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Polityka i Społeczeństwo nr 9, 223-233

2012

Artykuł został opracowany do udostępnienia w internecie przez Muzeum Historii Polski w ramach prac podejmowanych na rzecz zapewnienia otwartego, powszechnego i trwałego dostępu do polskiego dorobku naukowego i kulturalnego. Artykuł jest umieszczony w kolekcji cyfrowej bazhum.muzhp.pl, gromadzącej zawartość polskich czasopism humanistycznych i społecznych.

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Robert Loś

THE CZECH REPUBLIC AND THE UNITED GERMANY – BILATERAL RELATIONS (1993–2004)

The last decade of the XX century opened up diametrically different roads of development for the German Federal Republic (GFR) and Czechoslovakia. The Germans successfully reached the end of the road leading to their unity, while Czechoslovakia experienced reverse processes. Namely, as of 1 January 1993 two new states appeared on Europe’s map – the Czech Republic and the Slovak Republic. On the one hand the division of Czechoslovakia deepened an asymmetry in size between GFR and the new Czech state. On the other hand the country on the Vltava River had now ceased to be a state included in the Soviet sphere of influence. In the past, Czechoslovakia’s position had been undoubtedly determined by its position within the Eastern Block, as a result of which Prague had been inclined to co-ordinate its policies *vis-a-vis* Bonn with Poland and GDR (German Democratic Republic). Those three states of the Eastern Block were interested in mutual cooperation in order to arrive at normalization in their relations with GFR. Those states’ policies (known as an „iron triangle”) succeeded only after political power in GFR was taken by a coalition of socialists and liberals (Plšková 1999: 26) under the leadership of Willy Brandt and Walter Scheele (1969–1974). It was owing to them that German diplomatic relations with the three Eastern Bloc states were initiated. Pragmatic attitudes adopted in Bonn and Prague resulted in a treaty regulating their bilateral relations which was signed, following negotiations, on 11 December 1973 (Hilf 1973: 65). However, this treaty did not resolve many of the controversial issues whose roots had been in the past. For example, the legal issues related to Sudeten Germans’ ownership rights and their right to return to their homeland had been left undecided. Neither had the issue of indemnities for the Czech victims of the Nazi terror been resolved. From the German point of

view the problem of the Sudeten Germans had not so much involved their forced resettlement as the form and timing of the resettlement – just before the decisions taken at Potschdam (Lebioda 2000b: 44). Some of the expulsions had been carried out on the basis of the so called Beneš decrees (number 12, 33 and 108) that had been issued in May and June 1945. Those decrees had deprived the German minority of any rights, including citizenship and ownership rights. The resettlement process had driven out of the country quite a big number of the Germans – in total between 2,7 and 3,4 mln (Lebioda 2000b: 45). Also, their forced relocation resulted in their losing their real estates and belongings. Those were the underlying reasons for the later Sudeten Germans' attempts at reclaiming their ownership rights. Moreover, the fact that the Czechs resorted to the principle of collective responsibility had aggravated their sense of injustice. These factors started to matter ever more since associations of the Sudeten German compatriots (*ziomkostwa*) had started to be organized in the German Federal Republic. Those associations claimed that the German federal government should try to enforce appropriate interstate regulations with Czechoslovakia. In the circumstances the Czechs were afraid that the Sudeten Germans might manage to come back. The Czechs feared the consequences of their return. Those factors made it impossible for the bilateral treaty to contribute really to rapprochement and reconciliation between the Germans and the Czechs. Only after the Eastern Block had fallen apart and the two German states were united, did some major changes occur in this respect.

The year of 1989 brought changes that were surprising, not the least because of their pace. Even if in Czechoslovakia the transformation had a „velvet” nature, the changes in the Czech-German relations were clear. Their dynamics was prompted by Prague. On 28 December 1989, just after he had been elected President, Vaclav Havel announced that the Czechs should apologize to the Germans for the injustice inflicted upon them during WW II (Pick 1997: 27). Subsequently, Havel made other gestures. For example his first visits abroad were paid in the two German states. His gestures provoked criticism across the Czech country. During those visits Havel acknowledged the harm that had been done to the Sudeten Germans (Koszel 1999: 192). A similar climate prevailed during the talks of the Ministers for Foreign Affairs – Hans Dietrich Genscher and Jiří Dienstbier – that were held at Rozvadov (Pithart 1995: 67–70). Dienstbier broached the problem of

reciprocal relations stressing that for the Czechs the priority was to „return to Europe” and that their road to Europe went through Germany. This declaration simultaneously revealed that reaching an agreement was more important for Prague since the Czechs counted on the German support while applying for their membership in the European Communities and the North Atlantic Treaty Organization (NATO).

Those gestures of reconciliation on part of Havel made a good impression in the German Federal Republic even though they seemed risky if the Czech internal situation was taken into account. The Czech society feared that the Germans would be able to reclaim their lost property. Nevertheless, in a letter sent in September of 1990 by the Czech and Slovak bishops to the German Conference of Bishops similar, apologetic undertones could be heard just as in a declaration authored by Cardinal František Tomášek who was the bishop of Prague. Those declarations resulted in a dissonance as far as Havel’s statement’s reception was concerned. Protests were staged in many Czech cities and towns. A wave of debates followed in the media. Ladislav Adamec, the leader of a communist grouping, declared that his party was not going to acknowledge those apologies addressed to the Germans – not only because their resettlement had been justified but also because the communists did not want to provide the Union of the Expelled (*BdV, Bund der Vertriebenen*) with any justification using which it could make its material demands. The Czechs expected that the united German state would resolve those problems in a treaty regulating bilateral relations.

The treaty negotiations were carried out during four rounds held between February and October 1991. The Sudeten Germans had been excluded from having an impact on the ongoing negotiations. During Genscher’s visit in Prague in April 1991 (www.lidovky.cz), the German minister omitted the claims articulated by the Union of the Expelled. Nevertheless, the Union continued its efforts in which it was supported by the Bavarian government. They commissioned an expert opinion from an Austrian expert in international law and a member of the UN Human Rights Commission – Felix Ermacora (Lebioda 2000b: 67). In the summer of 1991, Ermacora produced a 10-point document that outlined the Sudeten Germans’ expectations as far as the future treaty. The Austrian expert presented their right to their homeland not in terms of a territorial claim but in terms of their individual and collective entitlement which was to be implemented through their right to arrive, reside and freely decide about their property. One of the expected decisions

involved annulment of the 1945 expropriation decrees and restitution of the confiscated property or compensation for the confiscated property. However, there was no legal way for the Germans to fight for such entitlements in front of the Czech courts (Lebioda 2000b: 67).

After Ermacora's report had been published, the Sudeten Germans drew Chancellor Kohl's attention to the fact that Czechoslovakia had ratified the European Convention on Human Rights but still it did not recognize the right of individuals to make claims in the matter. In practice this amounted to avoiding supervision by the Strasbourg institutions. On 4 September 1991, Wolfgang Bötsch, who then was the head of the CSU national structures at Bundestag, sent a letter to Genscher in which he asked the Minister to take into account the Sudeten Germans' claims regarding the issue of compensation and property rights. However, this step did not cause any change in the federal government's position as far as the treaty. The Czech side decided that basing on the law on restitution of property that had been confiscated after 25 February 1948 – that is when the Sudeten Germans' resettlement had already been completed – confiscated property could be returned to their former owners. However, the issue of repealing the Beneš decrees was rejected by the Czechs. The Czechs were prepared to surrender their own repatriation claims in exchange for a "thick line" drawn by the German side as regards BdV's demands. However, the federal government was unable to promise that there would be no individual claims put in by the Sudeten Germans (Stanek 1993: 298).

During the negotiations the problem of protection for national minorities was also tackled. Prague decided to include it in the treaty. The principles of protection for national minorities were applied that derived from the general European legal regulations which had been applicable for example to Frisians and Danes living in Germany. The number of the Germans still living in the Czech country was estimated at between 50 thousand (according to the Czech sources) and 100 thousand (according to the German sources). These divergent numbers were explained by the fact that members of the German minority had not wanted to reveal their national identity because of being afraid of abuses. Moreover, their number could have been diminished because of their continued emigration to GFR, which was especially the case until 1992.

Establishing of a committee composed of historians who would tackle the issue of the problematic past was one of the most important issues during that period. One of the meetings of Genscher and

Dienstbier was devoted to this issue. Their declaration from February 1990 stressed a necessity to establish such a committee. The committee duly inaugurated its activities during their meeting in Prague in May 1990.

Ultimately, notwithstanding many controversial issues, the treaty on neighborly relations was approved by the two Ministers for Foreign Affairs on 7 October 1991. It was signed on 27 February 1992 in Prague by the heads of the governments – Vaclav Klaus and Helmut Kohl. The treaty emphasized the necessity for both countries and nations to enjoy security and harmony within the existing European structures. Its art. 3 was especially important in that it recognized the existing borderline, while any territorial claims were excluded even if it provoked some criticism because of the phrasing that had been used, namely „the existing border” (*bestehende Grenze*) which might have given rise to some problems in the future (Seibt 1993: 230). The Czech side maintained that the Czechoslovak state had continued to exist without any interruption since 1918. Art. 10 of the treaty stressed the necessity to support the Czechs on their way to the EU.

The text of the treaty – in accordance with intentions, especially those of the German side – did not include any regulations related to the property rights. The Czechoslovak side initially wanted to have an agreement drawing a thick line in the matter – mutual claims were to annul one another. The Germans felt that they could not decide on behalf of the third party, i.e. the citizens who might want to put in private claims. The new agreement foresaw many platforms for co-operation on economic, cultural and humanitarian issues.

This agreement came into force but the circumstances in which it was implemented struck a blow to the unity of the federation since the Slovak politicians attacked Havel for taking an excessively conciliatory position. A political debate was ignited when on 6 March 1992 the Czechoslovak government presented to the Parliament a memorandum concerning its „declaration of intentions” in which the deputies were informed about the government’s interpretation of the articles included in the treaty. The document was negotiated in its final form amid an acrimonious campaign that preceded parliamentary elections which were to aggravate the internal conflicts between the Czechs and the Slovaks. The key issue concerned interpretation of the word „expulsion”, which was rendered as „resettlement” in the declaration of intentions. The term „expulsion” was applied only to that phase of the Germans’ resettlement that had taken place before 2 August 1945. Apart

from this, the Czechoslovak side included in the declaration of intentions an issue of the Czechs who had been deported from the Sudeten area in 1938, which the German side was unwilling to acknowledge (Lebioda 2000b: 174).

The ratification process was completed in GFR on 20 May 1992. The German government's declaration constituted the major bone of contention. CSU ineffectively tried to have the issues related to the compensation problem emphasized most of all. The treaty was ratified despite the fact that Bavarian deputies in the Bundesrat voted against it.

After the Czech Republic was established, the perception of bilateral relations changed. The Czechs were afraid that Germany would gradually start to be engaged in its own national politics (*Zahranicni...* 1996). This is why they preferred to assume that the treaty between Czechoslovakia and GFR was still binding. In 1992 and 1993 the German federal government hushed up voices of the opposition which demanded that the treaty should be renegotiated. The German side wanted the rapprochement process to proceed without any looming conflicts. There was some fear that with growing disparities in size and asymmetry as far as the two countries' potentials that resulted from the Czechoslovak state's division, the Czechs would be afraid that there might be an increase in the demands put forward by the Germans. Conflicts could not be avoided. After the treaty had been signed, in the period 1993–1995 the relations between the two states became clearly colder (Koszel 1999: 202). A stimulus that led to changed perception of the reciprocal relations was provided by the Czech President. Havel, in his speech delivered on 17 February 1995 at the Charles University in Prague, stressed the necessity to define the situation anew. He rejected the revisionist attitudes taken towards the existing structures by the Sudeten Germans. Havel's appeal was paralleled in a natural way by the Minister for Foreign Affairs Klaus Kinkel's statement of 17 March 1995. In his speech delivered at Bundestag Kinkel criticized the Czech President because of the latter's insistence on a „thick line” regarding the issue of the mutual historical injustices. The lack of will to reach a compromise was clear. A stalemate ensued that had resulted from Prague's pressure on the German federal government to surrender one-sidedly – on behalf of the Sudeten Germans – their material claims and their will to return to the Czech country. In the meantime in Germany an expectation was that the Czechs should morally distance themselves from the unlawful expulsions.

In spite of the above, some signs of change in the reciprocal relations could be discerned (Kunštat 2000: 197–211). Co-operation between the Czech state and the German Länder developed well, especially with Bavaria where the Sudeten Germans' descendants lived (Zprava... 2001: 78).

Blooming economic relations constituted another factor to have a positive impact on the possibilities to reach an agreement. Germany was and still is the most important trading partner of the Czech Republic, followed by Slovakia, Poland, France, Great Britain and Austria. From the vantage point of the German interests, the Czech Republic constitutes a proximate and deep market even though it ranks only 13 in the German imports and 17 in the German exports. The data concerning trade indicate a systematic increase in the value of the exchange, which evidences the scale of mutual linkages.

Table 1. Trade exchange between the Czech Republic and Germany

Years	Volume in mln Kč	Exports in Kč	Imports in Kč
	share %	share %	share %
1995	620 881	320 628	300 253
	31,7 %	33,4	28,6
1996	347 264	336 241	310 023
	30,5	36,4	26,4
1997	690 123	364 578	325 625
	33,6	36,1	29,7
1998	680 328	358 890	321 120
	33,2	35,7	31,9
1999	729 890	390 090	338 677
	37,8	42,3	34,7
2000	672 233	400 712	321 521
	38,6	41,5	32,2
2001	940 014	484 424	456 490
	34,7	39,0	35,7
2002	887 530	457 020	430 510
	36,9	34,5	35,7
2003	976 735	507 085	469 649
	32,5	36,9	32,5
2004	1 158 900	616 933	541 670
	33,9	36,3	31,5

Source: Zprava... 2001: 78; 2004: 102; 1999: 85; Report... 2000: 98; 2004: 87; 2002: 76; www.csu.cz

The Czech Republic was a destination for many investments made through *Kreditanstalt für Wiederaufbau* – an institution controlled by the German federal government. In the framework of „Mittelstandsprogramm Osteuropa”, until 1998 *Kreditanstalt* undersigned in total about 190 mln DM in credit carrying low interest rates that had been earmarked for investments in the Czech Republic. Looking from the vantage point of both the German and local firms’ needs, a program was designed to stimulate the Czech market through provision of training for medium sized enterprises and education for managers and administrators in charge of economic affairs, especially with a view to the EU realities (Łoś 2004: 79). Basing on the above quoted data, the German share amounted to about 36% of foreign investments in the Czech Republic. The most important of them was the buy-out of the Škoda factories in Mlada Boleslav and Pilsen. Until 1998, Germany had invested about 1,5 bln DM there. Apart from this, the Germans invested in firms such as the 11 establishments of the Czech Siemens and Linde establishments. The Bosch corporation, which co-operates with the automobile industry, also invested in Mlada Boleslav. In Prague, investments were made by the AB corporation which is a maker of energyproducing turbines. Deutsche Bank, Reiffeisenbank, Sparkasse, Dresdner Bank, Bavarian Hypobank, Deutsche Telekom, Robert Bosch, Schoeller, Knauf, Paul Hartmann, Osram, TDW, Hella-Autotechnik, Hebe, E.O.N established their branches in the Czech Republic as well (Koszel 1999: 287).

Ultimately, in view of the coming negotiations related to the Czech membership in NATO and the EU, Prague had to solve the problem of its discrepancies with Germany (Lebioda 2000b: 193). The problem was solved on 21 January 1997 when a joint declaration was signed in Prague. The Czech government expressed in it its regret because of the pain and suffering that had been inflicted upon the innocent people and because of the unlawfulness of the expulsions and the forced resettlement of the Germans as well as of depriving them of their property and citizenship. The German term *Vertreibung* was rendered in the Czech language in a softened manner as *vyhanieni* (the expelled) – until then the Czechs used the term *odsun* (*removal*), which was hard to accept for the Sudeten Germans who perceived the latter term as insulting. The term *vyhanieni* does not have any other German equivalent than *Vertreibung*. Taking advantage of the language subtleties the Czech authorities wanted to avoid accusations by its domestic opposition. The German side recognized its responsibility for having contributed to

the München pact and its consequences. Both sides declared that they would not burden their mutual relations with history. This meant on the one hand that the Beneš decrees were not going to be repealed but on the other hand it also meant that the issue of the German property claims was left open.

The ratification process proved to be more troublesome (Lebioda 2000a: 298). On 30 January 1997 the German Bundestag voted through the declaration by the majority of 578 votes, with 20 votes opposing and 23 abstaining. On 15 February the declaration was ratified by the Czech deputy chamber, and on 15 March – by the Senate. The problem was that the governing coalition did not have then a majority in the parliament, which is why Prime Minister Klaus had to persuade the social democrats that to reject the declaration would mean a disgrace. The Czech social democrats were of the opinion that the voting should be carried out during a joint session of the two chambers. They were worried by the lack of provisions that could end the issue of indemnities. In the end they decided to vote for the declaration, while the communists and the radical right continued to protest against it.

Germany played a major role in the period when the Czech Republic was applying for membership in the EU and NATO. Germany was interested in stabilizing that part of the Continent through improving their bilateral relations. To an extent, the Czech Republic's accession to the EU and NATO structures appeased the Czechs' fears of the German politics (Eichler 1996). Obviously the objective factor was important here because of the considerable degree of stability and security granted by its membership in the structures of the EU and NATO. In 1999 the Czech Republic joined the North Atlantic Treaty Organization, which had created a new phase in the relations with Germany. Also, the country progressed towards its accession to the European Union. On 16 December 1991 Czechoslovakia had signed an association treaty with the European Community, which was reconfirmed by the Czech Republic in October 1993. On 23 January 1996 Prague formally applied for membership in the EU, and following the latter's invitation, the negotiations were begun in February 1998 (Łoś 2004: 98). This marked the beginning of a series of meetings in which Germany was represented by Brunno Zöpel, Günter Verheugen, Helmut Schmidt and Werner Hoyer, and the Czechs by Pavlo Tigrida, Pavlo Telicka and the Minister for Foreign Affairs Jan Kavan (*Report...* 2001: 220). Many bilateral agreements were signed that spoke about co-operation in the area of justice and police. Cross-border co-operation was developing as exem-

plified by a bilateral agreement signed on 7 September 2000 that concerned mutual assistance in cases of natural disasters as well as collaboration in the area of the police activities. On 17 February 2003 the respective Ministers for Home Affairs signed a preliminary agreement concerning further co-operation (*Report...* 2004: 76). Good collaboration of the two sides was also made possible owing to a military agreement of 10 June 2002 that determined the course of the mutual co-operation until the end of 2004. The agreement envisaged joint inspections and trans-border maneuvers (*Report...* 2002: 235).

The German-Czech agreement resulted in an attempt to overcome their historical circumstances. In consequence, on 29 December 1997 a Czech-German Foundation „Future” was called into existence (*Report...* 2001: 98). By 2004 the Foundation paid out indemnities for 76 thousand Nazi victims. In total, its beneficiaries received a sum equal to 210 mln Euro. The remaining part of the Foundation’s financial resources was earmarked for support to Czech-German projects.

In spite of the will to reach an agreement, there were still many controversial issues. On the one hand Edmund Stoiber, who was at that time the CSU’s chairman and the Bavarian Prime Minister, used anti-Czech rhetoric (Stoiber 2002: 22). On the other hand the majority of the Czech political elites did not want to hear about reaching an agreement with the expelled Germans. That period coincided with the completion of the accession negotiations between the Czech Republic and the EU. The initiative was then taken over by the politicians – heads of states and ministers for foreign affairs. Their talks started to be ranked in a new way because the Czech Republic was to join the EU in 2004. This fact made the politicians give up defining politics through the prism of history, which was a difficult step when one takes into account that historical politics is always used in current political games in which political party interests play a bigger role than *raison d’etat*. In general, the year 2004 was to bring a new perception of the mutual relations (and fears) together with a new opening in the Czech-German relations.

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