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## THE CONSTITUTION OF POLISH FREEDOM

History is a realm of cruel ironies. Not long after the idea of republicanism reached full maturity in the First Polish Republic, there was a collapse, and our homeland disappeared from the world map.

The Government Act of 3 May 1791 was ratified in a 'dying moment that has restored us to ourselves', as we read in the *Preamble* to the Constitution. In the turbulent time of the partitions, our ancestors faced the question of their identity. The answer they gave has remained relevant for two hundred and thirty years. In the 21st century, it still defines who we are.

We are neither the East of the West nor the West of the East. Poland lies at the heart of Europe. We don't belong to either the imaginary Eastern Europe of the French philosophers or to the *Mitteleuropa* of the German ministers. We have our own identity that has been evolving for over a thousand years. The authors of the Constitution of 3 May – our own founding fathers – knew this when they combined the original political thought of the Enlightenment with traditions firmly rooted in our political culture for several hundred years.

Democracy is a system of free people, and its history in Poland dates back to the 15th century. As England had its Magna Carta (1215) and the Habeas Corpus Act (1679), Poland had the *Neminem captivabimus* law (1433). These acts granted freedoms that were unheard of anywhere else at the time. Poland is not a 'young democracy' but one of the oldest democracies in modern Europe – it is an older sister, not a daughter, of other European democracies. The First Polish Republic revived the republican traditions born in ancient Rome.

On 3 May 1791, Poland became the cradle of constitutionalism in continental Europe. At the end of the 18th century, it was an island of freedom surrounded by a sea of absolutism. The rough waves of this ideology culminated in the 20th-century totalitarianisms that took a bloody toll. But our political culture has always been estranged from both totalitarianism and absolutism.

If the Polish nation was born at our baptism, it became one in the modern sense on 3 May 1791. The Constitution adopted on that day is not only a legal act and a historical document but also proof of our identity – an identity based on three foundations: law, freedom and Christianity. It is to these values that we wish to subordinate our collective life today and tomorrow.

The Constitution of 3 May not only provided the basis for the later act of independence but also for the Solidarity movement. A Pole is, above all, a free human being. Even when our ancestors lost their outer liberty, their inner freedom remained. This was true under the Partitions and later when the ominous shadow of the Iron Curtain fell on our homeland. A sense of our identity as Poles, and therefore also as Europeans, meant that the concept of *homo sovieticus* has always been alien to the overwhelming majority of Polish people.

In Polish history, 1791 was *an annus mirabilis*, a miraculous year that started a ‘legal revolution’ only possible in our homeland. It was not a bloody political coup, civil war or regicide but a revolution brought about by the Sejm. We can be proud of our history. It is not just a story of the distant past but a moral obligation we must honour until the end of time.

While strengthening the foundations of the state and the law, the Constitution of 3 May also protected individual liberty. It clearly distinguished between freedom and lawlessness or anarchy that the *liberum veto* symbolised in the last century of the First Republic. Only a strong state can ensure its citizens are free. And thus, there is no liberty where there is no responsibility for one’s own country.

The Government Act of 3 May divided public power into the legislative, executive and judicial bodies. The concept of the tripartite separation of powers – postulated by Charles Montesquieu and John Locke – was supplemented by the authors of the Constitution with the principle of the nation’s sovereignty, which states that “all authority in human society takes its origin in the will of the people.” An authority that does not serve its nation loses legitimacy. This applies to the legislative, executive and judiciary power alike. History taught us this important lesson.

Although the Constitution of 3 May did not abolish serfdom, it did pave the way for the emancipation of the people. One of its articles refers to farmers as “peasants” rather than “serfs”. It also guarantees that every man “as soon as he set foot upon Polish soil is completely free to use his industry as and where he will.” This was a turning point in our history. Until then, the nation had been synonymous with the nobility. At the end of the 18th century, Polish identity was redefined. Anyone who loved Poland and was ready to tie their life to it could become a Pole, regardless of social or ethnic background. This is why Polish patriotism has nothing in common with German nationalism, which took its most monstrous shape in the Third Reich.

Furthermore, the Constitution of 3 May confirmed the freedom of religion enjoyed by the First Republic citizens. By the late sixteenth century, Poland was a haven of religious freedom in Europe. Democracy is precious because it is the only system in which a person is a citizen and not a subject. Let us remember that the idea of human dignity and freedom comes from the Christian roots of our civilisation. We must not forget the values given to us in the Gospel. Otherwise, words like ‘democracy’ and ‘constitution’ will lose meaning and become but empty slogans with faux defenders. Polish founding fathers teach us about that too.

Not long after the Constitution had been adopted, our history lost its continuity, and Poland ceased to exist. One of the maxims echoing across Warsaw on the eve of the glorious 3 May

revolution said: “If nobility is the nation’s happiness, let the whole nation be ennobled.” These words expressed the bold dream of universal suffrage that societies around the world were to fight for in the 19th and 20th centuries. Poland was in the vanguard of freedom. However, the growing absolutist powers in the East and West abruptly shattered this Polish dream.

24 February last year reminded us that freedom is not given once and for all. “The price of Liberty is eternal vigilance,” as is reported to have been said by Thomas Jefferson, one of the founding fathers of the United States. The war beyond our homeland’s eastern border is not only about our freedom but also our identity, about whether we will still be Poles in the next two hundred and thirty or even a thousand years.

The fate of the Constitution of 3 May offers us yet another lesson. Only a nation-state, not a supra-state federation, can be a reliable guarantor of its citizens’ liberty. When Poland disappeared from the map, we lost our freedom and did not regain it until we restored our independence. What would Europe be without the nations that constitute it? Europe can only exist if its peoples prevail. It is as a community of nation-states, united and respectful of each other’s differences, that the European Union will retain the political and moral strength to confront the imperialism of Russia and its ‘red tsars’. And there are more challenges ahead. The balance of global powers may shift before our eyes. In such turbulent times, it is all the more important that we shape our future mindfully and responsibly.

We must never forget the legacy of the Constitution of 3 May.

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