the crisis without being hit by the recession.

**Graph 2: Productivity growth In Poland and former GDR (in per cents)**

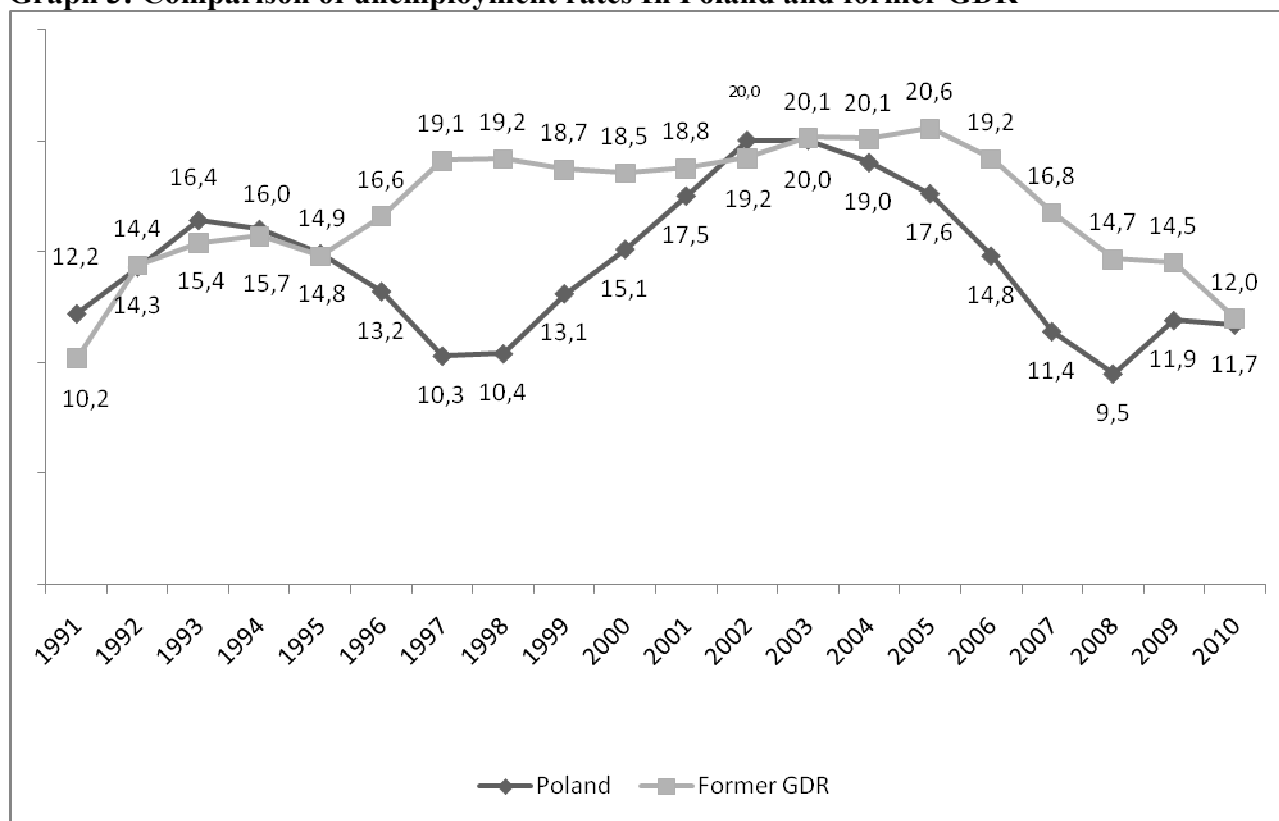


**Source: OECD and Federal Statistical Office of Germany**

The development of GDP in both regions is confirmed by the productivity changes. In former GDP between 1992 and 1994 the stage of incredibly high productivity growth occurred as very fast the processes of privatization were conducted which resulted in rapid surge of unemployment. For the next 11 years between 1995 and 2006 the productivity maintained the relatively stable pace, though much slower than before and much slower as compared to Poland. It can be result of the fact that higher wages destroyed the competitiveness of eastern part of

Germany and it took very long time for enterprises to regain it. Additionally the system of high social benefits was artificially keeping wages very high as compared to productivity and did not encourage them to lower their wage expectations. Since 2005 the weakening of productivity growth has been recorded and in 2009 it decreased by 3,1%. In Poland the productivity through the whole period of transition has been relatively stable, although since 2003 slower pace of its growth have been noted.

**Graph 3: Comparison of unemployment rates In Poland and former GDR**



**Source: IMF, Federal Statistical Office of Germany**

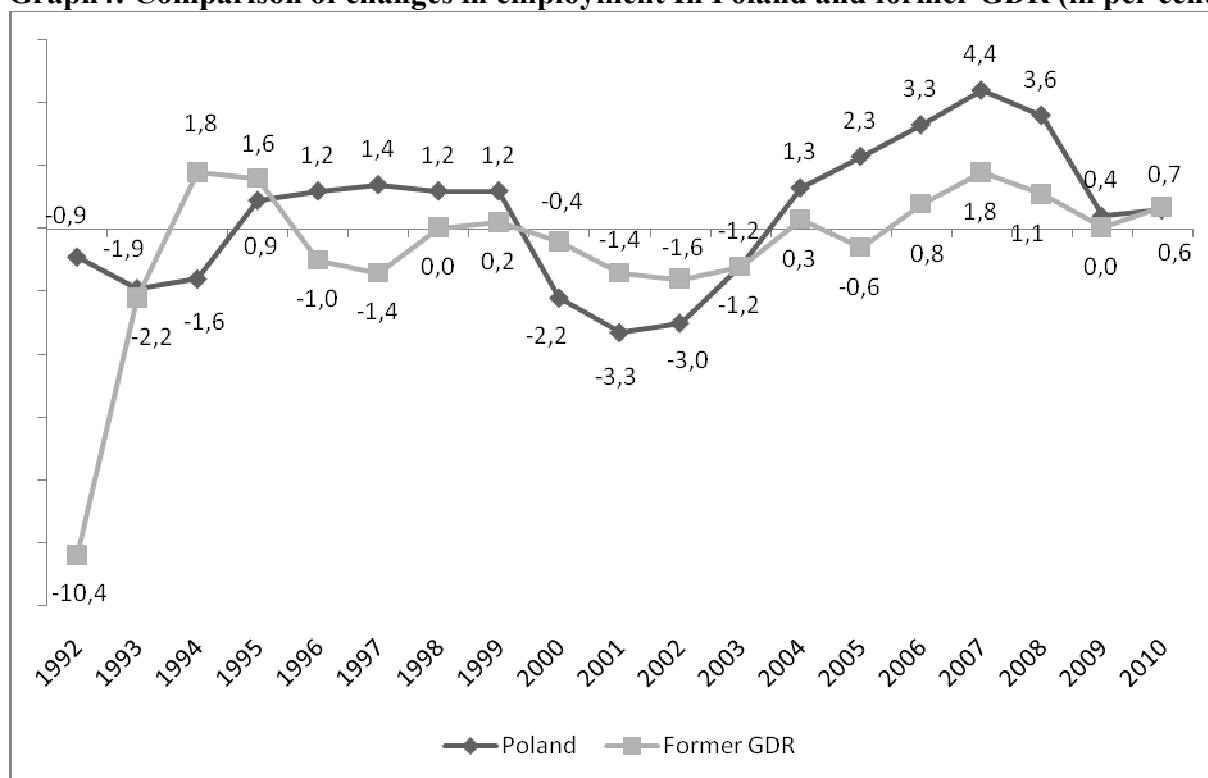
Very interesting is analysis of unemployment rates in both countries during the recession. The main observation leads to conclusion that the business cycles were affecting the labor market in very different way. In the former GDR the unemployment started to grow from the very beginning of the transition as the leading politicians of West Germany were insisting on fast introduction of reforms mainly by privatizing most state owned companies. However, such an

approach made unemployment achieve very high level of about 15% in the period of 1992-1996. However, then unemployment instead of lowering started to increase even further to 19% in 1998 and maintained this level through the next 8 years and only after 2005 it started to decrease sharply.

In Poland the changes in unemployment have been more dynamic. In the first years of transition the Polish economy was behaving in similar way, what proves almost the same unemployment rates in the period of 1991-1996. However, later on the unemployment started to decrease to about 10% in 1997 and 1998 and then rise again for the next 5 consecutive years achieving its transition peaks in the period of 2002-2003. From that time, it was decreasing until the relative stable level 10-12% in the years 2007-2010.

The unemployment statistics show that in case of Poland employers was sometimes overreacting with layoffs of workers as it was the case in the beginning of this century. In case of GDR the changes were often restricted by the state, which was offering programs of co-financing workers posts. On the other hand, the policy to Germany seemed to fail to enough stimulate employees to look for some job, offering them very generous social protections. Good example to prove this thesis was the package of reforms Agenda 2010 introduced by chancellor Schröder in the period of 2003-2005, which decreased the levels of unemployment reliefs and limited the period of obtaining it. From that moment the unemployment especially in the former GDR started to decrease very rapidly.

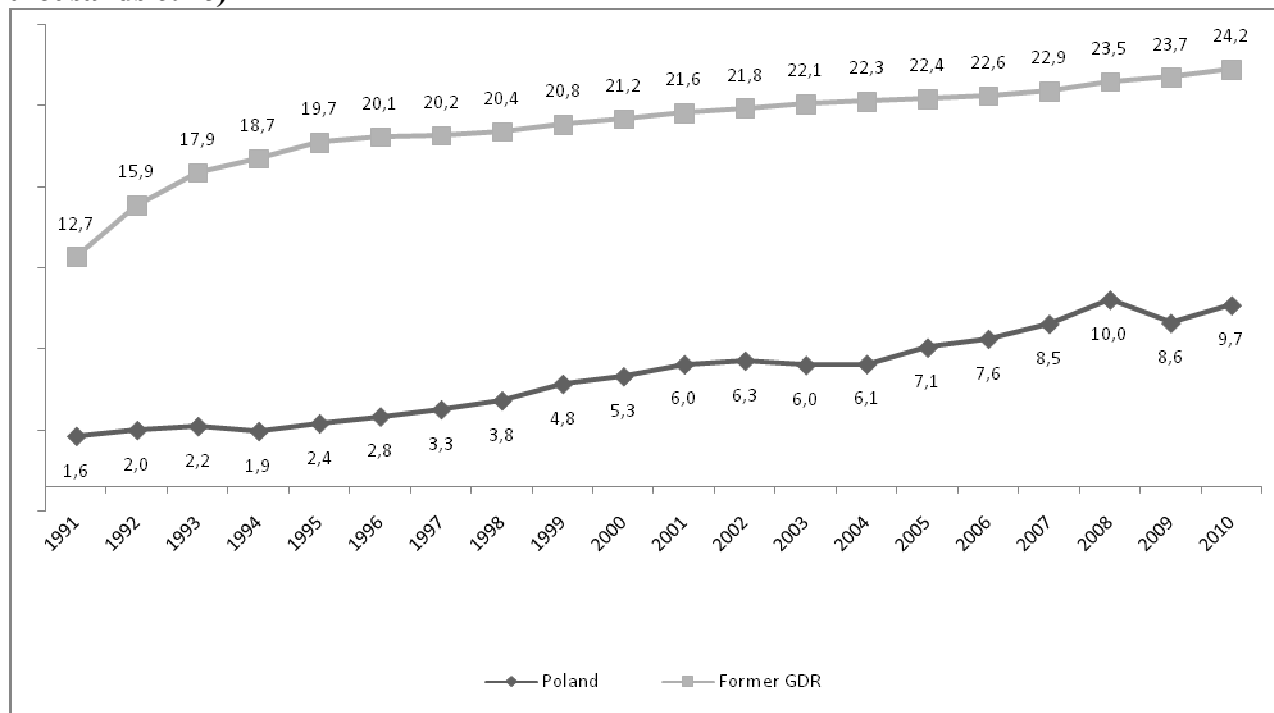
**Graph4: Comparison of changes in employment In Poland and former GDR (in per cents)**



**Source: OECD, Federal Statistical Office of Germany**

The development of employment also shows completely different trends on the labor markets of both regions caused by different ways of transition. Especially in the GDR the beginning of transition was very painful for the society as the employment fell very sharply and except for a few years the losses in employment have not been regained until now. One of the reasons behind better unemployment indicators was migration of the employees from eastern to western Germany, what proves that during the 20 years period the population of eastern regions decreased by about 1 million. On the contrary in Poland, where privatization was conducted at much slower pace and where competition of companies was not affected by unfavorable exchange rate as in case of Germany, the employment was rising except for periods of 1990-1994 and 2000-2003.

**Graph 5: Comparison of average yearly gross salaries In Poland and former GDR (in thousands euro)**



**Source: Own calculations based on the data from the Federal Statistical Office of Germany and Statistical Office of Poland**

It is also interesting to illustrate changes in salaries and wages in Poland and former GDR. In 1991 the difference was really huge and an average employee in eastern regions of Germany was earning almost 8 times higher than in Poland. The reason of that was the conversion rate of eastern Germany currency into German mark and generally better economic situation of eastern Germany at the end of socialism. The spread between the salaries was expanding for the next few years and as a consequence in 1994 the yearly salary was almost 10 times higher. However, at the later stage the salaries of Polish workers have been regaining the distance towards the level prevailing in eastern Germany and 2010 the relation was 1 to 2,5.

## Conclusions

Assessment of the GDR advances especially counted towards the level of economic indicators in West Germany seems to prove the success of transition in former GDR as most indicators such as GDP per capita or salaries achieved 70-80% of the level of West Germany.



However, the picture becomes more complicated when GDR indicators are compared with other post-socialistic countries, especially if the scale of investments is taken into account. Looking from that perspective it seems that some reforms have been introduced in GDR too fast and the shocking changes they brought especially in case of employment brought negative implications for economic growth prospects. The focus on rebuilding of infrastructure turned out to be too narrow and too few supply side reforms have been offered for eastern part of Germany to balance the losses for companies due to unfavorable for them exchange rate damaging their competitiveness. The assumption of German politicians and economists from the beginning of transition seemed correct that some improvement of life quality should be fast and visible to bring hope for the inhabitants of former GDR and discourage them from moving to western countries. On the other hand, the question emerges that as over 1 million of people decided to leave for West Germany, so if the program of vast investments and improvements which as a side effect undermined the competition of German companies brought positive results in limiting inflow of people from former GDR. Maybe the migration of people was impossible to avoid, so it should not have been at the centre of attention. In case of Poland comparison with GDR proves that reforms were quite successful, although Poland is still poorer per capita than former GDR. Such an analysis can bring conclusion that strong point of Polish transformation was strong focus on competitiveness of enterprises, which thanks to low wages growth could rapidly regain their cost competitiveness. Dynamic introduction of labor market reforms made companies very flexible letting them fast react to market changes and easily control their employment.

It is also interesting to take into account the costs and results achieved in both countries. GDR had in its disposal huge sources of external financing, which were mainly spent for improvement of infrastructure, but did not let companies increase their competitiveness and profitability. It is a consequence of not counting with the real needs of the GDR economy. The politicians of West Germany wanted to copy its model in the GDR, but it failed to succeed. It is a classic example of path dependence as they thought that the means introduced in the West Germany after the Second World War would be also efficient in case of East Germany. However, they drew wrong lessons from the “*wirtschaftswunder*” of West Germany in the 50s

and the 60s as employees at that time could not count on generous social benefits as it was the case of GDR in the period of transition. On the other hand, Poland could design everything on its own way, what let it introduce tailor-made solutions for the Polish economy. However, such a way resulted in need for building institutions from foundations and made them quite inefficient at the early stage. Contrary to German ordoliberalism, Poland according to the advices of the Washington consensus did not focus too much on improving the functioning of the state, underestimating its role for the smooth functioning of the whole economy.

From today perspective it seems that the trials to make former GDR as similar as possible to West Germany in a very short time were a mistake. The institutions that conducted the process of privatization so quickly had nothing to offer for the workers who were made redundant except for offering generous social reliefs and discouraging the unemployed from looking for a new job. In Poland employees were not guaranteed so generous social protection schemes, so they had to react to economic situation changes faster and in more flexible way. Therefore, after the period of stagnation the unemployment in Poland was decreasing quite quickly and productivity growths remained stable, whereas in the former GDR it was staying at the same high level, even when the market situation improved.

Looking at the general statistics can be also deceiving as even in the former GDR there are regions as for example Saxony, which well used their chances to invest in new technologies and educations and its prospects of growth are rather good. Poland could not take a challenge with east part of Germany on the example of infrastructure, which nowadays is even more modern than in west Germany. However, even today it is visible that the programs for the former GDR were too much oriented in reconstruction of production capacity and too few was invested in people and stimulation of entrepreneurship. For the inhabitants of the former GDR it could be discouraging that they did not have sufficient influence on the process of transition as it was mainly conducted by the public servants and managers moved from West Germany. As their enterprises very fast collapsed after the unification, many of them felt disappointed with the new system as they often felt citizens of second category always compared with Western Germans. They were often accused in West Germany of being just greedy of social benefits and not able to

be entrepreneurial. Poland did not have to challenge such comparisons and Poles did not have so direct competition with Western countries, what let them easier accept the changes and did not bring such a depressing influence as in East Germany. For Poland the chance for entering the European Union in the future constituted quite strong external anchor and motivated them to even greater effort to reform the economy, whereas in GDR there was no such stimulation.

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**The role of the United States and Great Britain in establishing the eastern border of Poland after World War II. An attempt at the problem analysis.**

**Abstract**

In 1939, as a result of the Nazi Germany and the Union of Soviet Socialist Republics invasion, Poland lost its sovereignty for five years. The Government of the Republic of Poland in exile existed throughout the period – in France, until 1940 and in Great Britain afterwards. Its prime ministers - Sikorski and Mikołajczyk – strived to convince their allies – Great Britain and United states - to support the retaining of the Polish borders as they were prior to September 1939. However, the efforts of the Polish politicians and diplomacy did not yield the expected results. Both Great Britain and the United States supported Joseph Stalin in establishing the postwar Polish-Soviet border along the so called Curzon line.

In 1918, after 123 years of foreign rule, Poland regained sovereignty and was seeking international recognition as a newly established state.

Even earlier, in 1916, a positive stance on the Republic of Poland was displayed by the US presidential candidate, Woodrow Wilson, who at that time “emphasized his sympathy with Poland” and addressing the senate after the election of January 22<sup>nd</sup> 1917 “expressed the need for the united, independent and self-governing Poland to be established”<sup>2</sup>.

The United States played a very positive role at the time, particularly with Woodrow Wilson presenting the Fourteen Points declaration in his address to the US Congress as early as January 8<sup>th</sup> 1918<sup>3</sup>, which outlined the peace terms with the Central Powers and with the 13<sup>th</sup> point referring to Poland<sup>4</sup>.

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<sup>2</sup> M. Tymowski, J. Kieniewicz, J. Holzer, *Historia Polski*, Editions Spotkania, Warsaw 1990, p. 277.

<sup>3</sup> *Historia od X do XX wieku Polska i sąsiedzi. Kronika wydarzeń*, ed. K. Grüberg, Wydawnictwo „Troja” Toruń 1992, p. 167.

<sup>4</sup> Polski Instytut Dyplomacji im. Ignacego Jana Paderewskiego, *Dyplomacja II Rzeczypospolitej*, <http://pid.gov.pl/pl/multimedia/dyplomacja-ii-rzeczypospolitej> (14 VI 2013). See also: M. Tymowski, J. Kieniewicz, J. Holzer, *Historia Polski*, Editions Spotkania, Warsaw 1990, p. 277.

The relevant section was as follows: “An independent Polish state should be erected which should include the territories inhabited by indisputably Polish populations, which should be assured a free and secure access to the sea, and whose political and economic independence and territorial integrity should be guaranteed by international covenant.<sup>1</sup>”

Following the declaration, on January 29<sup>th</sup> 1919 the USA was the first country to recognize the Second Republic of Poland as an independent state and in the letter sent to Ignacy Paderewski, the then Polish Prime Minister, Wilson assured that it would be greatly gratifying for the USA to establish diplomatic relations with Poland and to lend a helping hand while the country embarked on the new way of independence<sup>2</sup>.

Hugh S. Gibson was the first to represent the USA in Warsaw<sup>3</sup>.

At the same time, the role of a Polish representative in Washington was assumed by Kazimierz Lubomirski<sup>4</sup>.

According to the Journals of Law of the Republic of Poland, the first treaty to be entered into by Poland and the USA was concluded on November 22<sup>nd</sup> 1927 and pertained to extradition<sup>5</sup>. A year later the Conciliation Treaty<sup>6</sup> and the Treaty of Arbitration<sup>7</sup> were signed. In 1930, the two countries signed a convention on alcohol transportation<sup>8</sup> and in 1931 the Treaty of Friendship Commerce and Consular Rights<sup>9</sup>.

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<sup>1</sup> 14 PUNKTÓW Prezydenta USA T. W. WILSONA / 08 stycznia 1918r. /, <http://www.armianiemiecka.tpf.pl/Dokument/1918a.htm>, (14 VI 2013).

<sup>2</sup> *We the People... 90 Years of Polish-US Diplomatic Ties*, <http://www.muzeumpulaski.pl/html/mynarod.html> (14 VII 2013).

<sup>3</sup> *Ambasadorowie Stanów Zjednoczonych w Polsce*, [http://encyklopedia.naukowy.pl/Ambasadorowie\\_Stan%C3%B3w\\_Zjednoczonych\\_w\\_Polsce](http://encyklopedia.naukowy.pl/Ambasadorowie_Stan%C3%B3w_Zjednoczonych_w_Polsce) (14 VII 2013).

<sup>4</sup> *Ambasadorowie Polski* - [http://encyklopedia.naukowy.pl/Ambasadorowie\\_Polski,vstrona\\_5](http://encyklopedia.naukowy.pl/Ambasadorowie_Polski,vstrona_5) (14 VII 2013).

<sup>5</sup> Extradition Treaty between Poland and the United States of America, signed in Warsaw on November 22<sup>nd</sup> 1927 (Dz.U. 1929 nr 45 poz. 372).

<sup>6</sup> Treaty of Conciliation between the United States of America and the Republic of Poland, signed in Washington, August 16, 1928 (Dz.U. 1930 nr 4 poz. 27).

<sup>7</sup> Treaty of Arbitration between the United States of America and Poland, signed in Washington, August 16, 1928 (Dz.U. 1930 nr 4 poz. 29).

<sup>8</sup> Convention between the United States of America and Poland on the transportation of alcohol between the United States of America and Poland signed in Warsaw on June 19<sup>th</sup> 1930 (Dz.U. 1930 nr 57 poz. 468).

<sup>9</sup> Treaty of Friendship, Commerce, and Consular Rights signed between the United States and Poland on June 15<sup>th</sup> 1931 (Dz.U. 1933 nr 49 poz. 384).



The role that Great Britain played after Poland regained sovereignty was equally important, with the Prime Minister Lloyd George expressing his support for independent Poland on January 5<sup>th</sup> 1918<sup>1</sup>. On June 3<sup>rd</sup> 1918, Great Britain together with France and Italy presented a declaration on reinstating Poland's independence<sup>2</sup>.

His Majesty's Government established diplomatic relations with Poland in February 1919. The British embassy was lead by Sir Horace George Montagu Rumbold<sup>3</sup>. Eustachy Sapieha became the polish representative in Great Britain<sup>4</sup>.

The instructions from the Ministry of Foreign Affairs for the polish representative included the following: " Considering the immense political leverage of England and that it is impossible to oppose it openly, and furthermore the necessity, particularly for the Polish representatives in London, to emphasize the friendship and alliance between the two nations – the Polish diplomats should accentuate in their public addresses and in private talks the fact that Poland is, above all, a country which is not well known to the English."<sup>5</sup>

Thus the Ministry entrusted the Polish representatives in London with a serious task that can be described, in a very simplified way, as acting in order to deepen the mutual trust which in turn would lead to the actual multilateral cooperation.

It is worth noting that the embassy performed the task perfectly well, which is exemplified by the multilateral contracts and treaties involving a variety of aspects. The first mutual document, Treaty of Commerce and Navigation<sup>6</sup>, was signed on 26 November 1923 in Warsaw. Another important international convention of August 26<sup>th</sup> 1931 involved the civil and

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<sup>1</sup> M. Tymowski, J. Kieniewicz, J. Holzer, *Historia Polski*, Editions Spotkania, Warsaw 1990, p. 277.

<sup>2</sup> *Historia od X do XX wieku Polska i sąsiedzi. Kronika wydarzeń*, ed. K. Grüberg, Wydawnictwo „Troja” Toruń 1992, p. 167.

<sup>3</sup> *Foreign Office*, „The London Gazette”, issued on November 28 1919, p. 4. The decision on the appointment was made by the Great Britain King on November 15th 1919.

<sup>4</sup> Archiwum Akt Nowych (AAN), Archiwum Instytutu Hoovera (AIH), Ambasada Polska w Wielkiej Brytanii, sygn. 1.

<sup>5</sup> AAN, AIH, Ambasada Polska w Wielkiej Brytanii, sygn. 1, obraz. The document's no. is D/6917/19 and is marked as "Top Secret".

<sup>6</sup> Treaty of commerce and navigation between The Polish Republic and The United Kingdom, signed at Warsaw on November 26 1923 (Dz.U. 1924 nr 57 poz. 582).

commercial proceedings<sup>1</sup>. In 1932 the two countries signed a treaty for the Surrender of Fugitive criminals<sup>2</sup>. The reciprocal recognition of certificates of registry was agreed upon two years later and included the measurement of tonnage of merchant ships<sup>3</sup>. On April 27<sup>th</sup> 1937, the Treaty for the limitation of naval armaments<sup>4</sup> was signed in London.

The government of the Republic of Poland published a total of 73 acts in the journal of laws throughout the mentioned period, including contracts related to the broadly defined cooperation of the two countries.

Especially worth emphasizing is the decision of His Majesty's Government to defend the sovereignty of the Republic of Poland – declaring war on Germany on September 3<sup>rd</sup> 1939. From this day forth, other members of the British Commonwealth - Australia, New Zealand and India – were, together with the Crown, at war with Germany.

The mentioned British decision resulted from the Polish-English Agreement of Mutual Assistance signed in London on August 25<sup>th</sup> 1939 and the confidential protocol related to the Agreement<sup>5</sup>.

The dynamically evolving relations between Great Britain and the United States raised hopes that if in danger Poland and the Polish could expect help, including military support primarily from Great Britain and France but also from the US, symbolic though it may be.

As is well known, after the Third Reich aggression against Poland of September 1<sup>st</sup> 1939a and the Soviet Union invasion of September 17<sup>th</sup> 1939, Poland did not see any support other than symbolic declarations. The magnitude of September campaign losses suffered by Poland left on

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<sup>1</sup> Convention between the President of the Republic of Poland and His Majesty in respect of the United Kingdom of Great Britain and Northern Ireland, regarding legal proceedings in civil and commercial matters, signed in Warsaw on August 26 1931 (Dz.U. 1932, nr 55, poz. 533.).

<sup>2</sup> Treaty between the President of the Republic of Poland and His Majesty the King of Great Britain, Ireland and the British Dominions Beyond the Seas, Emperor of India, for the Surrender of Fugitive criminals., signed in Warsaw on January 11 1932 (Dz.U. 1934, nr 17, poz. 135).

<sup>3</sup> Convention between the President of the Republic of Poland and His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India for the reciprocal recognition of certificates of registry and other national documents relating to the measurement of tonnage of merchant ships, signed in Warsaw on April 16 1934 (Dz.U. 1935, nr 28, poz. 217).

<sup>4</sup> Treaty between the Republic of Poland and Great Britain on the limitation of naval armaments, signed in London on April 27 1939 (Dz.U. 1938, nr 97, poz. 650).

<sup>5</sup> Instytut Polski i Muzeum im. gen. Sikorskiego w Londynie (IPiMS), Dokumenty Prezydium Rady Ministrów (PRM), Stosunki w Wielką Brytanią 1939, sygn. 3, k. 1-6.

her own is exemplified by the numbers: 70 thousand fallen soldiers, 133 thousand wounded, nearly 300 thousand in German captivity, and around 133 thousand soldiers including 18 thousand officers captured by the Soviets<sup>1</sup>.

On September 12<sup>th</sup> 1939, W.T. Dobrzyński, the minister plenipotentiary consul general of the Republic of Poland in Dublin wrote in his letter to the Polish Embassy in London about the public opinion regarding the British military inactivity in the Polish defense war, which he presented in the following way: “ After the war had been declared, why did England not immediately bombard German communications system, military sites and armament factories, at the same time avoiding bombarding the open cities? Why is England not sending at least 500 airplanes to support Poland? Even if such an expedition was to be based on volunteers, it is to be expected that a sufficient number of volunteers would be easily gathered. (...) Immediate and direct help to Poland would could considerably decrease the duration of the war.”<sup>2</sup>

Meanwhile, “Monitor Polski” of December 30<sup>th</sup> 1939 included a decree signed by Władysław Raczkiewicz, president of Poland and by Gen. Władysław Sikorski, Prime Minister appointing members of the National Council of the Republic of Poland, which consisted of: Ignacy Paderewski, Tadeusz Bielecki, Fr Jan Brandys, Arkadiusz Bożek, Tytus Filipowicz, Bp Józef Gawlina, Dr Jan Jaworski, Stanisław Józwiak, Dr Herman Lkiberman, Stanisław Mackiewicz, Stanisław Mikołajczyk, Dr Zygmunt Nowakowski, Ignacy Szwarebart, Tadeusz Tomaszewski, Zofia Załęska i Lucjan Żeligowski<sup>3</sup>.

It should be explained that the seat of the government and the president at the time was located at Angers, a north-western France city.

After the German aggression against France on May 10<sup>th</sup> 1940, the government was evacuated to London with the consent of British authorities.

On August 21<sup>st</sup> 1940 in London, the government cabinet met at the Polish President office to discuss the propositions passed by the Political Committee of the Ministers defining the

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<sup>1</sup> A. Dziurok, M. Gałęziowski, Ł. Kamiński, F. Musiał, *Od niepodległości do niepodległości 1918-1989*, Instytut Pamięci Narodowej, Warsaw 2011, p. 115.

<sup>2</sup> AAN, Archiwum Instytutu Hoovera, Ambasada Polski w Wielkiej Brytanii, sygn. 6, obraz 626.

<sup>3</sup> Rada Narodowa Rzeczypospolitej Polskiej, (Dz.U. RP 1939, nr 105, poz. 1109).

Polish foreign policy. The attendees were: Gen. Władysław Sikorski, Prime Minister, Gen. Józef Haller, minister without portfolio, Prof. Stanisław Kot, minister without portfolio, Marian Seyda, minister without portfolio, Gen. Kazimierz Sosnkowski, minister without portfolio, Jan Stańczyk, social security minister, Henryk Strasbusger, Prof. Stanisław Stroiński, deputy Prime Minister and August Zaleski, foreign affairs minister. The cabinet was chaired by the President, Władysław Raczkiewicz. Among numerous statements, the Prime Minister Sikorski said: “that there are Ukrainian groups represented by the “Za Svibodu” magazine published in Canada – which aim at a broad agreement with Poland.”<sup>1</sup> Minister Strasburger, referring the British foreign policy, added: “As far as the Russian issue goes (...), not only do we need to respect the aspirations of our ally, but we have to seek agreement as well. Such an agreement is possible, if only because the matter of the border is more or less irrelevant for the Soviets.”<sup>2</sup> An important issue was also raised by Gen. Sosnkowski. The record of his statements includes the following passage: “In the Russian matter the minister agrees to abandon the efforts to establish an independent Ukraine, although he always supported the idea, if such would be the price of reclaiming the borders. National egoism has to be the deciding factor here.”<sup>3</sup> The Russian issue was also addressed by President Raczkiewicz: “In the Russian matter, we do understand the English, who strive to convert the Germans ally into a factor to fight them with, however the issue of our borders integrity needs to emphasized strongly.” It was furthermore noted that “the President did not exclude the possibility of reaching an agreement in the future, but he stated that for the time being it is not valid. We know stand in the face of an undeniable fact of aggression and robbery of our land.”<sup>4</sup>

The attachment to the record included the notes of minister Stańczyk. The most relevant from the perspective of this paper is the following: “I request that the proposition no. 9 was stated as follows: Not only is it unacceptable for Poland to cooperate with the Soviet Union, but continuing any relations between Poland and the USSR is impossible too, as long as the Soviet

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<sup>1</sup> Instytut Polski i Muzeum im. gen. Sikorskiego w Londynie (IPiMS), PRM.K, sygn. 2, k. 1-6.

<sup>2</sup> Instytut Polski i Muzeum im. gen. Sikorskiego w Londynie (IPiMS), PRM.K, sygn. 2, k. 5.

<sup>3</sup> Instytut Polski i Muzeum im. gen. Sikorskiego w Londynie (IPiMS), PRM.K, sygn. 2, k. 8.

<sup>4</sup> Instytut Polski i Muzeum im. gen. Sikorskiego w Londynie (IPiMS), PRM.K, sygn. 2, k. 11.

Union occupies the land of the Republic of Poland, seized by the soviet military after September 17<sup>th</sup> 1939. The note of the soviet government of September 17<sup>th</sup> 1939 put an end to the Soviets neutrality towards Poland in this war. The state of affairs, for which only the Soviets are to blame, can only be changed after the Soviets are moved east of the Polish-Soviet border of September 17<sup>th</sup> 1939 and after the Polish state sovereignty returns to this land. (...) The minorities: Ukrainian and Belarusian settled within the Republic of Poland will be guaranteed a right to advance their national and cultural lives, and the Jews will be granted all the cultural rights.”<sup>1</sup>

The ending of the record contains a note regarding the Polish expectations towards Great Britain, stating that “the efforts to make the British clearly define how the ally commitments towards Poland will be met after Germany is defeated – are advisable and necessary, however only after the Polish officials agree on the military goals regarding both the foreign and the internal affairs of the future Poland. Without such an agreement, the talks with the British officials cannot yield the desired result.”<sup>2</sup>

Extensive fragments of records of the cabinet meeting of the Republic of Poland Government in exile were cited because of the fact that, even then, it was realized that it might be impossible to reclaim the Republic of Poland territories seized by the Soviet Union after September 17<sup>th</sup> 1939. The paragraphs regarding the Ukrainian issue also stand out and differ considerably in the statements of particular ministers. It is also noticeable that the attendees realized the need to seek allies, including Great Britain in particular, but the Ukrainian diaspora in Canada as well. The firm stand of president Raczkiewicz should also be emphasized, he did not see a consensual solution in the issue of eastern border of the prewar Poland.

Meanwhile, a few days later, the HM Government spoke officially for the first time in the matter of Republic of Poland border. The statement is dated September 2<sup>nd</sup> 1940 and is mentioned by Gen. Władysław Sikorski, the Prime Minister and the commander in chief, in the telegram of July 20<sup>th</sup> 1941 sent to Gen. Kazimierz Sosnkowski: “I want to assure you, as was

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<sup>1</sup> Instytut Polski i Muzeum im. gen. Sikorskiego w Londynie (IPiMS), PRM.K, sygn. 2, k. 14.

<sup>2</sup> Instytut Polski i Muzeum im. gen. Sikorskiego w Londynie (IPiMS), PRM.K, sygn. 2, k. 14.

publicly stated by the Prime Minister on 2.IX.40, that the HM Government does not intend to acknowledge any territorial changes taking place during the war, unless the changes were made willingly and with the consent of both countries.”<sup>1</sup>

It is worth noticing that the statement is from the time when the German-Soviet alliance was still in place and it was not known how the war would develop.

Polish soldiers, meantime, in may 1940, fought together with Norwegians against Germans in Narvik, and in June the same year they partook in the defense of France.<sup>2</sup> A few months later, Polish flyers participated in the Battle of Britain, and the 151 pilots were the largest group among the foreigners to fight on the English side. Worth noticing is the fact that the pilots of the fighter and bomber squads: 300, 3001, 302 and 303 in the period of August 8<sup>th</sup> till October 31<sup>st</sup> 1940 downed 203 German airplanes, which accounted for around 12% of all the machines lost by the Luftwaffe.<sup>3</sup>

The participation of the Polish in safeguarding the Great Britain airspace and protecting its land from German invasion is indisputable. Protecting the English, the Polish nation offered a sacrifice of blood which could not be forgotten.

It should be noted, that when the Battle of Britain was not yet over, on October 22<sup>nd</sup> 1940, Stafford Cripps, British ambassador in Moscow, in a memorandum regarding the British-Soviet relations, stated that Great Britain is willing to acknowledge the sovereignty of USSR over the territories of Estonia, Latvia, Lithuania, Bessarabia, Northern Bukovina and “the parts of former Polish state that are currently under soviet control.”<sup>4</sup>

It seems that it is not merely the standpoint of the ambassador. A number of factors indicates that it was prepared by the British ministry of foreign affairs, and what is interesting is the fact that, even then, it referred to Poland’s eastern border proposed as early as 1920 by lord

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<sup>1</sup> Józef Piłsudski Institute of America (JPIUSA), Rząd Polski na Emigracji, Układ polsko-sowiecki z dn. 31.7.41. Pokłosie umowy polsko-sowieckiej, sygn. 701/9/3, k. 4, 5.

<sup>2</sup> M. Tymowski, J. Kieniewicz, J. Holzer, *Historia Polski*, Editions Spotkania, Warsaw 1990, pp. 301, 302.

<sup>3</sup> *Polacy na frontach II wojny światowej, Bitwa o Anglię i lotnictwo polskie*, <http://www.wv2.pl/Bitwa,o,Anglie,i,lotnictwo,polskie,96.html>, retrieved on (18 VII 2013).

<sup>4</sup> *Układ Sikorski-Majski, wybór dokumentów*, oprac. E. Duraczyński, Państwowy Instytut Wydawniczy, Warsaw 1990, p. 19.

George Curzon, the then Foreign Secretary of Great Britain. Such conclusions may be drawn analyzing the correspondence between August Zaleski, foreign affairs minister of the Polish Government in London and Edward Halifax, British Foreign Secretary. The protest note sent by the Polish minister on November 27<sup>th</sup> 1940 in the mentioned statement of ambassador Cripps was answered by minister Halifax: "British suggestions only considered the actual state of affairs which could not be denied or ignored". Similar stand was assumed by Halifax's successor – Anthony Eden.<sup>1</sup>

The instability of Great Britain's attitude towards Poland is also attested by subsequent steps taken by Winston Churchill, the Prime Minister, after the Third Reich attacked USSR on June 22<sup>nd</sup> 1941.

Summarized chronology of the events supporting the above thesis is presented by the below list.

- in his speech on 22<sup>nd</sup> June 1941, Winston Churchill referred to the Soviet Union as an ally of Great Britain, not mentioning Poland at all;
- on June 23<sup>rd</sup> 1941, the Polish-Soviet talks regarding the mutual relations began. According to various sources, "the talks took place with considerable activity on the English side, and even with a palpable pressure. Churchill and Eden (...) did not seem willing to consider, respect and protect the principal assumption of the Polish policy: inviolability of the Republic of Poland territory, which in the east of Poland meant restoring the ante bellum status quo";
- on July 4<sup>th</sup> 1941, Iwan Mayski, USSR ambassador in London, received his first instructions from Moscow regarding the talks with Sikorski<sup>2</sup>;
- in July 8<sup>th</sup> 1941, minister August Zaleski personally delivered a Polish note containing the conditions of the agreement with USSR;

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<sup>1</sup> See *Układ Sikorski-Majski, wybór dokumentów*, oprac. E. Duraczyński, Państwowy Instytut Wydawniczy, Warsaw 1990, p. 20.

<sup>2</sup> *Wojna i okupacja na ziemiach polskich 1939-1945*, ed. W. Góra, Książka i Wiedza, Warsaw 1984, p. 42.

- on July 11<sup>th</sup> 1941, during the meeting of Prime Minister Sikorski and minister Zaleski with secretary Eden, the latter pointed out the need of signing a Polish-Soviet agreement;
- on July 12<sup>th</sup> 1941, Great Britain and the Soviet Union sign an agreement;
- on July 14<sup>th</sup> 1941, August Zaleski, the foreign affairs minister, is visited by Robert ;
- 14 lipca 1941 r. Augusta Zaleskiego, ministra spraw zagranicznych odwiedza Robert Vanisittart, the chief diplomatic advisor of the Foreign Office, who, most probably after consulting Anthony Eden, foreign secretary of HM Government, stated that “Poland’s demands are exaggerated and seem impossible to accepted by USSR”;
- on July 15<sup>th</sup> 1941, prime minister Sikorski and minister Zaleski talked to secretary Eden, who presented his draft of the Polish-Soviet agreement. (...) Eden did not permit Polish politicians to take the text with them (...) in order to examine it in detail. They had to do it on site.<sup>1</sup>;
- on July 21<sup>st</sup> 1941, secretary Eden promised Gen. Sikorski that after the Polish-Soviet agreement was signed, the government of Great Britain would provide the Polish government with a note confirming policy of HM Government not to accept any Poland territory changes<sup>2</sup>;
- on July 21<sup>st</sup> 1941, on the cabinet meeting, Gen. Sikorski repeated the warning of secretary Eden, who stated that refusing to sign an agreement with USSR would be a nail in the coffin for the Polish government<sup>3</sup>;
- on July 28<sup>th</sup> 1941, Sir Cecil Dormer, British ambassador to the Polish Government in exile, presented Władysław Raczkiewicz with a verbal note, authored by secretary Eden, stating, among other things, that the planned agreement to be signed was fair and promotes victory and the President is expected to invest his whole influence to support Sikorski in signing the agreement<sup>4</sup>;

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<sup>1</sup> *Układ Sikorski-Majski, wybór dokumentów*, oprac. E. Duraczyński, Państwowy Instytut Wydawniczy, Warsaw 1990, pp. 23, 25, 26, 29, 30.

<sup>2</sup> W. Kowalski, *Walka dyplomatyczna o miejsce Polski w Europie 1939-1945*, Książka i Wiedza, Warsaw 1967, p. 93, 94.

<sup>3</sup> W. Kowalski, *Walka dyplomatyczna o miejsce Polski w Europie 1939-1945*, Książka i Wiedza, Warsaw 1967, p. 94.

<sup>4</sup> W. Kowalski, *Walka dyplomatyczna o miejsce Polski w Europie 1939-1945*, Książka i Wiedza, Warsaw 1967, p. 96.



- on July 30<sup>th</sup> 1941, the Sikorski-Mayski agreement is signed, the first point of which contains the text: "USSR government agrees that the Soviet-German treaties of 1939 regarding the territorial changes of Poland are no longer valid."<sup>1</sup> The agreement was signed without president Raczyński's consent (without his official authorization), which caused a government crisis in Sikorski's cabinet resulting in his three ministers: Kazimierz Sosnkowski, August Zaleski and Marian Seyda resigning<sup>2</sup>;

- on August 2<sup>nd</sup> 1941, August Zaleski, the foreign affairs minister, sends a circular to all Polish diplomatic outposts, recommending that their heads disavow the agreement and explain to relevant governments that the Polish Prime Minister signed the agreement with Soviet Russia without the letter of attorney from the Republic of Poland President<sup>3</sup>;

- on March 11<sup>th</sup> 1942, talking to Prime Minister Sikorski, Churchill claimed that Great Britain needs to respect the western border of USSR, because it is the only power actually fighting Germany. If a Soviet-German agreement would be reached, we would be lost<sup>4</sup>. Sikorski reserved a right to an unconstrained decision in this matter;

- on May 20<sup>th</sup> 1942, visiting London, Vyacheslav Molotov postulated that the whole USSR western border should be recognized according to the June 22<sup>nd</sup> 1941 status, including the border with Poland<sup>5</sup>;

- on February 18<sup>th</sup> 1943, discussing the Polish-Soviet issue, the Foreign Affairs Committee of the National Council of the Republic of Poland decided that "it is of paramount importance for our Country and should be approached with a maximally heightened sense of responsibility." An important statement came from Minister Raczyński: "(...) The Polish borders were not guaranteed by the British government at all, but since then (signing the Sikorski-

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<sup>1</sup> *Układ Sikorski-Majski, wybór dokumentów*, oprac. E. Duraczyński, Państwowy Instytut Wydawniczy, Warsaw 1990, p. 173.

<sup>2</sup> *Wojna i okupacja na ziemiach polskich 1939-1945*, ed. W. Góra, Książka i Wiedza, Warsaw 1984, p. 43.

<sup>3</sup> K. Popiel, *Generał Sikorski w mojej pamięci*, Ośrodek Dokumentacji i Studiów Społecznych, Warsaw 1983, p. 129, 130.

<sup>4</sup> W. Kowalski, *Walka dyplomatyczna o miejsce Polski w Europie 1939-1945*, Książka i Wiedza, Warsaw 1967, p. 96.

<sup>5</sup> W. Kowalski, *Walka dyplomatyczna o miejsce Polski w Europie 1939-1945*, Książka i Wiedza, Warsaw 1967, p. 169.

Mayski agreement in 1941, author's note) the British and American governments took the stand that such guarantees would not be granted to anyone. It should be objectively stated, that the British government never guaranteed the Polish borders, at none of the stages.<sup>1</sup>;

- on February 7<sup>th</sup> 1944, in his confidential report to prime minister Mikołajczyk, Aleksander Ciechanowski, the Polish ambassador in Washington, claimed, among other things: "I was notified that the US ambassador, Mr. Winant, when talking to his countrymen, takes a similar stance on the Polish-Soviet disagreement as the British government does. While he considers the Curzon line a reasonable starting point for territorial negotiations, he firmly denies the Soviet government the right to force any changes in the Polish cabinet. At the same time, the Soviet embassy clearly states, that no negotiations are possible with the current structure of the Polish government. (...) I am also informed, that, during the Moscow and Tehran conferences, the Soviets assured Americans that they will not make any territorial claims on the Asian continent, except for the right to a duty-free port, probably in Manchuria. The demand was accepted both by the Americans and the Chinese."<sup>2</sup>;

- on February 27<sup>th</sup> 1944, Gen. Anders wrote a note to the President of Poland, stating that "the Polish government has no right to negotiate changes to our eastern border. Any Pole or a Polish government attempting to dissent, shall be deemed a traitor to the national cause and as a consequence shall not be recognized. No pressure can make us do so. (...) In the name of the Polish blood shed for the Country, the nation and honor – we appeal to the President for the Polish government to refuse any talks regarding the revision of the eastern border of Poland"<sup>3</sup>;

- on March 6<sup>th</sup> 1944, the Ministry of Congressional Proceedings of Poland addressed a note to Prof. Stefan Ropp, the director of the Studies and Publication Office in New York, informing him that "we did not survive the period of a firm insistence of the British government, and of Churchill in particular, to accept what the Anglo-Saxon side undoubtedly agreed upon in Tehran. It was practically already prepared in Moscow, but only within the scope of the division

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<sup>1</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/5, k. 5, 9.

<sup>2</sup> AAN, Archiwum Instytutu Hoovera, Ministerstwo Spraw Zagranicznych, sygn. 32, obraz 380, 381.

<sup>3</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/6, k. 68.

of Europe into zones according to the military occupation, which would be obviously followed by a political division, while the Tehran talks clearly referred to borders, ruling out the Atlantic Charter etc. That is why Churchill did not want to meet Mikołajczyk prior to the Tehran conference.”<sup>1</sup> The document also contains a message – or a threat, that should Poland reject the eastern border according to Stalin’s expectations “the Soviets may attempt to threaten the independence of Poland altogether, and Anglo-Saxons are not capable of opposing them by force”<sup>2</sup>;

- on March 15<sup>th</sup> 1944, Polish Government officially appealed to the governments of Great Britain and the USA regarding the Soviet army crossing the Polish borders from before September 1939 and entering the pre-war Poland and informed that “in every district, civilian and military representatives of the underground resistance will reveal their identity to the Soviet command even if no Polish-Soviet relations are initiated, reporting the willingness to coordinate the fight against the Germans.” The Polish government further appealed for the British and American governments to utilize their influence on USSR to prevent possible Soviet repressions and ensure protection of the representatives of the underground resistance”<sup>3</sup>;

- on October 13<sup>th</sup> 1944, a conference regarding the Polish issue took place in Moscow. The participants were: marshal Stalin, foreign affairs minister Molotov, Great Britain Prime Minister Churchill, foreign secretary Eden, British ambassador in Moscow Clark Kerr, Prime Minister Mikołajczyk, foreign affairs minister Romer, Prof. Grabski, chairman of the national council and in the role of an American observer – ambassador in Moscow Harriman. During the conference, addressing Mikołajczyk, Churchill stated, among other things: „I would like you to consider what is most important. We are talking mainly about two things: 1/ accepting the Curzon line as the de facto eastern border of Poland (...) 2/ friendly agreement with the Committee of National Liberation on the issue of creating a unified Polish government.” Several hours of talks on the mentioned issues ended with the following dialog between Mikołajczyk and

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<sup>1</sup> AAN, Archiwum Instytutu Hoovera, Ambasada Polski w Stanach Zjednoczonych, sygn. 1, obraz 416.

<sup>2</sup> AAN, Archiwum Instytutu Hoovera, Ambasada Polski w Stanach Zjednoczonych, sygn. 1, obraz 416.

<sup>3</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/6,teczka 6, k. 67.

Stalin. The former asked: “is the Curzon line equivalent to the demarcation line introduced in 1939?” Stalin answered: “No, it is hardly the same. Białystok, Łomża and Przemyśl are left on your side by the Curzon line.”<sup>1</sup>;

- on October 14<sup>th</sup> 1944, a conversation between Prime Minister Mikołajczyk and Prime Minister Churchill took place in the British embassy in Moscow. The Polish side was in addition represented by: minister Romer, Prof. Grabski and J. Żarąński. On the British side, beside the prime minister, the participants were: minister Eden, ambassador Clark Kerr, Olivier Harley and Denis Allen. From the documentation that was left after the meeting, the most meaningful exchange of opinions between the prime ministers contains the paragraph: “Mikołajczyk: returning to the border issue, claims that Stalin stated that the Curzon line it to be the border between Poland and Russia. Churchill: (irritated) I wash my hands of that as long as I am convinced that we should give in, because we do not intend to waste the chance for peace in Europe due to an argument with the Poles. You do not see it in your stubbornness. This is not the friendship we should be sharing. We should say to the world how unreasonable you are. You will begin a new war in which 25 million people will lose their lives, by you will not dare. Mikołajczyk: I know that our fate was sealed in Tehran. Churchill: It was saved in Tehran. Mikołajczyk: I am not a person devoid of patriotic feelings to give away half of Poland. Churchill: What do you mean, saying you’re a person devoid of patriotic feelings. 25 years ago we restored Poland, despite the fact that in the last war there were more Poles fighting against us than those fighting with us. We are now again fighting to keep you from annihilation and you are not playing. You are absolutely insane”<sup>2</sup>;

- on November 3<sup>rd</sup> 1944, Poland received the initial condition from the Three Great Powers fulfillment of which was the key to the Polish-Soviet agreement. The condition was to immediately accept the Curzon line as the basis of the Polish-Soviet border<sup>3</sup>;

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<sup>1</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/16, k. 158-165.

<sup>2</sup> IJPUSA, Rząd Polski na emigracji, t. 701/9/16, k – 152. Marked as „Top Secret”

<sup>3</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/16, k. 15.

- on November 17<sup>th</sup> 1944, Prime Minister Mikołajczyk received a letter from Franklin Roosevelt, in which the US president presented his stance on the post-war Polish borders writing: “With reference to the future Polish borders, as long as a mutual agreement is reached between the Polish, British and Soviet governments together with the proposed compensations from Germany to Poland, the American government shall not voice any reservations on its side. As far as the question of American government guarantying any particular borders is considered, I do not doubt that you understand that according to its traditional policy, any specific border cannot be guaranteed.”<sup>1</sup>;

- on November 22<sup>nd</sup> 1944, A Harriman, US ambassador in Moscow, had three talks with Prime Minister Mikołajczyk. In the first one, the ambassador “explained that President Roosevelt ordered him to intervene with marshal Stalin so that Lvov and the oil basin remains with Poland as long as Mr. Mikołajczyk confirms that the Polish government currently wishes it to be so.” The Polish side responded during the second talk on November 23<sup>rd</sup>, when the Polish prime minister stated that “after consulting the leaders of the parties in his government he unfortunately does not see it possible to ask Harriman to protect Lvov and the oil basin in talks with Stalin complying with the Roosevelt’s instructions. According to those friends of the prime minister, such a request on our side would indirectly prove that we surrender our other eastern borderlands, and Vilnius in particular.”<sup>2</sup>;

- on November 28<sup>th</sup> 1944, referring to the Polish-Soviet relations, Gen. Charles de Gaulle stated “that it is of lesser importance, whether the Polish borders are of one shape or the other. Whereas the fundamental issue is for the Poland to be completely independent of Russia ...and we cannot yield that point.”<sup>3</sup> ;

- on November 28<sup>th</sup> 1944, a meeting between Prime Minister Mikołajczyk and minister Romer and Prime Minister Churchill, secretary Eden and ambassador O’Malley took place on

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<sup>1</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/16, k. 24-26.

<sup>2</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/16, k. 27, 28.

<sup>3</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/6, k. 6. This is a statement gave by Gen. de Gaulle recorded during his talk with Prof. Jouguet, the chairman of the French Committee in Cairo and a member of the Institute and an adviser of the French legation

British initiative. During the meeting, Anthony Eden stated that “he encouraged Harriman to intervene with Stalin on behalf of President Roosevelt regarding the issue of Lvov and the oil basin being granted to Poland”<sup>1</sup>

- The announcement made in Yalta on February 12<sup>th</sup> 1945 read that “Great Britain and the USA intend to renounce all deals and agreements connecting them with the president and government of the Republic of Poland, who represent the continuity and sovereignty of the Polish state, and they are ready to establish relations with the government imposed on Poland by the Soviets. With a government which is known to be mainly constituted by people with no right for the Polish citizenship. (...) A conclusion presents itself that the current attitude of Great Britain and the USA is supposed to punish the Poles for not accepting yet another partition of their country and not surrendering their two most beloved cities – Vilnius and Lvov – to Russians, which hampered the relations between the three Great Allies.”<sup>2</sup>

- on February 13<sup>th</sup> 1945, in relation to the announcement of the Three Great Powers of February 12<sup>th</sup> 1945, the Polish government issued a statement, reading, among other things: “On February 12<sup>th</sup> at 7:30 p.m., the text of a resolution regarding the Polish issue passed by President Roosevelt, Prime Minister Churchill and Marshal Stalin on the conference, which took place in Yalta between 4<sup>th</sup> and 11<sup>th</sup> of February 1945, was delivered to the Polish ambassador in London by the British Foreign Office.” The most important fragment of the statement read: “The Polish Government declares that the decisions of the Conference of the Three regarding Poland cannot be acknowledged by the Polish Government and cannot be binding for the Polish Nation. Severing the eastern half of its territory from Poland by imposing the so called Curzon line as the

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<sup>1</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/16, k. 16.

<sup>2</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/7, k. 1. This is a quotation from a manifesto of both parliament chambers to “The Parliament Members of the Free Nations.” The document was signed by: senators: Ignacy Baliński, Józef Godlewski, Alexander Heiman Jarecki, Prof. Wojciech Jastrzębowski, J. Iwanowski, Tadeusz Katelbach, Adam Koc, Wanda Norwid, Karol Niezabitowski, Gen. Alexander Osiniński, Konstanty Rdułtowski, Stefan Rosada i W. Skibiński; lower chamber representatives: Franciszek Arciszewski, Edward Bogusz, Nikita Bura, Jan Choiński-Dzieduszycki, Konstanty Dzieduszycki, Gen. Józef Haller, Antoni Goetz Okocimski, Stanisław Józwiak, Kornel Krzczunowicz, Stanisław Mackiewicz, Henryk Lessing, J. Paciorkowski, Jan Piłsudski, Józef Rudnicki, E. Ryszka, Tadeusz Shaetz, Antoni Zalewski, Zofia Zaleska, M. Zyndram-Kościałkowski, Bronisław Wanke, Prof. W. Wielhorski, Prof. Adam Żółtowski i W. Zyburowski. The list of senators and representatives is taken from JPIUSA, sygn. 701/9/7, k. 2.

Polish-Soviet border is regarded by the Polish people as another partition of Poland, this time performed by the Polish allies.”<sup>1</sup>

- between 3<sup>rd</sup> and 17<sup>th</sup> of February 1945, a number of telegrams were exchanged by the prime minister of the Polish government in exile, Tomasz Arciszewski and US President Franklin Roosevelt. One of the wires, received on February 16<sup>th</sup>, was responded to by Prime Minister Arciszewski: “Your telegram was received yesterday, on February 16<sup>th</sup> 1945. I welcome Mr. President’s assurance that the Crimean conference considered the Polish issue with the utmost care and sympathy and that you hope for the Polish issue to be appropriately resolve in due course. I deem it my responsibility to state on this occasion that the Crimean conference resolutions, as they were published, were regarded by all the Polish people as the new partition of Poland and a transformation into a Russian protectorate.”<sup>2</sup>

- on February 20<sup>th</sup> 1945, in his talk with secretary Anthony Eden, ambassador Edward Raczynski referred to the Crimean resolutions and the announcement of February 12<sup>th</sup> 1945. In the report on the talk, ambassador wrote down, among other things, secretary Eden’s response regarding the borders: “Secretary Eden expressed his opinion saying that the decisions made by the three Powers were unavoidable.” In addition, there is another important fragment: “Elaborating on the issue of the Polish-German border, Mr. Eden suggested that the British government, although with no enthusiasm, would be willing to accept Polish desiderata within the limits it considered feasible during the last year’s negotiations: Opole Silesia, Eastern Prussia without Kaliningrad, Gdańsk territory and the territory of Pomerania up to Oder in the best case. However, the further broadened border postulates are, according to the British and the Americans, taken too far. The British government does not exclude solving the issue right away, without postponing it until the Peace Conference.”<sup>3</sup>

- on March 12<sup>th</sup> 1945, the Polish government issued a statement to all UN governments regarding the San Francisco conference, informing that, on March 5<sup>th</sup> 1945, it was made aware

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<sup>1</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/15, k. 269.

<sup>2</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/15, k. 256.

<sup>3</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/15, k. 249, 253, 254.

by the media that the US government, on behalf of its own, Great Britain, China and USSR, sent invitations to 39 states to participate in a United Nations Conference to be held in San Francisco on April 25<sup>th</sup> 1945. The statement informs that the Polish government did not receive an invitation to the conference. The point no. 3 of the statement reads: “the fact that Poland, whose constitutional President and Government are commonly recognized by the United Nations and the neutral countries, with the exception of one state, is not invited to the San Francisco Conference, is a disquieting example of using the right of veto by the great international powers, even before United Nations passed and enforced the propositions regarding the International Security Organization.”<sup>1</sup>

- on April 15<sup>th</sup> 1945, one of the leaders of the People’s Party [Stronnictwo Ludowe], Stanisław Mikołajczyk, expressed his consent to “acknowledge, without reservations, the results of the Crimean conference.”<sup>2</sup>

- on April 28<sup>th</sup> 1945, the Polish government in exile issued a protest published in the “Dziennik Polski i Dziennik Żołnierza” issue no. 101 of April 30<sup>th</sup> 1945. The document reads: “The so called Lublin Committee, on April 21<sup>st</sup> 1945 in Moscow, entered into a friendship, mutual help and postwar cooperation pact with USSR. The Polish government wishes to remind about its protest regarding the USSR acknowledging on January 6<sup>th</sup> 1945 the so called Lublin Committee to be the “provisional government of the Republic of Poland”. In the protest, the Polish Government stated that the acknowledgement is a violation of the fundamental international law regulations and infringes the right of the Polish People to freely govern itself. From the perspective of international law, no pacts concluded by the Lublin administration are legally binding, considering the fact that the administration is not a government of the Republic of Poland and is not expressing the will of the Polish People.”<sup>3</sup>

- on June 15<sup>th</sup> 1945, in relation to the Polish leaders being arrested, the Polish Government in exile issued a statement demanding, among other things, the following: “Any

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<sup>1</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/15, k. 220.

<sup>2</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/15, k. 154.

<sup>3</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/15, k. 125.



action on the part of the great western democracies aiming at normalizing the situation in Poland should be preceded by: a/ immediate withdrawal of the Soviet military and political police (NKVD, author's note) from Poland; b/ release of all the arrested and deported Polish citizens since 1939; c/ cessation of the efforts of imposing an alien political system on Poland.”<sup>1</sup>

From July 17<sup>th</sup> to August 2<sup>nd</sup> 1945, the last important conference of the Big Three took place in Potsdam, where the fate of the postwar Poland was to be decided upon. The issue of the eastern border of Poland was not discussed since it was concluded that the problem had been tackled during the two previous conferences in Tehran and Yalta.

Analyzing the above chronology of events related to the fate of Poland and the participation of Great Britain and the United States in the shaping of the postwar fate of the Republic of Poland raises doubts over the validity of considering the governments of those two states allies of Poland. It is not about protectionism but about recognizing treaties, agreements or other strategic documents regarding the political division of Europe and the world.

A fundamental question may be asked here: what was it that Winston Churchill was guided by when he supported the stance of Joseph Stalin on the Polish-Soviet border. HM government's agreeing for the border to run along the Curzon line was, after all, contradictory to the treaty signed by Poland and Great Britain. The answer to the question is to be searched for in the reality of the situation on the fronts of the second world war of that time. It is beyond doubt that Great Britain was afraid that the Nazi Germany would defeat the Soviet Union in a war, because a strong Reich could threaten the independence of the Isles. Hence the prompt signing of an appropriate agreement after Germany attacked USSR on June 22<sup>nd</sup> 1941, and the pressure on the Polish Government in exile to sign a relevant agreement as well. The political decisions were followed by economic decisions in the form of the supply of weaponry, technology or the necessities, including food. On the other hand, in the decisive moments of the German-Soviet fight, Churchill realized that a strong and at the same time hostile USSR could be a very difficult and uncomfortable opponent of the postwar order in the world. In such a situation, the prime

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<sup>1</sup> JPIUSA, Rząd Polski na emigracji, sygn. 701/9/15, k. 24. It was a document issued in relation to the Trial of the Sixteen in Moscow.

minister of Great Britain agreed to sacrifice Poland expecting to gain even more sympathy from Joseph Stalin.

The fate of Poland during the war and not long after it ended is characterized by several paradoxes. First of all, Poland was to be compensated for losing the eastern borderland at the expense of Germany. The western border was guaranteed by Joseph Stalin. Secondly, Great Britain and the United States were not able, or not willing to help the governments of Sikorski, Mikołajczyk and their successors to achieve the most favorable resolutions regarding the course of the eastern border of Poland and the Soviet Union. The so called Curzon line B suggested by Churchill as the border between the concerned sides, running east of Lvov and Boryslaw was in my opinion merely declarative, which is attested by relevant records of the talks between the Big Three. What is at the same time surprising, is the fact that Great Britain and the United States had doubts over the course of the western border of Poland proposed by Stalin, which was especially emphasized at the Potsdam conference.

There is another thread touched upon by Aleksander Ciechanowski, the Polish ambassador in New York, who, in his confidential report of February 7<sup>th</sup> 1944, informed Prime Minister Mikołajczyk that the USA stance on the Polish issue complies with Stalin's expectations and was related to the resolutions of Tehran and Yalta conferences, where Stalin renounced his claims on the Asian continent.

It is today difficult to judge the extent of it being either a result of political negotiations or a deliberate course of action taken by the world powers to achieve solutions most favorable to their ideas, completely ignoring the standpoint of Poland and Poles.

In such paradoxical circumstances, from a perspective of time, a conclusion arises, that the present-day Ukraine inherited its western border from USSR thanks to the political support of Great Britain and the United States of America.

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# Emerging Markets:

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