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## **DIPLOMACY OF THE COMMONWEALTH, DIPLOMACY OF THE KING: THE PECULIARITY OF FOREIGN POLICY MAKING IN THE SEVENTEENTH-CENTURY POLAND-LITHUANIA<sup>1</sup>**

### **ABSTRACT**

The Polish-Lithuanian Commonwealth clearly stood out from the European institutional and legal systems of the early modern era. One of the elements of its “uniqueness” was the way of conducting foreign policy and, consequently, the organisation of diplomatic service.

The western European historiography does not address the peculiar structure of the Polish-Lithuanian diplomacy against early modern interstate relations. The only commonly noted characteristic of the diplomatic practice of the Commonwealth seems to be the lack of official permanent representations at European courts, as well as the reluctance to accept foreign embassies within the borders of the state. The Polish historiography does undertake the topic, but the existing works are dated and often overcome, requiring to be complemented.

The purpose of this article is to systematise and determine the specifics of the diplomatic activity of Poland-Lithuania from the institutional and juridical point of view, with particular attention paid to the nature of the *ius legationis* which operated in *Rzeczpospolita* state. Its two potential entities are confronted: the king and the Senate along with the *sejm*. The analysis is based primarily on the parliamentary constitutions, the supreme source of law for the Polish-Lithuanian state. Another goal of the presented study is to highlight the role of political practice in shaping foreign policy, which often stood in opposition to the formal legal structure of the Commonwealth. Finally, the article constitutes a discussion with the voices present in the historiography and an invitation for the scholars to furtherly launch the topic.

**KEYWORDS:** Polish-Lithuanian Commonwealth; Sovereignty; Diplomacy; *Ius legationis*; Foreign policy.

It is a well-known fact that the Polish-Lithuanian Commonwealth stood out from the European institutional and legal systems of the early modern era (although it was not an unusual phenomenon). One of the important elements of its “uniqueness” was the way of conducting foreign policy and, consequently, the organisation of diplomatic service.

In principle, western European historiography does not address the problem of the peculiar structure of Polish-Lithuanian diplomacy against early modern interstate relations. Perhaps the only commonly noted characteristic of the diplomatic practice of the Commonwealth is the lack of official permanent representations at European courts, as well as the reluctance to accept foreign legations within the borders of the state<sup>2</sup>.

The purpose of this article is to systematise and determine the specifics of the diplomatic activity of the Commonwealth from the institutional and legal point of view, with particular attention paid to the nature of the *ius legationis* which operated in the Polish-Lithuanian state. The starting point for this analysis will be a counterposition of its two potential entities: the king and the Senate along with the *sejm*. It will be based on the parliamentary constitutions, the supreme source of law for *Rzeczpospolita*

1 The paper is a result of the research project *The Holy See and the crisis of sovereignty of John II Casimir Vasa and Michael Korybut Wiśniowiecki's election (1660–1669)*, n. 2018/28/C/H3/00176, financed by the National Science Centre, Poland.

2 This was also noted by contemporaries, e.g. Abraham de Wicquefort. Cf. Stanisław E. Nahlik, *Narodziny nowożytnej dyplomacji* (Wrocław-Warszawa: Zakład Narodowy im. Ossolińskich, 1971), 58.



state. Another goal of the presented study will be to highlight the role of political practice in shaping foreign policy, which often stood in opposition to the formal legal structure of the Commonwealth.

### THE PROBLEM OF RESIDENCY

The emergence of the “early modern states” at the turn of the fifteenth and sixteenth centuries, as well as the broader dynamisation of the geopolitical situation in Europe at that time, required an effective system of mutual contact and control. As a result of the process that accompanied these needs, the art of diplomacy was developed. It was created not only as a means to maintain a political balance between the centres of power, which was an alternative to military solutions, but also due to the pressure of economic growth and cultural development, which affected Europe at the turn of the era. The primary purpose of the early modern diplomatic service, just as it is today, was to regulate the multi-level relations between states, plan joint action, reconcile common interests, and gather information.

The common practice characterising early modern diplomacy was its permanent and residential character, developed in the fifteenth century by a number of Italian states, and then adopted, over many years of evolutionary change, at most European courts, even if with numerous exceptions. The Polish-Lithuanian state was one of such, but among others also Hungary, Portugal, Sweden or Scotland need to be mentioned<sup>3</sup>.

In Poland, the diplomatic development proceeded in a manner analogous to other European countries up to approximately the first half of the sixteenth century. While in most of them the dispatchment and reception of permanent envoys gradually established, in the Commonwealth, the medieval experience was consolidated. The diplomatic practice continued to be characterised by missions launched *ad hoc* for a strict purpose and for a limited duration, in order to solve specific foreign policy issues.

The complex nature of the statehood of the Commonwealth, as well as the possibility of both its members (the Polish Crown and the Grand Duchy of Lithuania) to act autonomously in the “international” arena, proved problematic for conducting foreign policy. In terms of functionality of the union concluded between the two countries in 1569, one of the fundamental acts determining Polish-Lithuanian diplomatic practice must therefore have been the act of the Union of Lublin, which established a coherent foreign policy for both countries:

*Foedera aut pacta*, that is – the agreements and alliances with the neighbouring nations, after the Warsaw arrangement cannot be held, nor any envoys can be sent for important issues, without the approval of both nations, and the agreements previously held – should they be harmful to one of the unified states – are no longer in power<sup>4</sup>.

Nevertheless, what is worth noting is that in particular periods, such as the *interregna*, the two states, parts of the Commonwealth, in practice granted each other the autonomous right of legation. Interestingly, «in the case of the Crown [of Poland], the actions taken were treated as the actions of the Commonwealth. The Grand Duchy of Lithuania was sidelined, although it also operated as a part of the Commonwealth»<sup>5</sup>.

Unlike European countries which established permanent diplomatic missions, the diplomacy of the

3 Czesław Nanke, *Historia dyplomacji, część 1: Rozwój form dyplomatycznych* (Kraków: Księgarnia S. Kamińskiego, 1947), 66, 83; Adam Przyboś, Roman Żelewski, *Dyplomaci w dawnych czasach* (Kraków: Wydawnictwo Literackie, 1959), 37.

4 “O Xięstwie Litewskim przywiley około uniey Wielkiego Xięstwa Litewskiego z Koroną, na walnym seymie lubelskim, od panów rad duchownych y świeckich, y posłów ziemskich roku pańskiego 1569 uchwalony”, in VL, II, 90: «Foedera aut pacta, abo znowy, y przymierza z postronnemi narody, wedle spolney zgody Warszawskiey, napotym żadne czynione, ani stanowione żadni też Posłowie w rzeczach ważnych do obcych stron posyłani byđz nie maią, iedno za wiadomością y radą spolną obudwu narodow: a przymierza, abo stanowienia, z którymkolwiek narodem przedtym uczynione, ktoreby były szkodliwe ktorey stronie, dzierzane byđz nie maią». All the translations from Polish to English are made on behalf of the author. Cf. Nahlik, *Narodziny nowożytniej dyplomacji*, 45.

5 Henryk Wisner, “Dyplomacja polska w latach 1572–164”, in *Historia dyplomacji polskiej*, vol. II: 1572–1795, ed. Zbigniew Wójcik (Warszawa: PWN, 1982), 122.

Commonwealth did not develop its centralised foreign affairs secretariat, which would collect and process all information coming from abroad, as well as those sent overseas (or, at least, the sources which could document the existence of such a cell have not survived to this day). Therefore these messages were often scattered and collected in the face of an emerging need. They were managed by a chancellery, which did not seem to have specialised any separate bodies for this purpose, although it was likely to have assembled professionals in specific cultural and linguistic areas in its structures. Diplomats travelling on missions from the Commonwealth were not always obliged to maintain regular correspondence with the court and the chancellery, while for most permanent diplomatic offices, the weekly flow of letters was the norm. Nevertheless, Polish-Lithuanian diplomats were required to submit a final report to the *sejm*, which was then inserted to the Crown Metrica<sup>6</sup>, and in the case of the diplomats sent by the king – a semi-private report. That, however, was not a binding rule but rather an established custom. From a legal perspective, the submission of diplomatic reports to the *sejm* became a duty only in the second half of the seventeenth century, which is confirmed by the contents of *pactorum conventorum* of both Michał I Korybut Wiśniowiecki (1669) and John III Sobieski (1674)<sup>7</sup>.

The attitude of nobility towards foreign diplomatic missions to the Commonwealth, and in particular to the institutions of permanent diplomatic offices, should be regarded as distrustful and negative. As early as 1593, in one of the Sejm constitutions, one may find the following record concerning the presence of foreign envoys in the territory of the Commonwealth in the absence of the monarch: «We do not see any reason for envoys of secular princes of the lands adjacent to ours to enter the territory of the Crown, while we are away»<sup>8</sup>. At that time, it clearly referred to the then travels of Sigismund III Vasa to Sweden, but could also constitute an interesting precedent for the future (e.g. for the departure of Władysław IV Vasa to Baden in 1638). It is remarkable to note that this constitution mentions the confessional aspect of the missions, referring to the distinct principles of the diplomacy of the Holy See in the territory of the Commonwealth. The formal recognition of this uniqueness came during the *interregnum* of 1587, when an exception to the earlier provisions in this matter was made for nuncio Annibale Di Capua, through the advocacy of the queen dowager Anna Jagiellon<sup>9</sup>.

Therefore, the practice dictated by political necessity was to dispatch to the Commonwealth seemingly interim envoys, who could then extend their stay under various pretexts. New diplomats usually arrived in the Commonwealth before the end of the previous mission to ensure the office's continuity. Stanisław E. Nahlik considered that this process influenced the formation of *quasi*-permanent<sup>10</sup> diplomatic offices in the seventeenth-century Poland-Lithuania.

Such reluctance was also characteristic of the opposite variant of diplomatic practice: establishing permanent missions abroad. For example, in 1621, a permanent diplomatic office of the Commonwealth was sought in Istanbul. In the negotiation of Khotyn (Chocim), the Polish party agreed to this demand of the Turkish party, but when the treaties were confirmed, the grand envoy Krzysztof Zbaraski was ordered to renounce it. Another envoy to the Sultan's court, Krzysztof Serebkowicz, on the insistence of the Grand Vizier to remain in Istanbul as a resident, replied that this would be detrimental to the Commonwealth. Serebkowicz argued against the validity of the analogies which were supposed to be drawn from the fact that the envoys of England, France or Venice resided in Istanbul:

It's a waste of breath to talk about things, which have never happened and now will not happen, we adhere to the old customs, [...] if you put us on an equal footing with foreign envoys, you are doing

6 Przyboś and Żelewski, *Dyplomaci*, 41. Cf. AGAD, MK, LL; Ryszard Skowron, *Dyplomaci polscy w Hiszpanii w XVI i XVII wieku* (Kraków: Universitas, 1997), 228.

7 "Articuli pactorum conventorum", in VL, V, 14-5; "Articuli pactorum conventorum", in VL, V, 140. Cf. Wójcik, "Organizacja dyplomacji", 328-29.

8 "Konstytucje seymu walnego warszawskiego, roku pańskiego 1593", in VL, II, 342: «Przyczyny, aby Posłowie od panów świeckich Koronie przyległych, w niebytności naszej tu do Korony wjeżdżać mieli, nie widzimy». Cf. Wisner, *Rzeczpospolita Wazów, II: Wojsko Wielkiego Księstwa Litewskiego, dyplomacja, varia* (Warszawa: Neriton, 2004), 246-47.

9 Dorota Gregorowicz, *Tiara w grze o koronę: Stolica Apostolska wobec wolnych elekcji w Rzeczypospolitej Obojga Narodów w drugiej połowie XVI wieku* (Kraków: PAU, 2019), 245. Cf. "Konfederacja generalna warszawska roku 1587", in VL, II, 231.

10 Nahlik, *Narodziny nowożytnej dyplomacji*, 59.

us harm because they stay at the Sublime Porte for their trade and their commerce rather than for any message<sup>11</sup>.

22

As in the case of many legations sent to the Commonwealth, which were not permanent, but maintained continuity of operation<sup>12</sup>, in some European courts regular agencies of Polish-Lithuanian monarchs were formed (starting with those in Rome, Naples and Madrid, in connection with the case of Neapolitan sums, ongoing for decades<sup>13</sup>). These were permanent (*de facto*, not *de jure*) royal offices, whose character Stanisław Grzybowski described as “semi-private”<sup>14</sup>. Their role in shaping the “international” policy of the Polish-Lithuanian state should not be underestimated. These regular and long-term missions provided not only the king but also, in a sense, the Commonwealth, with important contacts and information regarding political, economic, and cultural affairs. In addition to the above-mentioned institutions involved in the affairs of the Neapolitan sums, which were established already in the sixteenth century, the practice of sending permanent representatives to foreign courts became more widespread only in the first decade of the reign of Władysław IV Vasa. However, it should be emphasised that they were royal offices, which were not dispatched on behalf of the Commonwealth<sup>15</sup>. More to the point of the permanent mission in Istanbul, due to the political situation, it was established only in 1678, under the constitution of the *sejm* of Grodno. The first envoy of the Commonwealth at the Sultan’s court was Samuel Proski, as evidenced by the payment of his fixed salary from the treasury of state by way of his position<sup>16</sup>.

Therefore, there is every indication that the nobility, just as they did not want any permanent diplomatic representations of foreign states at the Polish-Lithuanian court, saw no greater need to dispatch their residents abroad<sup>17</sup>. The apogee of the nobility’s disinclination for permanent representations of foreign states fell during the reign of John II Casimir, Michał I Korybut Wiśniowiecki and John III Sobieski, when «foreign envoys used to meddle on behalf of their principals»<sup>18</sup>. Under the constitution of the *Sejm* of 1683, all foreign missions were formally banned from permanent residence in the Commonwealth:

Infinitely we resolve that the foreign ambassadors, legates, and by whatever name they are called, not only at our court but also in our states, will not reside. And if in the course of a *sejm*, and in between

11 AGAD, MK, LL 30, *Report of Krzysztof Serebkowicz, HM envoy to the Sublime Porte*, Warsaw 14 March 1624, 43. Cit. Wisner, “Dyplomacja polska”, 133: «Szkoda o tym mówić, czego nie było nigdy i teraz nie będzie, my się trzymamy starych zwyczajów, [...] jeśli nas kładziecie z posłami cudzoziemskimi równo, krzywdę nam czynicie, gdyż oni raczej dla handlów i kupiectwa swego u Porty mieszkają, a nie dla żadnego poselstwa». Cf. Abraham de Wicquefort, *Memoires touchant les ambassadeurs et le ministres publics* (Cologne: Marteau, 1676), 386; Władysław Czapliński, “Dyplomacja polska w latach 1605–1648”, in *Polska służba dyplomatyczna XVI–XVIII wieku: studia*, ed. Zbigniew Wójcik (Warszawa: PWN, 1966), 250.

12 For example, the French and Brandenburg, as well as imperial, diplomatic offices, especially in the second half of the seventeenth century. Cf. Czapliński, *Polska a Prusy i Brandenburgia za Władysława IV* (Wrocław: Wrocławskie Towarzystwo Naukowe, 1947); Maciej Serwański, *Francja wobec Polski w dobie wojny trzydziestoletniej 1618–1648* (Poznań: Wydawnictwo Naukowe UAM, 1986); Andrzej Kamieński, *Polska a Brandenburgia-Prusy w drugiej połowie XVII wieku: dzieje polityczne* (Poznań: Wydawnictwo Poznańskie, 2002).

13 The term Neapolitan sums (Polish: *sumy neapolitańskie*) refers to a loan made in 1557 by Bona Sforza, dowager Queen of Poland and Grand Duchess of Lithuania, to Philip II of Spain. The debt was never repaid and continued to be disputed between Polish monarchs and the Kingdom of Spain during the entire early modern period. Cf. Klemens Kantecki, *Sumy neapolitańskie. Opowiadania historyczne* (Warszawa: Gebethner & Wolff, 1881); Ryszard Skowron, *Olivares, Wazowie i Bałtyk. Polska w polityce zagranicznej Hiszpanii w latach 1621–1632* (Kraków: “Historia Iagellonica”, 2002), 19–33; Id., “L’eredità di Bona come oggetto di gioco sull’arena internazionale nel XVI e XVII secolo”, in *Bona Sforza. Regina di Polonia e duchessa di Bari*, eds. Maria Stella Calò Mariani and Giuseppe Dibenedetto (Roma: Nuova comunicazione, 2001), 227–47.

14 Grzybowski, “Organizacja służby dyplomatycznej”, 173. Cf. Wisner, “Dyplomacja polska”, 142–43.

15 Czapliński, “Dyplomacja polska”, 250–51.

16 “Konstytucje seymu walnego ordynaryjnego sześciedzielnego w Grodnie, roku pańskiego 1678”, in VL, V, 282.

17 Cf. Wisner, “Dyplomacja polska”, 143.

18 “Konstytucje seymu walnego ordynaryjnego sześciedzielnego warszawskiego, roku pańskiego 1683”, in VL, V, 322: «Posłowie cudzoziemscy interesami pryncypałów swoich mięszać zwykli».

two *sejms*, the legation of any of the foreign senators arrived; then those who arrive we allow to stay for three weeks before the audience; and we ask each of the messengers to depart three weeks after, and we will not permit them to dwell beyond that time. And after the hearing, they should leave the borders of our kingdom within three weeks<sup>19</sup>.

It should be emphasised that from Sobieski's perspective, the cited constitution *O Posłach cudzoziemskich* could be a legal solution formulated instrumentally and aimed at discrediting the French representation in the Commonwealth as well as the nobility supporting it. As a result, the king gained support for the idea of war against the Ottoman Empire and for an alliance with the imperial court. Paradoxically, in Sobieski's time, permanent diplomatic outposts began to form, both Polish-Lithuanian at foreign courts and foreign in the Commonwealth. It stemmed from the need to coordinate military activities within the Holy League (in 1686, establishments of permanent missions became one of the conditions of the Treaty of Perpetual Peace)<sup>20</sup>.

This kind of approach originated from mental and cultural factors; as Grzybowski noted, «permanent legacies are generally unpopular at this time and are considered unnecessary, both by active politicians and by theorists»<sup>21</sup>. It does not seem appropriate to link the nature of the Polish-Lithuanian legations directly to financial matters, although they were certainly not irrelevant<sup>22</sup>. Also, pointing to the electiveness of the monarchy as a key factor for the failure of the Commonwealth to establish permanent diplomatic missions, is not a convincing hypothesis<sup>23</sup>. The cultural aspect of the distrust which the nobility retained of foreign presence and interference in politics seems dominant.

It is worth noting, that although in historiography the apostolic nunciature is generally regarded as the only permanent diplomatic outpost in the early modern Commonwealth<sup>24</sup>, it was a diplomatic mission accredited by the king and functioning at the monarch's court. If a nuncio was to be accredited to the estates of the Polish-Lithuanian Commonwealth, the missions of papal diplomats could take place only following the terms of subsequent *sejms*. The specificity of the apostolic nunciature as a permanent diplomatic institution – not established in the Commonwealth, but rather with the king; and countenanced by the nobility, is legitimised by the confessional character of this institution, as well as by the dual nature of papal authority. In this sense, one can adhere to the controversial opinion of Rajnold Przędziecki, who denied the permanent character to the nunciature in Poland-Lithuania<sup>25</sup>. On the other hand, the apostolic nunciature undoubtedly functioned continuously and permanently, still, only as accredited to the monarch.

### **IUS LEGATIONIS**

*Ius legationis* was, and still is, one of the primary attributes of state sovereignty. It implies the right of an entity belonging to the “international” order to send its own and receive foreign diplomatic representatives, with the mutual consent of those concerned<sup>26</sup>. For the early modern Commonwealth, the identification of this entity in interstate or diplomatic relations creates doubts arising from both:

19 “Konstytucje seymu 1683”, in VL, V, 322. Cf. Wójcik, “Dyplomacja polska w okresie wojen drugiej połowy XVII wieku (1648–1699)”, in Wójcik, *Historia dyplomacji polskiej*, II, 270.

20 I would like to thank Zbigniew Hundert for joint reflections on the role of the war against the Ottoman Empire in the development of the Polish-Lithuanian diplomatic service.

21 Stanisław Grzybowski, “Organizacja służby dyplomatycznej 1573–1605”, in Wójcik, *Polska służba dyplomatyczna*, 173–74.

22 Cf. Przyboś and Żelewski, *Dyplomaci*, 59–60.

23 Nahlik, *Narodziny nowożytnej dyplomacji*, 58.

24 In the Commonwealth, the Prussian legation, which dates back to the beginning of the sixteenth century, had a unique position as a diplomatic office of a vassal. This mission was continued, however, throughout the whole seventeenth century, even after the feudal relationship between Poland-Lithuania and Prussia ceased to be in force. Cf. Nahlik, *Narodziny nowożytnej dyplomacji*, 58.

25 Rajnold Przędziecki, *Diplomatie et protocole à la cour de Pologne*, vol. 1 (Paris: Les belles lettres, 1937), XX, 19.

26 Cf. Nahlik, *Narodziny nowożytnej dyplomacji*, 37.

the specific republican structure of the Polish-Lithuanian state and its character of a composite monarchy<sup>27</sup>.

Since the competence in the field of conducting foreign relations is described neither in the medieval statutes of the Kingdom of Poland, nor in the constitutions of the successive *sejms* of the Jagiellonian era, it seems that foreign policy was a traditional monarchical prerogative, in terms of executive power, and did not need an additional legal definition. However, it should be emphasised that in Poland, since the Middle Ages, it had been based, in a sense, on the position of the nobility. As noted by Przyboś and Żelewski, «a striking expression of the dependence of princes in the field of foreign policy was the presence of dignitaries who stood by their side during the conclusion of international agreements, as it were, vouching that the treaties are kept by their sovereigns»<sup>28</sup>. Yet, it seems that this model did not deviate from the one present in other European monarchies of the time.

*Ius mittendi et excipiendi legatos*, later called *ius legationis*, underwent an important evolution at the beginning of the early modern era and was strongly associated with the vision of sovereign power. Such concept may be observed in both: the diplomatic practice and the political and legal theory of the time (Pierre Ayrault, Hugo Grotius, Carlo Pasquale, Frederic Marselaer, Abraham de Wicquefort, François de Callières)<sup>29</sup>. Krzysztof Warszawicki defined an envoy as a man dispatched by one monarch to another<sup>30</sup>. However, this concept does not fully align with the actual situation in the Commonwealth and throughout Europe. Problems and discussions were caused by the very status of sovereignty in mixed monarchies, as well as the identification of their subjectivity in “international” relations. Modern historiography tends to support the views less prevalent in the discussed era, known from earlier, renaissance works (among others of Konrad Braun and Jakub Przyłuski<sup>31</sup>). It states that *ius legationis* is recognised not only by sovereign state authorities but also by non-sovereign political entities, cities, as well as other types of public organisations<sup>32</sup>. Also between seventeenth-century authors many agreed to the polycentricity of *ius legationis*, without questioning its connection to power and sovereignty. This view (especially with regard to the Holy Roman Empire) was held by e.g. Herman Kirchner, Johann Ernst Krosnitzki and Gerard von Stökken<sup>33</sup>. Based on the works of these authors, along with the diplomatic practice observed throughout early modern Europe, it seems that it is indeed possible to speak of «the interpretation of law based on political aspirations which can interfere with the coherence of certain political groups, classified by historiography as “composite” or “polycentric” monarchies»<sup>34</sup>. In the Commonwealth, the subject scope of *ius legationis* was indeed treated liberally, in a way «reminiscent rather of a medieval state of the matter»<sup>35</sup>, in which the question of sovereignty seems to be of less importance<sup>36</sup>. In this context, interesting remarks on the “domestic”

27 Cf. John H. Elliott, “A Europe of Composite Monarchies”, *Past & Present*, 137 (1992): 48-71.

28 Przyboś and Żelewski, *Dyplomaci*, 28.

29 Nahlik, *Narodziny nowożytnej dyplomacji*, 37-8; Wójcik, “Dyplomacja polska”, 258.

30 Grzybowski, “Organizacja służby dyplomatycznej”, 171-72. Cf. Bolesław Boczek, “Krzysztofa Warszawickiego nauka o państwie i dyplomacji”, *Studia i Materiały z Dziejów Nauki Polskiej. Historia nauk społecznych*, 1 (1957): 134-35.

31 Konrad Braun, *De legationibus libri quinque* (Mainz: Behem, 1548), I, *passim*; Jakub Przyłuski, *Leges seu statuta ac privilegia Regni Poloniae omnia* (Kraków: Szczucin, 1553), 838.

32 Grzybowski, “Organizacja służby dyplomatycznej”, 171-73. Cf. Boczek, “Krzysztofa Warszawickiego nauka”, 134-35; Nahlik, *Narodziny nowożytnej dyplomacji*, 36; Indravati Félicité, “Droit et pratique diplomatique à l’époque moderne. Quelques réflexions à partir de l’expérience de diplomates du Nord”, in *Esperienza e diplomazia. Saperi, pratiche culturali e azione diplomatica nell’Età moderna (secc. XV-XVIII)*, eds. Stefano Andretta, Lucien Bély, Alexander Koller and Gérard Poumarède (Roma: Viella, 2020), 146; Francesco Senatore, “Le ambascerie della città di Capua”, in *Ambassades et ambassadeurs en Europe (XV<sup>e</sup>-XVII<sup>e</sup> siècles)*, eds. Jean-Luis Fournel and Matteo Residori (Geneve: Droz, 2020), 150.

33 Hermann Kirchner, *Legatus: eiusque iura, dignitas et officium duobus libris explicata* (Lich: Kezelius, 1604), III, 10-27; Johann E. Krosnitzki, *Exercitatio politica de legationibus* (Jena: Typis Lippoldianis, 1610), 6, 15, 16; Gerard von Stökken, *De iure legationum dissertatio* (Altdorf: Hagen, 1657), 2. Cf. Nahlik, *Narodziny nowożytnej dyplomacji*, 39.

34 Félicité, “Droit et pratique diplomatique”, 146. Cf. Elliott, “A Europe of Composite Monarchies”, 48-71.

35 Nahlik, *Narodziny nowożytnej dyplomacji*, 46.

36 It is worth mentioning the example of 1609, when during the Zebrzydowski’s Rebellion the nobility acted as a subject in foreign relations. Cf. Agnieszka Pawłowska-Kubik, *Rokosz sandomierski 1606-1609. Rzeczpospolita na politycznym rozdrożu* (Toruń: Wydawnictwo Naukowe UMK, 2019), 420.

diplomacy of the Commonwealth, presented by Andrzej Maksymilian Fredro<sup>37</sup>, then developed by Zbigniew Wójcik<sup>38</sup>, should be also mentioned. According to Nahlik:

It is difficult to resist the impression that there was a connection between this liberalism [described above] and the terminology used in Poland, which used the same name – *poseł*, *legatus* – to describe two different functions: internal – political (as an elected member of the *sejm*) and diplomatic (as an envoy)<sup>39</sup>.

In the context of the European discourse on *ius legationis*, in relation to the Commonwealth, most historians point to the monarch as the entity competent in “international” relations, and to the Polish-Lithuanian foreign policy and diplomacy – as a royal prerogative. However, it is emphasised that with the grounding of the free royal election principle and the introduction of the Henrician Articles (1573)<sup>40</sup>, the royal force in foreign policy was reduced, and this process, due to the current political situation and the general weakening of the monarch’s position, progressed throughout the seventeenth century<sup>41</sup>. In the Commonwealth, the control over the monarch in foreign policy was exercised by the Senate council, an advisory body and representation of the estates to the king during the period between *sejms*<sup>42</sup>.

And although – as Henryk Wisner wrote in *Historia dyplomacji Polski* – the monarch remained the supreme figure, he henceforth, could not, or rather: he was not expected to dispatch and receive envoys, declare war and make peace «without hearing the Crown councils of both nations, and without intervening in the matters of *sejm*»<sup>43</sup>. The problem is that the *passus* from the Henrician Articles quoted by the historian seems to have been not only incorrectly interpreted but also even misquoted. Its full wording is as follows:

In the affairs of the Crown, which shall concern our person and our dignity, our envoys dispatched to other lands, the envoys from others to hear, soldiers to be gathered or received, we and our descendants shall not start or progress, without the **advice** of the Crown councils of both nations, not intervening in the matters belonging to the *sejm*. And those legacies that would not concern the Commonwealth and could be progressed according to their time and needs: therefore, these we will always be able to progress, **informing** the senators of the Crown councils who would live with us<sup>44</sup>.

Thus, Wisner clearly equated the quoted fragment to his construct representing the Commonwealth as an autonomous entity in foreign policy. One cannot agree with his thesis, according to which the Henrician Articles «gave the king the initiative [on foreign policy], but the decision was left to the Senate»<sup>45</sup>. Nevertheless, the classical interpretations of Grzybowski and Wójcik are expressed similarly, though less radically<sup>46</sup>. However, could limiting the king’s position in conducting foreign policy through political practice, rather than a legal act, actually imply diminishment of the formal royal

37 Andrzej M. Fredro, *Vir Consilii monitis ethicorum necnon prudentiae civilis praeludente apparatus oratorii copia ad civiliter dicendum instructus* (Leopoli: Typis Collegii S.J., 1730), 422.

38 Wójcik, “Dyplomacja polska”, 309-10.

39 Nahlik, *Narodziny nowożytnej dyplomacji*, 47.

40 Henrician Articles: legal acts formulated during the *interregnum* after the death of Sigismund II Augustus, written during the election of 1573, which contained the most important regulations concerning the exercise of power in the state, and defining the relations between the *sejm* and the monarch. Together with *pactorum conventorum*, they formed the basis of the political system of the early modern Commonwealth. Cf. Dariusz Makiła, *Artykuły henrykowskie (1573–1576): geneza, obowiązywanie, stosowanie: studium historyczno-prawne* (Warszawa: Vizja Press, 2012).

41 Wisner, “Dyplomacja polska”, 115.

42 Urszula Augustyniak, *Wazowie i “królowie rodacy”* (Warszawa: Semper, 1999), 179.

43 Wisner, “Dyplomacja polska”, 115. Cf. “Litterae confirmationis articulorum Henrice Regi antea oblatum”, in VL, II, 150.

44 “Litterae confirmationis articulorum Henrice Regi antea oblatum”, in VL, II, 150-51.

45 Wisner, *Rzeczpospolita Wazów*, II, 236.

46 Grzybowski, “Organizacja służby dyplomatycznej”, 149; Wójcik, “Dyplomacja polska”, 242.



prerogative within *ius legationis*? The fact that the content of the Henrician Articles interfered with the monarch's position regarding the conduct of "international" policy is not disputed. Yet, I would like to show that at least during the seventeenth century, this did not affect the formal subjectivity of the monarch in interstate relations, nor did it disturb his *iuris legationis*.

The Henrician Articles indicated the need to seek the advice of the Senate (for affairs of the Commonwealth) or to inform the Senate council (for royal affairs) in order to take any steps in the field of foreign policy. The confirmation of the restrictions imposed on the monarch in terms of the conduct of foreign policy can be noticed later, in one of the constitutions of the coronation *sejm* of Sigismund III Vasa of 1588. At then, one of the elements of the Henrician Articles was recalled, according to which the monarch had no right «ever to hear, to receive, to dispatch envoys, without informing lords senators especially those at the court»<sup>47</sup>. However, it does not seem likely that, within the letter of these acts, the senators' decisions became formally binding on the king. In this context, however, it should be pointed out that the "advice", Latin *consilium*, in the legal language of the epoch had a much stronger meaning than today. Although the "advice" remained a certain point of view put forward by the said entity, it proved to be binding on the legal practice of the era. The monarch could (and was expected to) accept it, but he was not formally obliged to do so. If he did not follow the "advice", the king had to face the consequences of political nature (e.g. after the Zebrzydowski's Rebellion, the king seemed to pay more attention to the Senate's opinion<sup>48</sup>). Therefore, I agree with Nahlik's statements, according to which «Polish elective Kings **should have** appointed envoys either on the "advice" of the Senate, or after "informing" it, or at least the resident senators»<sup>49</sup>. A similar opinion was expressed by Stefania Ochmann-Staniszevska, who wrote: «according to the Articles, the king committed [...] **to coordinate** foreign policy with the Senate»<sup>50</sup>, as well as by Andrzej Wyczański, when writing that the king «could act independently, but in practice, he **consulted** the so-called Crown council»<sup>51</sup>. Nevertheless, the royal obligation to seek "advice" could not constitute the loss of the royal prerogative in the conduct of foreign policy. At the utmost, the practical application of this prerogative could, to a greater or lesser extent, be impeded by the current political situation<sup>52</sup>.

In this context, it is worth recalling that it was the personal decision of the monarch to convene the Senate council. The senators had the right to express their opinion, but there was no discussion during the council meetings. It was the king who made final decisions after summarising the proceedings<sup>53</sup>. Additionally, until the introduction of the constitution *De reddenda ratione Senatus consultorum* of 1641<sup>54</sup>, the minutes of the Senate councils were not presented in writing and submitted to the *sejm* for discussion, and therefore remained secret. While convening the Senate council, the monarchs also had the opportunity to influence its composition, avoiding unfavourable senators, for example, by postponing the sending of the letters informing about the date of the meeting<sup>55</sup>. Thus,

47 "Konstytucje seymu walnego, koronacyi krolewskiej, roku bożego 1588", in VL, II, 252: «Nigdy pakt y foedera także legacyi słuchania, odprowowania, wysyłania, okrom wiadomości Panow Senatorow, zwłaszcza na dworze będących». Cf. Wisner, *Rzeczpospolita Wazów*, II, 237; Maciej Pieńkowski, *Trudna droga do władzy w Rzeczypospolitej. Sejm koronacyjny Zygmunta III 1587/1588 i sejm pacyfikacyjny 1589 roku* (Warszawa: Wydawnictwo Sejmowe, 2020), 184.

48 Czapliński, "Dyplomacja polska", 209.

49 Nahlik, *Narodziny nowożytnej dyplomacji*, 126.

50 Stefania Ochmann-Staniszevska, *Dynastia Wazów w Polsce* (Warszawa: PWN, 2007), 40. Cf. 48-9.

51 Andrzej Wyczański, *Polska w Europie XVI stulecia* (Poznań: Wydawnictwo Poznańskie, 1999), 114.

52 Especially in the period between Seyms, the monarch was presented with great opportunities for independent conduct of foreign policy Cf. Przyboś and Żelewski, *Dyplomaci*, 31; Ochmann-Staniszevska, *Dynastia Wazów*, 40.

53 Cf. Wójcik, "Organizacja dyplomacji w drugiej połowie XVII w.", in Id., *Polska służba dyplomatyczna*, 265.

54 VL, IV, 6.

55 Cf. Tadeusz Wasilewski, "Litewskie rady senatu w XVII wieku", in *Studia z dziejów Rzeczypospolitej szlacheckiej*, eds. Krystyn Matwijowski and Zbigniew Wójcik (Wrocław: Wydawnictwo Uniwersytetu Wrocławskiego, 1988), 85-94; Jacek Krupa, "Rady Senatu za Jana III Sobieskiego (1674-1696)", *Studia Historyczne*, 35/3 (1992): 307-28; Ochmann-Staniszevska, *Dynastia Wazów*, 48-53; Ead., "Projekty reformy Rady Senatorów Rezydentów w pismach politycznych czasów Jana Kazimierza Wazy", *Czasopismo Prawno-Historyczne*, LX/1 (2008): 203-13; Pawłowska-Kubik, *Rokosz sandomierski*, 412-13.

Grzybowski and Wójcik correctly drew attention to the fact that with the waning position of the king in the Commonwealth (in various fields), over the seventeenth century, the relationship between his prerogative and the real possibilities for conducting autonomous foreign policy was determined by the current personal political influence as well as the personality of the monarch<sup>56</sup>.

In connection with the risk of undermining the royal authority and bearing political consequences in the case when the autonomous decisions of the king were different from «the **advice** of the Crown councils»<sup>57</sup>, a peculiar duality in the conduct of foreign policy developed: the breakdown into the official diplomacy of the Commonwealth and the unofficial royal diplomacy<sup>58</sup>. Apart from the diplomatic projects commenced with the consent and knowledge of the *sejm* and the Senate council, corresponding activities were undertaken on the exclusively royal orders. Another advantage of the monarch was the ability to give additional (and often secret) instructions to the envoys dispatched abroad on behalf of himself and the Commonwealth, as well as oral instructions given during individual meetings with an envoy, which usually preceded the mission<sup>59</sup>. Wisner, however, reduced autonomous royal diplomacy to dynastic policy, presumably contradicting the laws of the Commonwealth. In fact, the Vasas ran their dynastic policy on a large scale to strengthen the position of the young dynasty, stabilise its authority at European courts, and, on the other hand, build the strength of the royal faction in the Commonwealth. However, this did not mean automatically acting to the detriment of the state. The conclusions drawn by Wisner, who, on the other hand, admitted himself that utilitarianism and the drive to achieve immediate goals were the keys to the seventeenth-century Polish-Lithuanian diplomacy, are all the more surprising<sup>60</sup>. It is obvious that the monarch's autonomous diplomatic practice, independent of the *sejm*, proved to be the fastest and most effective way of conducting foreign policy<sup>61</sup>.

In addition to the Senate council, the Royal Chancellery played an important complementary role to the royal prerogative in foreign policy<sup>62</sup>. However, this was not, as it seems, a limiting role, although, again, the Henrician Articles obliged the monarch to use the official seals (Chancellor's or vice-Chancellor's) in diplomatic correspondence instead of the private seal (the so-called "cubicularium seal", used by the royal secretary)<sup>63</sup>. It was the Chancellor and the Vice-Chancellor who were responsible for the organisational aspects of foreign policy and diplomacy in the Commonwealth: editing correspondence, receiving envoys, issuing instructions and listening to reports<sup>64</sup>. The position of the chancellery was further strengthened by the fact that a Chancellor was a lifetime office. Thus individuals seeking political emancipation (e.g. Jan Zamoyski) were able to influence the royal policy. On the other hand, the lack of a formal division of competencies between the Chancellor and the vice-Chancellor<sup>65</sup> significantly weakened the position of these officials in relation to the monarch. The king could use the seal of the one with whom the political cooperation was better at the given moment (e.g. the one he nominated himself) and not the one he "inherited" in the office from his predecessor<sup>66</sup>.

As Wisner emphasised, «invariably, no matter in whose formal name the documents were issued, it

56 Wójcik, "Dyplomacja polska", 244; Grzybowski, "Organizacja służby dyplomatycznej", 145.

57 "Litterae confirmationis articulorum Henrice Regi antea oblatum", in VL, II, 150-51.

58 Przyboś and Żelewski, *Dyplomaci*, 37; Grzybowski, "Organizacja służby dyplomatycznej", 148.

59 Grzybowski, "Organizacja służby dyplomatycznej", 184-85; Wójcik, "Dyplomacja polska", 245; Wisner, *Rzeczpospolita Wazów*, II, 278.

60 Wisner, "Dyplomacja polska", 153.

61 Wójcik, "Organizacja dyplomacji", 260; Id., "Dyplomacja polska", 243.

62 Cf. Przyboś and Żelewski, *Dyplomaci*, 31-2.

63 "Litterae confirmationis articulorum Henrico Regi antea oblatorum", in VL, II, 152. Cf. "Artykuły pactorum conventorum stanów tey Rzeczypospolitey Korony Polskiej, y W.X. Litewskiego y państw do niey należących", in VL, IV, 95; Augustyniak, *Wazowie i "królowie rodacy"*, 47.

64 Nahlik, *Narodziny nowożytnej dyplomacji*, 68; Wisner, "Dyplomacja polska", 125; Wójcik, "Dyplomacja polska", 249.

65 Wójcik, "Dyplomacja polska", 249; Augustyniak, *Historia Polski 1572-1795* (Warszawa: PWN, 2008), 82. Cf. Nahlik, *Narodziny nowożytnej dyplomacji*, 68; Wojciech Krawczuk, *Pieczęcie Zygmunta III Wazy* (Kraków: Uniwersytet Jagielloński, 1993), 3.

66 On the tactics of the Vasas to subdue the Senate council cf. Ochmann-Staniszevska, *Dynastia Wazów*, 51-5.

can be assumed that [their] content was determined by the king<sup>67</sup>. The fact that the monarch did not conduct his foreign policy on his own, and relied largely on trusted ministers is, however, clear, as evidenced by the documents he issued *in blanco*<sup>68</sup>. From a geopolitical perspective, the Lithuanian Chancellery organised the relations of the Commonwealth with Moscow, while relations with Turkey, Crimea, Persia, the papacy, as well as the countries of western Europe, remained in the hands of the Crown sealers. Thus, also empowerments, instructions, letters and documents of all kinds were, or should have been, issued respectively by the Crown or Lithuanian Chancellery, and stamped respectively with the Crown or Lithuanian seal (by the respective Chancellor or Vice-Chancellor)<sup>69</sup>. In the context of the role of the Royal Chancellery in Polish-Lithuanian diplomatic practice, it is important to draw attention to the role of the royal secretaries. From the second half of the fifteenth century, a Great Secretary was appointed to substitute the Chancellors usually absent from the king<sup>70</sup>. This practice continued into the early modern era. The role of the Great Secretary was, therefore, essential. The other secretaries also played an important part being additionally involved in diplomatic activities<sup>71</sup>. It strengthened the position of the monarch because it was him to appoint and take a special oath from them personally<sup>72</sup>.

In some cases, dictated by the intensifying war conditions during the seventeenth century, considerable competencies for foreign policy were also transferred to Hetmans<sup>73</sup>. They referred primarily to the relations with the courts directly involved in the conflicts with the Polish-Lithuanian south-eastern borders: Istanbul, Crimea, Transylvania, Moldova and Wallachia<sup>74</sup>.

Particular to the Polish-Lithuanian diplomacy was the time of the physical absence of the monarch, and therefore, above all, of *interregna*. At that time, the Commonwealth was headed by the Primate, who, however, did not assume the competencies derived from *ius legationis*, but only the functions of the supreme representative. *Interregna* were the only political situations in which *ius legationis* acquired collegial characteristics and was granted to the Commonwealth, or rather to the Senate council, which temporarily replaced the monarch. Wicquefort confirmed such reasoning in his work:

After the death of Sigismund Augustus, the King of Poland, and after the election of the Prince d'Anjou, the Senate of the Commonwealth sent a solemn legation to France, which was recognised as such, and so were the ambassadors treated. One can say that Poland is, in fact, a Commonwealth, because the Senate representing it has the right to dispatch ambassadors; it [the Commonwealth] also bestows its name and powers on the envoys<sup>75</sup>.

The fact that the Senate council temporarily assumed the functions of the central authority of foreign policy during *interregnum* was justified by tradition and, as the only viable solution, was usually met with no opposition. In practice, since the first *interregnum* (1573–1574), one could observe the issuance of all documents of an “international” nature on behalf of the “Crown councils”; only during the activity of the convocation and election *sejms* were they issued on behalf of the “estates”<sup>76</sup>.

67 Wisner, *Rzeczpospolita Wazów*, II, 283.

68 Wisner, *Rzeczpospolita Wazów*, II, 284.

69 Wisner, “Dyplomacja polska”, 125, 129; Id., *Rzeczpospolita Wazów*, II, 279–80.

70 Mirosław Korolko, *Poczet sekretarzy królewskich Zygmunta Augusta (1548–1572)* (Wrocław: Zakład Narodowy im. Ossolińskich, 1986), 145; Augustyniak, *Wazowie i “królowie rodacy”*, 189.

71 Cf. Skowron, *Dyplomaci polscy w Hiszpanii*, 221–22.

72 Grzybowski, “Organizacja służby dyplomatycznej”, 157.

73 Wójcik, “Dyplomacja polska”, 260.

74 Przyboś and Żelewski, *Dyplomaci*, 32–3; Nahlik, *Narodziny nowożytnej dyplomacji*, 69; Wójcik, “Dyplomacja polska”, 251; Czaplinski, “Dyplomacja polska”, 216–17; Wójcik, “Organizacja dyplomacji”, 270. For more general considerations see Przemysław Gawron, *Hetman koronny w systemie ustrojowym Rzeczypospolitej w latach 1581–1646* (Warszawa: Neriton, 2010), 107–13, 356–59.

75 Wicquefort, *Memoires*, 41.

76 Grzybowski, “Organizacja służby dyplomatycznej”, 149.

Finally, a few words about the political practice determining the activities of the Polish-Lithuanian diplomatic service, regardless of the existing constitutional forms. As Nahlik aptly noted, «a specific influence on the *ius legationis* was exerted by the gradual restriction of such rights of the king, progressing throughout the entire elective monarchy's period»<sup>77</sup>. It should be emphasised that this restriction was the result mainly of political practice and not of legal evolution. Throughout the seventeenth century, the royal prerogative to conduct foreign policy remained essentially intact, but the constitutions of the successive *sejms* defined political practice increasingly to the detriment of the monarch. Urszula Augustyniak drew attention to this progressive fragility of the monarch's position, stressing that the king in the Commonwealth had no right to make the most important decisions, for example, to declare an offensive war without the prior consent of the estates<sup>78</sup>. Initially, this was not due to the lack of appropriate monarchical prerogatives, but rather to the overlap in this aspect with personal freedom of the nobility and the mechanisms for convening *levée en masse*. Thus, the monarch was *de facto* deprived of the possibility of making autonomous decisions regarding the offensive war from the onset of elective monarchy. This problem was elaborated on by Ryszard Skowron, who noticed the actual paralysis in the conduct of active foreign policy without the possibility of deploying troops overseas. At the same time, Skowron drew attention to the ways to circumvent this problem, for example, by organising the enlistment of troops for campaigns taking place abroad<sup>79</sup>. Moreover, as Czapliński and Wisner noted, the Polish-Lithuanian state has indeed started several wars in its early modern history, although the *sejm* had never given its consent to any of them (e.g. in 1600, with Michael the Brave, in 1601, with Sweden, in 1609, with Moscow). This was when a given conflict was presented as the defense of one's own lands, not the conquest of others<sup>80</sup>. However, it seems that such policy can only be attributed to the reign of Sigismund III Vasa, as it was finally curtailed by the constitution of the *sejm* of 1613 *O podnoszeniu woien y przyjmowaniu woysk*, which read:

We declare and sign what the old statutes and constitutions of the war state, as we want the following to be the eternal and unshakable law: we and our successors, kings of Poland, if there were a need to start an offensive war, or if a foreseen danger reached the Commonwealth and there were a need to hire mercenaries, or a need to gather *levée en masse*; this would not be done, and, additionally, under no pretext a war would be started, without consulting the *sejmiki* and without the unanimous, overt and explicit agreement of the *sejm* of the Commonwealth; this will be the duty written in the law<sup>81</sup>.

From the formal perspective, the royal *ius legationis* was questioned only during the reign of John III Sobieski. Present in historiography, the thesis about depriving the monarch of *ius legationis* at the *sejm* of 1683, was introduced by Zdzisław Kaczmarczyk and Bolesław Leśnodorski in 1957, and widely repeated thereafter (among others by Przyboś, Żelewski, and Wójcik). According to it, the act was supported by two constitutions of the *sejm* (one limiting the temporary stay of foreign envoys in the Commonwealth, the other forbidding the king to dispatch and receive legations on his own)<sup>82</sup>. Is there indeed any documentary confirmation for such a statement? The aforementioned constitution *O*

77 Nahlik, *Narodziny nowożytnej dyplomacji*, 46.

78 Cf. Augustyniak, *Wazowie i "królowie rodacy"*, 47.

79 Cf. Skowron, "Preliminaria wojskowe z okresu polsko-hispańskich rokowań sojuszniczych w Neapolu (1639–1641)", *Studia i Materiały do Historii Wojskowości*, 42 (2006): 237–38.

80 Czapliński, "Dyplomacja polska", 218–19; Wisner, *Rzeczpospolita Wazów*, II, 249–53.

81 "Konstytucje seymu walnego koronnego w Warszawie roku 1613", in VL, III, 80: «Statuty dawne y konstytucje o wojnie deklarując, postanawiamy y waruiemy, za wieczne y nigdy niewzruszone prawo to chcąc mieć: iż My, y Sukcessorowie nasi Krowie Polscy, gdzieby Nam abo offensivum bellum zacząć przyszło, abo gdyby niebezpieczeństwo iakie na Rzplątą przyszło przez Nas upatrowane, y potrzeba było ludzie służebne przyjmować, a pogotowiu, gdyby pospolite ruszenie uchwalone bydź miało: czynić tego, y prorsus żadney woyny Nullo practextu wszczynać nie mamy, bez proponowania na Seymiki, y bez pozwolenia zgodnego, iawnego, a wyraźnego na Seymie wszech Stanow: a to pod obowiązkiem w prawie wyrażonym». Cf. "Artykuły pactorum conventorum stanow tey Rzeczypospolitey Korony Polskiej, y W.X. Litewskiego y państw do niej należących", in VL, IV, 94–5.

82 Zdzisław Kaczmarczyk and Bolesław Leśnodorski, *Historia państwa i prawa Polski od połowy XV w. do r. 1795* (Warszawa: PWN, 1957), 299. Cf. Przyboś and Żelewski, *Dyplomaci*, 31; Wójcik, "Dyplomacja polska", 242.

*Posłach cudzoziemskich* limited the period of stay of foreign envoys in the Commonwealth to 12 weeks, but *de facto*, it did not come into political practice<sup>83</sup>. The second of the laws mentioned by Kaczmarczyk and Leśnodorski cannot be found in any of the constitutions of the *sejm* of 1683. Therefore, one can speak about a fundamental change in the conduct of the foreign policy of the Commonwealth only with the inauguration of the Wettin rule. Augustus II the Strong circumscribed the royal *ius legationis* in his *pactorum conventorum* of 1697 (although he did not renounce it)<sup>84</sup> and then shifted almost the entire burden of his diplomatic activities related to the Polish-Lithuanian state to Saxon structures<sup>85</sup>.

## SUMMARY

As Nahlik noted, in early modern Europe, two basic concepts have developed around *ius legationis*. According to the first of them (let us call it absolutistic), *ius legationis* was directly connected with the sovereign territorial authority. In line with the second, the prerogatives under *ius legationis* were divided into a number of political entities<sup>86</sup>. The latter concept is, of course, much more relatable to the complex political reality of the early modern Polish-Lithuanian state.

In the seventeenth-century Commonwealth, no specialised bodies for coordinating foreign policy and diplomatic activities were developed. Wójcik writes about the then «decentralisation of government» of the Polish-Lithuanian diplomatic service<sup>87</sup> and this description must be seen as apt. Indeed, in the political practice of the seventeenth century, the Senate council was able to control the foreign policy of the monarch effectively, and the *sejm* took the critical decisions in the field of war and peace, although its role was limited not only by the cadence of assemblies but also by inefficiency and frequent disruption of the proceedings. However, it seems that from the institutional and legal perspective, one cannot speak of the *ius legationis* of the Commonwealth in the seventeenth century. It belonged to the monarch then<sup>88</sup>, although, in practice, he could not fully exercise it.

Based on the above considerations, it is worth asking if the king, by taking autonomous decisions in the field of foreign policy of the Commonwealth, contrary to the opinion of the Senate council (which, in fact, occurred relatively rarely), went beyond his prerogatives. Wójcik stated it was the case, citing the example of the actions of John Casimir Vasa during the Polish-Muscovite negotiations in Durowicze (1664)<sup>89</sup>. Conversely, in the light of this analysis, it seems that from the formal point of view, the king did not exceed his powers at that time but only opposed the generally accepted practice.

As Skowron noted, early modern Polish-Lithuanian diplomatic service had a number of characteristics specific to its functioning, but also a lot of typical features<sup>90</sup>. Among the main differences, one should mention the lack of formal permanent missions (both foreign in the Commonwealth and Polish-Lithuanian ones abroad), the lack of diplomatic service secretariat (which entails research difficulties due to the lack of institutional sources), as well as the legal distinction between the king and the Commonwealth (and, as a result, the “duality of the diplomatic network”). Among the similarities can be identified the ceremonial aspects of the Polish-Lithuanian diplomatic service, a similar system of

83 “Konstytucje seymu walnego ordynaryjnego sześćniedzielnego warszawskiego, roku pańskiego 1683”, in VL, V, 322

84 “Articuli pactorum conventorum, inter status Serenissimae Reipublicae Poloniae, tam sentorij, quam equestris ordinis Regni et Magni Ducati Lithuaniae omniumque ad eadem dominia annexarum, ab una, et Serenissimum Principem Fridericum Augustum”, in VL, VI, 16-7.

85 Jerzy Gierowski, “Dyplomacja polska doby saskiej (1699–1763)”, in Wójcik, *Historia dyplomacji polskiej*, II, 388-89.

86 Nahlik, *Narodziny nowożytnej dyplomacji*, 37.

87 Wójcik, “Dyplomacja polska”, 242, 261.

88 Cf. Augustyniak, *Wazowie i “królowie rodacy”*, 110. Although Wójcik challenged this view, writing that «in the Commonwealth, the center of foreign policy and diplomacy in the second half of the Seventeenth century was the Senate council» (Wójcik, “Organizacja dyplomacji”, 267-68).

89 Wójcik, “Organizacja dyplomacji”, 262-63; Id. “Dyplomacja polska”, 244-45.

90 Skowron, *Dyplomacji polscy w Hiszpanii*, 219.

diplomatic ranks, as well as the general purposes of the foreign policy conducted<sup>91</sup>.

A present-day historian's view of the early modern interstate relations is often too "institutional", while it would require an almost interpersonal approach, as this was also the nature of these relations, dominated by individual actors – rulers, ministers, diplomats, merchants and couriers<sup>92</sup>. In Polish historiography, however, the situation seems to be converse. Thus far, many historians have been preoccupied with a detailed analysis of diplomatic practice and specific activities of the Commonwealth in foreign policy. In contrast, less attention has been paid to the institutional aspects of the functioning of its diplomatic service (with the notable exception of Nahlik), whereas the latter play a fundamental role in the strategies of conducting "international" policy and diplomatic activity<sup>93</sup>. Hence the idea of creating this article, which, I hope, will introduce international readers to this insufficiently understood aspect of the Polish-Lithuanian Commonwealth's history.

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91 Cf. Przyboś and Źelewski, *Dyplomaci*, 59-60.

92 Félicité, "Droit et pratique diplomatique", 143.

93 Cf. Félicité, "Droit et pratique diplomatique", 146.

**ABBREVIATIONS**

AGAD: Archiwum Główne Akt Dawnych w Warszawie.

MK: *Metrika Koronna*.

LL: *Libri Legationum*.

VL: *Volumina Legum: przedruk zbioru praw staraniem XX. Pijarów w Warszawie, od roku 1732 do roku 1782, wydanego, 9 vols. Petersburg: Ohryzki, 1859–1889.*

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AGAD

*Metryka Koronna, Liber Legationum* 30.

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