

'National Belonging' in Legal and Diplomatic Formulas: The Pole's Card as a Legacy of Poland's Colonial History

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Abstract: *The article explores the sources of the idea of nation as it is encoded in the legislative framework of the Pole's Card and its implications for the processes of identity-making taking place beyond the eastern borders of the Polish state. Given the problems with defining the role of the historical Polish diaspora in the East, the question of the conceptualization of national belonging is significant and has practical consequences at the macro-, meso- and micro-levels. The argument of the paper is twofold: (1) On the one hand, the document of the Pole's Card reflects a specific inclusive—"cultural"—conception of the nation. In this conception, which is forged by the Polish policymakers, the conditions whereby the national belonging can be achieved are widely conceived. (2) On the other hand, the administrative decision-making process and the diplomatic practice of granting the Card prioritizes and executes the exclusive conception of the nation with its limited ethnic, religious (Roman Catholic) and linguistic background. This way, the document of the Pole's Card becomes a legal device for establishing new social distinctions in societies of Poland's eastern neighbours. By discussing this case on the ground, this paper hopes to demonstrate the ways in which the new creative notions of the nationhood are forged in Poland.*

Keywords: *historicity, identity-making, legal discourses, nationhood, postcolonial critique*

1. Introduction

Identity-making processes in contemporary Eastern and Central Europe are a product of its unique historicity. However, this historicity is often obscured or contested. This is not surprising, since the local researchers and practitioners involved in reading local history are themselves products of their own particular historicities. This article explores the sources of the idea of nation as it is encoded in the Polish legislative framework and its implications for the processes of identity-making that take place beyond the eastern borders of the Polish state. For the reasons stated above, the definition of the role of the historical Polish diaspora in the East presents problems for both professional historians and policymakers, therefore the question of the conceptualization of national belonging is significant and has practical consequences at the macro-, meso- and micro-levels. This article offers a fresh look at Poland's own colonial history and its legacies by investigating the conflicting conceptions of the nationhood embedded in the contemporary legislative order and in the administrative decision-making process.

Karta Polaka, a type of an "ethnic Pole ID" (literally, *Pole's Card*, but also translated as *Polish Charter*, *Polish Card* or *Card of the Pole*; I will refer to it also as *the Card*) is my primary example in this text.¹ The document came into being as a result of the historical trauma Poland experienced after the loss of the territories located in the East. It is addressed to the Polish diaspora in the East. *The East* in the Polish collective imagination is primarily attributed to the area known as *Former Polish Kresy Wschodnie*. The notion of *Kresy*² signifies lands currently owned by Lithuania, Belarus, Ukraine, and the eastern part of Latvia's Latgale region, which is known as the former *Polish Livonia (Inflanty Polskie)*. At the outbreak of the Second World War (1939–1945), Polish communities inhabiting those lands began to leave. As a result of political changes after the end of the war the pace and scale of evacuation from the East increased sharply. The new shape of Poland, and in particular the nearly 200 km shift of its borders westward (compared to the previous geographical location), forced

¹ Elsewhere (Ładykowski, 2014; 2015) I have had the opportunity to discuss the Card's historical background in relation to similar processes in other countries of the region as well as its role in maintaining Poland's colonial/imperial policy towards the eastern neighbours. Here I focus on the legal discourse.

² The term *Kresy Wschodnie*, literally meaning Eastern Borderlands, is an ideological formulation and as such it begs the original orthography, not a translation. The notion of *Kresy*, to a certain extent, corresponds to the notion of 'borderland' but it should not be treated as an analytical category.

the part of the nation to migrate and leave their homes in the East. After 1945, the territories of the former Polish Kresy became integral part of three Soviet republics: Lithuanian, Belarusian and Ukrainian. In the years 1955–1959, there was another wave of migrations from the USSR as part of a process called *repatriation*. Nonetheless, part of the Polish diaspora decided to stay in their homes, under new state administration. These communities are usually described in historical and political discourse as the Polish diaspora in the East. However, the semantic content of this notion varies, as I will demonstrate further in the text.

The Pole's Card is a type of a document which is supposed to 'confirm'—as the legislator put it—one's belonging to the Polish nation. This document may be granted to a person who does not have Polish citizenship but declares that he or she is a member of the Polish nation and fulfills the conditions set out in the Act of 7 September 2007 on the Pole's Card (*Dziennik Ustaw*, 2007, item 1280).³ The Preamble to the Act defines the motives for the creation of the document and addressees of the Card in the following way:

[the Act was created in order to fulfill] *a moral obligation towards Poles in the East who lost their Polish citizenship due to the changing fates of our Homeland, meeting the expectations of those who have never been Polish citizens but because of their sense of belonging they wish to gain a confirmation of belonging to the Polish Nation, in order to strengthen the ties connecting Poles in the East with the Motherland and support their efforts to preserve the Polish language and to cultivate national tradition.*

³ The first project of the bill was debated in 1999 (under the title 'Project of the Act on the Pole's Card and the mode of certification of the belonging to the Polish Nation of the persons of Polish nationality or of Polish descent'). It was accompanied by a series of projects of acts on Polish citizenship and repatriation. The projects enjoyed support from both the conservative (*Akcja Wyborcza Solidarność*) and left-wing (*Sojusz Lewicy Demokratycznej*) parties (Kakareko, 2008). In 2001, the project was amended and the legislative works continued, however not entirely without critique (Kakareko, 2008). Finally, in 2007 the bill was adopted by the Sejm and then signed by the President of the Republic of Poland, Lech Kaczyński, as the Act of 7 September on the Pole's Card (*Dziennik Ustaw*, 2007, item 1280). During the voting procedure, 428 of MPs voted in favour of the bill, three MPs (representing the left-wing SLD) opposed, none abstained. Out of the total number of 460 of members of parliament, 29 were absent. Officially the document came into force on March 29, 2008. Since 2015, the Act has been amended several times in connection with the extension of its scope to foreigners and repatriated persons from the East (the last amendment took place on 31 July 2017, with the Announcement of the Speaker of the Sejm of the Republic of Poland "regarding the publication of a uniform text of the Act on the Pole's Card" (*Dziennik Ustaw*, 2007, item 1459)).

Thus, politicians and legislators working on the document stressed that it is the form of fulfilling a moral obligation resting on the state of Poland towards the fellow countrymen who had found themselves outside the borders of their country due to the changing fate of Polish history. According to the Constitution, this moral obligation should be expressed by the readiness of the state to help all Polish people living abroad to preserve their contact with the national cultural heritage (Art. 6, p. 2 of the Constitution reads as follows: "The Republic of Poland shall provide assistance to Poles living abroad to maintain their links with the national cultural heritage"). While the Constitution does not differentiate between groups of Poles inhabiting various countries (former USSR, Western Europe, both of Americas, etc.), the Preamble to the Act specifically mentions the "Poles in the East".⁴ Those living on the territory of the former Soviet Union were discerned as especially entitled to receive help, as they had experienced the greatest suffering and still remain an underprivileged group due to historical, legal and financial reasons. Thus, the Pole's Card was originally supposed to be a form of repayment of the aforementioned obligation owing to the fact that it would, on the one hand, be a kind of a certificate confirming adherence to the Polish nation, and on the other, it would grant its owner certain privileges.

To obtain the Card, as the Act states, one must prove one's relationship with Polishness by showing at least a basic knowledge of the Polish language, which one declares as the mother tongue. Also, one should demonstrate familiarity with Polish traditions and customs which one is supposed to actively cultivate. The proof must be also provided that at least one of the parents or grandparents or two great-grandparents were Polish or had Polish citizenship. In the absence of the possibility of presenting these types of documents, the legislator allows another solution. Polish or Polish diaspora organizations active in one of the countries listed in the provisions of the Card may issue the necessary certificate confirming involvement in activities for the benefit of Polish language and culture or Polish minority for at least the last three years.⁵

⁴ In Art. 2.2, which follows the Preamble, the addressees of the Act are discerned in a more precise way: "The Pole's Card may be granted exclusively to a person who, at the day of submitting the Pole's Card application, is a citizen of one of the following states: Republic of Armenia, Republic of Azerbaijan, Republic of Belarus, Republic of Estonia, Georgia, Republic of Kazakhstan, Republic of Kyrgyzstan, Republic of Lithuania, Republic of Latvia, Republic of Moldova, Russian Federation, Republic of Tajikistan, Turkmenistan, Ukraine of Republic of Uzbekistan or who is granted a status of a stateless person in one of those states."

⁵ The document proves to be rather attractive, but not in all regions. In the period 2008–2018 the Card was granted to 222,000 persons (Zawadka, 2017). Out of this number, 75,000 of holders of the Card come from Belarus (Uładzimirawa, 2017), and 101,937 are the citizens of Ukraine (*Wschodnik.pl*, 2018). Moreover, 6,000 Cards

Legislators involved in the process of establishing this document referred to the specific—ethno-cultural—notion of the nation, and eventually forged a new concept of it. Pole's Card serves as an example of the political interpretation of ethnicity. At the same time, it operates as a legally sanctioned certificate of "Polishness". It is a pass to the rights reserved for "the own people"; it implicitly redefines the frames of both the particular ethnicity and state belonging; to some extent it reframes *citizenship*.

The process of legislating of the Act on the Pole's Card brought the issues of national belonging and the notion of the "Polish nation" to the focus of attention. However, while these questions did raise an expert discussion they did not become the subject of public debate since the clash of definitional positions occurred only at the legislative level. This fact has serious implications for the transparency of public life and the degree of social control over the law dealt with in central institutions; also, for maintaining social consensus on the content important for the common interest and the state of civic awareness. The discussion on the topic was held only within the parliamentary walls, in one of the numerous parliamentary commissions. This location—although logical due to the place itself, where the law is being created and passed—in effect, however, deepened the niche status of quite a significant debate about national imponderables and identity. At the same time, this location exposed the hidden tendency of the authorities to monopolize the right to influence the vision of the national community and to impose it not only to its own society but also the neighbourly ones. One must not overlook the fact that the political force behind the process of passing the law and defining the shape of national community refers to a specific, exclusive national formula⁶ in its program announcements. This formula comes down to a rigid and unchangeable constellation of components:

were granted to citizens of Russia, 3,000 to citizens of Kazakhstan, 1,700 to citizens of Moldavia, 605—Uzbekistan, 132—Azerbaijan, 95—Armenia, 65—Turkmenistan. In Lithuania, where 200,317 persons declared Polish nationality according to the 2011 census, 6,500 applications were registered by the Ministry of Foreign Affairs (Mokrzecka, 2016).

⁶ The ideology of the Law and Justice (*Prawo i Sprawiedliwość*, abbrev. PiS) party is a combination of social and national conservatism. In the manifesto 'Report on the State of the Republic' of 2011, the most important state goals and Polish state interests were defined. The role of the state is to carry out the project of the nation understood as "a real community connected by the bonds of language and, more broadly, of the entire semiotic system, culture, historical fate, solidarity". The state "should play an active role in processes pertaining to the continued existence of the community, its restoration in subsequent generations, internal integration, but also in relation to the needs of the individual and the family, especially in terms of the institutions and the broadly understood infrastructure serving them" (Report on the State of the Republic, 2011, pp. 6–7).

ethnic (a Pole, user of literary Polish language), religious (a Roman Catholic) and cultural (knowledge of the Polish state history, literature and tradition).⁷ An important reason for shifting the debate from public space into an expert space was that the passed law did not affect—as it seemed at that time—Polish citizens living within the borders of Poland. It was addressed to the representatives of Polish diaspora residing in the East, formally the citizens of other countries.⁸

⁷ This formula, and especially the role of one standardized language in defining the boundaries of the national community, belongs to the part of a series of debates about the concept of the state, held from the turn of the 18th and 19th centuries within European societies. It was the time when the ancestral empires transformed into nation-states and a new formula integrating society was sought for. In the emerging nationalistic programs at the time, a short catalogue of dogmas was formulated, which has been present in thinking about the state and the national community until today. It claims that the nation-state is based on a collective defined in terms of ethnic identity, common language, religion, territory and common historical memory (Hobsbawm, 2010, p. 29). However, the primacy of one language (in the Polish context it is the so-called Polish literary language) is a direct result of historical traumatic experiences of administrative fragmentation or even annihilation. The consequence of choosing one dominant language as a national language is depreciation of its dialectal and regional varieties, as well as minority languages, which, among others are sometimes denied the right to existence by law (see the case of Silesians in Poland).

⁸ The Pole's Card has stirred up a commotion outside of Poland. In Lithuania, in years 2009, 2011 and 2013, a number of Lithuanian MPs made an attempt to introduce a statutory ban for Lithuanian citizens to apply for the Pole's Card (*PolskieRadio.pl*, 2013). The introduction of the Card is viewed in Lithuania as an endeavor to revisit the state borders (Baranauskas, 2008). On 17 August 2009, the daily newspaper *Rzeczpospolita* published a news piece entitled 'Lithuanians hostile towards the Pole's Card': "Every fourth inhabitant of Lithuania thinks that the Pole's Card and the Russian Card indicate making commitments to foreign countries and that they stand in opposition to the obligations resulting from the citizenship of the Republic of Lithuania". This opinion was taken from the analysis of the survey conducted by RAIT for the BNS Press Agency. The survey claims that "about 26 per cent of the respondents agreed with the statement that the Pole's Card and the Russian Card are equal in commitments to a foreign country. Eight per cent chose the answer 'I fully agree', and 18 per cent voted 'I agree'. At the same time, about 24 per cent of the respondents agreed with the opinion that the Pole's Card and the Russian Card are contradictory in the obligations resulting from Lithuanian citizenship. Seven per cent 'fully agreed', 17 per cent chose the answer 'I agree'". The survey itself "was conducted from 16 to 24 June among 1,009 people aged 15 to 74" (Kościński, 2009). According to Piotr Kościński, author of 'Is Poland going to take over Kresy?', published on 17 September 2009 by the Polish national daily newspaper *Rzeczpospolita*, also Belarusian media are concerned with regard to the Pole's Card. Belarusian newspaper *Zwjazda* (published in collaboration with Belarusian government and the Parliament) gives vent to concerns. The newspaper claims that Warsaw wishes to join western Belarus and Ukraine with Poland. The Pole's Card is supposed to be an instrument to fulfill this aim. In the article 'Pole's Card: who is silent and who is shouting' published on 15 August, the Belarusian author refers to the critical assessment of the card presented by the Lithuanian right-wing politicians. For

However, the former Kresy Wschodnie and their inhabitants (*Polacy Kresowi* or Poles of the Kresy⁹) remain an important, even essential component of the Polish national imaginary. The fact that the Kresy occupy a central position in the catalog of Polish community symbols and at the same time are located on the territory of other states, now sovereign but formerly dependent on Poland, is confusing for the Polish society,¹⁰ its contemporary scientific¹¹ and political

instance, a Christian democratic Lithuanian MP Ginteras Songalia and “experts” are widely cited by the author of the article. In addition, he urges that the document is a Polish “mini-quasi-citizenship”, and it is binding to its holder to be loyal to the Polish country. He also claims that Ukrainians are also very concerned about the Pole’s Card because “until 1939 in practical terms all indigenous inhabitants of western Ukraine were citizens of Poland”, and soon it is possible that an “enclave will be created” where the interests of its inhabitants “will be directed to a greater extent towards Poland rather than Ukraine”. All this is supposedly aimed at joining the western regions of Belarus and Ukraine with Poland. “There are certain forces massively represented in the Polish community that would like Poland to be as great as it was when its borders spread from the sea to the sea or, if not that far, then at least having the borders it did before 1939. Of course, speaking of changing the borders by military force in contemporary Europe is unreal, however it is possible to tear off a piece of land from the sovereign country by means of pseudo-legitimization, as the example of Kosovo showed. For example, by conducting a referendum,” the author of *Zwjazda* claimed. Suggestions that Poland would like to separate western Ukraine are not new. In February, *Zaria*, a newspaper published in Brest, claimed that “Poland is still interested in territories on the east of its borders”. The newspaper further reports that a long-term program of Polonization of these territories is being carried out. Supposedly, this was the aim behind the introduction of the Pole’s Card. The aim is the same as described in *Zwjazda*: to force the people inhabiting the districts bordering with Poland recognize themselves as Polish and (in a longer term) to demand to be unified with their historical country.

⁹ I employ the notion of *Polacy Kresowi* (lit. Poles of the Kresy) only for describing the people admitting Polish national identity and living in Latvia, Lithuania, Belarus and Ukraine today, that is the Polish diaspora in the East. The notion of *Kresowiaczy* (lit. Poles from the Kresy), on the other hand, I employ exclusively for describing the Polish population that derives their roots from the former Polish Eastern Kresy and which currently lives beyond this territory, e.g., in Poland, that is the descendants of those who fled from Kresy after the war.

¹⁰ This is a topic for a broader discussion, but it is worth paying attention to the studies of ethnologist Iwona Kabzińska (2009). They show that Poles from Poland perceive the Poles of Kresy as “inadequate”, often on the basis of language, and deny them a place in the national community by directly orientalizing them, i.e. by contemptuously describing them as “*ruski*” or “*katsap*” (i.e. Russians), and not as Poles.

¹¹ This is an extremely interesting issue, but it goes beyond the scope of the present study. I only strive to point out that the academic community should also be held responsible for preserving the ambivalent image of Poles of the Kresy (*Polacy Kresowi*), see, e.g., the study of sociologist Ewa Nowicka (2000), or Mariusz Kowalski (2015). This scholarship divides Poles in the East into two groups: patriots and pragmatics. Needless to say, such efforts from the scientific authority have far-reaching implications for both the general public and political decision-makers.

elites, state authorities and its officials, whose attitudes towards Kresy often remain highly ambivalent. In accordance with the ambivalent symbolic position of the Kresy, the attitudes of all the actors mentioned above oscillate between the compensatory desire of “moral compensation” and depreciating orientalizing. All these problems became clearly visible during the process of adopting of the Act on the Pole's Card. This process has become an attempt to codify a newly defined notion of the Polish identity and to impose it on the national community as a legal norm; at the same time the category of citizenship has been ignored. The creators appealed to the moral obligations of the Polish state towards the diaspora. However, social practice, as well as diplomatic practice, i.e. the way of verifying the degree of Polishness of the diasporic population, reveals that the semantic field of this term in the collective understanding is different from the one to which the creators' intentions had referred. This situation demonstrates incoherence of the semantic construction of the “Polish nation”, as codified in the Pole's Card document. The document itself is thereby burdened with the suspicion of being a constitutional tort,¹² simultaneously in several areas. In the further part of the text I will focus on the ambiguous history of defining the concept of the “Polish nation”.

¹² In the process of defining the addressee of the Card the decision makers employed the criterion of the so-called “greater harm”. However, many Polish diaspora groups considered the criterion morally wrong because in fact it contributed to a segregation of these communities into better and worse. The legal opinion of Prof. Jan Morawiński contained reservations and doubts of a constitutional nature, applied to the selection of Poles “according to objective criteria”. He commented that

it seems that Poles living in some countries of Africa or South America are also in a difficult situation. The rationale for the project does not contain more detailed information, for what reasons the rights resulting from the Card are to cover only a part of a larger community, which is important for the assessment of the behavior of the constitutional principle of equality. Perhaps the separation of a certain group of Poles living abroad is in fact objective, based on a legally relevant criterion, but based on the justification presented, it is impossible to resolve this. Due to the lack of diversification of the constitutional basis for granting Polish diaspora assistance due to its place of residence in the present form, the general concept implemented by the project raises serious constitutional doubts. (Morawiński, 2007, pp. 176–180)

2. At the source of modern definitions of Polishness: between the French and German models

The source of the complex of problems contained in the provisions of the Card and the practice of their enforcement is the model of Polishness implicitly embedded in this document. Understanding it requires a look at the traditions from which it is derived. The contemporary model of Polishness, promoted by the Polish state, has its roots in at least two¹³ other models: French and German. The French model, originating from the French Revolution and the ideas of the Enlightenment, emerged in response to the need to strengthen the sense of belonging to a politically defined nation. It was the dwelling in the territory of the state as well as acquisition of French language which “was the condition for obtaining full French citizenship (and thus nationality)” (Hobsbawm, 2010, p. 30). Importantly, in the French model, ethnic diversity, which is often associated with different language traditions, did not exclude the possibility of joining the French community. Rafał Smoczyński and Tomasz Zarycki (2017, p. 227) attribute the success of this process to the French state’s ability to implement what they call ‘the mechanism of cultural nationalization’ of the population living in the territory of the state. It referred to the Roman idea of the ability of the state to transform the inhabitants (especially peasants and immigrants) into citizens. The French language has not since been synonymous with French ethnicity but French citizenship (state nationality).¹⁴ Thus, the French imagine themselves as the nation thanks to the administrative activities of the state. Such a construction puts the French notion of the nation in the tradition of *jus soli*

¹³ I confine myself here primarily to the two models mentioned above, although I am aware that these issues can be extended to the British and American models (Smoczyński & Zarycki, 2017) as well as the Russian model (Dovbilov, 2010; Głębocki, 2006; Walicki, 2009).

¹⁴ The choice of the language of nationwide communication played an important role, which is also indicated by Eric Hobsbawm, a British historian and social theorist from Austria. In the political strategy adopted by the French state, it turned out that the choice between a local dialect (used so far almost exclusively by a minority, and only in speech) and another “significant” language is of no importance. Of course, *given that the dialect which forms the basis of a national language is actually spoken, it does not matter that those who speak it are a minority, so long as it is a minority of sufficient political weight. In this sense French was essential to the concept of France, even though in 1789 50% of Frenchmen did not speak it at all, only 12–13% spoke it ‘correctly’—and indeed outside a central region it was not usually habitually spoken even in the area of the langue d’oui, except in towns, and then not always in their suburbs. In northern and southern France virtually nobody talked French.* (Hobsbawm, 2010, p. 68)

(right of soil), which derives national belonging in a civic form from the place (territory) of birth.

In the German model, a nation emerges despite administrative fragmentation: there is no single German state organism. The German concept of the nation was neither politicized nor in any way linked to the abstract concept of citizenship. In contrast to the French model, the German people were not conceived as a reservoir of universal political values, but as an indissoluble cultural, linguistic and ethnic community.¹⁵ In this sense, the nation is understood as an ethno-cultural unity which finds its expression in a political unity. Such a conceptualization is enabled by a principle of *jus sanguinis* (right of blood)—the law that allows deriving the origin from the inheritance of blood. However, this is not an exclusive rule, because *jus soli*, the right of soil, also applies in German legislation. The combination of those two rules contributes to the explosion of tensions connected to the discourses and practices of identity-making. Looking at these situations can be instructive because similar situations occur in Poland in connection with the practice of granting the Card. There are more similarities, however, because the identity-making processes taking place in the diaspora and in the Motherland are structurally resembling the identity-making processes taking place in many of the German state organisms that had been functioning simultaneously. The multitude of those states influenced the development of competing (at various stages) models of German identity.

A modern ethno-cultural concept of German identity appeared at the turn of the 18th and 19th centuries. It was the result of special political and geographical conditions prevailing in Central Europe. German-speaking communities inhabited individual territories of Europe yet together with communities of other language and culture, which impeded the ability to distinguish them as individual communities. This situation inhibited the establishment of a national German state on the basis solely of the ethno-cultural conception nation.

Solutions to the problem of national unification that emerged, such as the Prussian (*kleindeutsch*) and Austrian (*grossdeutsch*) concept did not bring a perfect conclusion. In such a state model, either some ethnic Germans had to be excluded, or non-Germans included in the society. The concept of citizenship emerging from this context would have to take into account either *jus soli* or *jus sanguinis*. Reflections on the appropriate model were present in the political programmes of 1848, as well as during the later Bismarck rule. These ideas were

¹⁵ That is, as it was then perceived, “racial”. It is worth emphasizing that the contemporary understanding of the concept of “race” as a cultural construct requires the use of (double) quotations marks.

also present in the Reich. Although, after 1914, the state was already largely consolidated, there were still tensions between both (state and ethno-cultural) clashing components of the German national tradition. Ultimately, contrary to declarations, *reichsnational* (state) notion of identity did not completely replace the *volksnational* (ethno-cultural) one. Although it may seem that the principle of *jus sanguinis* had dominated the rule of *jus soli*, however, ultimately a kind of compromise was reached in the legislation.

3. The Pole's Card—in the circle of ideas

The need to create the Pole's Card document was influenced by the sense of undeserved harm resulting from the "loss of the East". This sense is so deeply embedded in Polish collective memory that it obscures possible alternative interpretations of this act. The creators of the Card appealed to this feeling, by saying that they act out of a moral obligation towards compatriots who did not remain in the East by their will. However, the legislators interpreted the category of the East very broadly in this case. In the document they referred to the entire area of the former Soviet Union, and thus extended the concept—originally covering only the Kresy—by the territory of the largest country in the world. The reason behind this semantic shift is Polish historical trauma. It includes a series of spectacular defeats of anti-Russian Polish uprisings (1830, 1863)¹⁶, which resulted in forced resettlements of the Polish insurgents and their families to Russian Siberia. Equally important were the effects of the events that took place one century later, namely the liquidation of the Polish

¹⁶ Both of the uprisings broke out in reaction to the Russian project of assimilation of Poles ("expatriation", or *wynaradawianie* in the Polish historical discourse), and the historical memory of these events animates the Polish national imaginary. The November Uprising (November 29, 1830 – October 10, 1831) covered the entire territory of the Kingdom of Poland at that time and part of the so-called Taken (or Stolen) Lands, i.e. Lithuania, Samogitia and Volhynia. As a result of the fall of the uprising, over 11,000 people left the country and went into exile in the so-called Great Emigration to Western Europe. As part of repression (among other measures) the status of the Kingdom of Poland's autonomy within the Russian Empire was significantly reduced and Polish institutions began to be subjected to significant Russian influences (so-called "Russification"). More than 30 years later (January 22, 1863) another anti-Russian uprising broke out, recorded in the Polish tradition under the name of the January Uprising. It covered the area of combat similar to the November Uprising. It ended with the defeat of insurgents, several dozen thousands of whom were killed in fights, nearly 1,000 executed, about 38,000 sentenced to exile to Siberia, and about 10,000 managed to emigrate to Western Europe. In response, both Poland and Lithuania were submitted to a severely repressive policy of Russification.

autonomous regions in the Soviet Ukraine (Marchlewszczyzna¹⁷) and Soviet Belarus (Dzierżyńszczyzna¹⁸). The dissolution of Polish autonomy structures in the USSR resulted in the deportation of their inhabitants, that is, Soviet citizens of Polish descent, into the Kazakh steppes (1938). The provision expanding the area of influence of the Pole's Card over the former USSR was included mainly in reference to the descendants of these Polish deportees. The rationale for this move is the "compensatory" nature of the Card because contemporary Polish state attempts to symbolically restore the dignity of post-exile diaspora. One must not overlook the fact that the Polish-Russian dispute over historical memory plays out on many fields and maintains the conflicts in persistence.¹⁹ In relation to this, "Polish" holders of the Card in Russia, as the grandsons of the exiles, acquire a high symbolic status thanks to the "genetic" participation

¹⁷ *Marchlewszczyzna* is a popular name of the Julian Marchlewski Polish National District (Ukr. *Польський національний район імені Юліана Мархлевського*)—the autonomous administrative unit established in the Volhynia region on the territory of the Ukrainian Socialist Soviet Republic in 1925, on the initiative of Polish Communists inhabiting the USSR. The region was inhabited by a very populous Polish community. It consisted of more than 60% of all Polish people living in the USSR. At that time the Polish living in Ukraine only accounted for about 1.6% of the population, while in some districts (especially the western ones) the Polish population reached up to 10%. Dovbysh (Ukr. *Довбиш*), renamed Marchlewsk in 1926, became the capital of the autonomous region. In 1930, a number of neighbouring villages inhabited by Polish were added to the region, enlarging its territory by almost one-fourths. The population of the region was about 52,000, with the Polish constituting 70%. Other majorities were Ukrainians (about 20%), Germans (about 7%) and Jews (about 3%). There were 55 Polish schools, over 80 reading rooms, regular Polish newspapers were circulated, and books in Polish were published. In 1935, the highest Soviet authorities decided to dissolve Marchlewszczyzna, shortly after which the Polish intelligentsia living in the region and its political elite were subjected to repressions. Within several years, over 10,000 people, mostly Polish, were deported to Siberia and Kazakhstan. The region of former Marchlewszczyzna was divided into five neighbouring Ukrainian regions and the former capital city Marchlewsk was renamed Szczorsk in 1939. In 1946, the name was changed back to its original name—Dovbysh.

¹⁸ *Dzierżyńszczyzna* is the popular name of the Feliks Dzierżyński Polish National District (Bel. *Польскі Аўтаномны Раён імя Дзяржынскага*), an autonomous administrative unit established in the Minsk district on the territory of the Belarusian Soviet Socialist Republic in 1932. At the time of the district's autonomy, it was the cultural-linguistic centre of the Polish diaspora in the region. Polish schools and reading rooms were active in the district, and Polish newspapers and books were published. However, as soon as in 1938, a decision about dissolving Polish autonomous units in the USSR was made in Moscow, bringing about more large-scale activities of closing Polish educational and cultural centres and deporting Polish people from the whole territory of the Belarusian SSR to Siberia and Kazakhstan.

¹⁹ More on the difficult Polish-Russian dialogue the reader will find in Kabzińska, 2013, pp. 53–73.

in the glory of the stout-hearted national heroes. This is a continuation and a consequence of the Polish-Russian bipolar relations: the Russian imperial colonizer versus the Polish colonial victim,²⁰ which is logical within the tasks set out by the Act on the Pole's Card. After all, it gives the holders of this document a moral reward. However, a thorough analysis of the causes and ideas that were behind the creation of the Card suggests that the issues of the Polish diaspora in Russia are marginal. After all, the primary beneficiaries of this document were supposed to be citizens who declared the Polish origin and lived in neighbouring countries bordering Poland directly from the East. However, the "East" is not a geographical category in this case: it is understood in Polish tradition as an area of former Polish domination, a multidimensional, supra-geographical and over-political quasi-subject of contemporary Polish historical policy, the Orient in Edward Wadie Said's (2009) understanding. This is reflected in the fact that the concept of the East is limited not only to such countries as Belarus or Ukraine, whose geographical location, i.e. the direct adjacency to eastern Poland, cannot be disputed, but also concerns such independent countries as Lithuania, Latvia or even Moldova,²¹ which are located north and south of Poland. The Polish "East", extending far beyond the current borders of Poland, is governed directly by the still vivid memory of historical events. It must be pointed out that the lands and nations that belong to the space historically constituting the Orient of the former Republic are also the area to which Russia (USSR in 1918–1990) has been expressing claims and tried to impose laws for a long time. The former Eastern Kresy are an area occupying a special position on the mental map of the collective memory of Poles. At the same time, it is rarely noticed in Poland that the Kresy play presently an analogical role for Poland that the lost overseas colonial territories do for Western Europe. This important finding, which shows the existence of symmetry between the Kresy and the colonies, allows using the analytical tools of postcolonial critique. Poles, having lost their eastern territories, function in a similar way to, as described by Said, Westerners, who "may have physically left their old colonies in Africa and Asia, but they retained them not only as markets but as locales on the ideological map over which they continued to rule morally and intellectually." (Said, 2009, p. 24). This idea calls

²⁰ The asymmetrical relationship between Poland and Russia is at the core of the educational programme as a formative issue for the Polish identity and it pervades the entire historical discourse in Poland. Ewa M. Thompson (2000; 2009; 2010) has analysed this relationship in terms of colonial critique and thus elevated that discourse into a level of social and literary studies.

²¹ Moldova has presently negligible significance in modern Polish discourse of the Kresy. However, due to the fact that a Polish diaspora still lives on the territory of Moldova, Moldova is also in the area of interest of the Polish state as long as the citizens of Moldova of Polish descent are eligible to apply for the Pole's Card.

for a revision of the concept of the contemporary model, or rather, models of Polishness. It is worth taking this perspective and paying closer attention to the role of the state and its institutions in shaping national imponderables by legislative means. The Card—whether one likes it or not—sets the legislative and legalistic framework for Polishness: the obligations and rights to the state of legally defined Poles (and vice versa). The ideological structure of this specific document, philosophically rooted in the Enlightenment concept of the nation, and the effects it brings, is beyond the perception of the majority of Polish citizens and, therefore, calls for a closer look.

4. At the source of intra-identity tensions

Tensions in defining national identities are an ever-present phenomenon because the immanent feature of every identity is its fluidity, understood as the constant need to (re)define itself. Certainly, each case should be considered separately, but in the case of neighbouring nations there are visible parallels between them. Therefore, I have made the German case the point of reference to the considerations of the contemporary definition or, perhaps more precisely, competing definitions of Polishness.²² In the relationship between various German organisms, I see an analogy with relations between contemporary Poland and its eastern diaspora, the so-called Poles of the Kresy (*Polacy Kresowi*), as well as with minorities inhabiting Poland, for example, Silesians. I will return to the example of the Silesian minority in the final part of the text. This example is extremely important because it was the emancipatory aspirations of the Silesians to be acknowledged as a nationality that forced the Polish justice system to approach the problem of a definition of Polishness. The Silesians made claims for formal recognition as a nation/nationality. The Polish Supreme Court brought in 2013 a constitutional definition of Polishness, somewhat as a context, while refusing to grant the Silesians the status of a national group. The problem of Silesianness is an important reference point for me because both Silesians and Poles from the East are subjected to an analogical procedure of Polonization which takes an orientaling approach to them. It is a direct result of the strategy adopted by the Polish state after 1989 in order to defend the conception of homogeneous

²² In this study, I do not engage with the wider context of this phenomenon. The “Polish question” was a catalyst for ideological conceptualization and administrative actions in building modern national identities of the Germans, but also the Russians. It is a Polish question which “shocked the Russian Empire, challenged the authorities, but also wider groups of Russian society and exerted its influence on Lithuanians, Belarusians and Ukrainians” (Głębocki, 2006, p. 12).

composition of the contemporary Polish nation. The idea behind this strategy is a conviction that homogeneity is the key feature securing the coherence and integrity of the national community and, therefore, it should be guarded at any price. In order to uphold this value, the state is ready to engage all means, including violence (be it political violence or symbolic one). This strategy can be tacit or explicit; it may be employed with the use of various legal instruments and processes (such as legal acculturation).

5. Who can become a Pole? The model of postulated Polishness

The procedure of granting the Card, which, according to the intentions of the creators, is a kind of compensation for its holders, envisages a certain mechanism for the verification of Polishness. “Polishness” in the procedure has been objectified, and only by satisfying its requirements one is able to obtain this redress. Although this is a voluntary procedure, undergoing it is linked to an experience of symbolic violence. Since the entire procedure is enabled by a successfully passed exam, the applicant wishing to “become a Pole” is forced to strictly adapt to the desired requirements of Polishness, which are defined by law. The starting point is the declaration of the will to join the Polish Nation (this spelling is used in the Card). Then the applicant is required:

1. To manifest applicant’s relationship with Polishness by demonstrating at least a basic knowledge of Polish, which is considered expedient to be the mother tongue of the applicant, and by knowledge of and cultivation of Polish traditions and customs;
2. To submit a written declaration of belonging to the Polish Nation. This act must take place in the presence of a consul of the Republic, or a voivode;
3. To demonstrate that applicant is of Polish nationality (or that at least one of applicant’s parents or grandparents or two great-grandparents was of Polish nationality or had Polish citizenship), alternatively presenting a Polish or Polish diaspora certificate confirming the applicant’s active involvement in activities for the benefit of Polish language and culture or the Polish national minority for at least the last three years.

These three statutory conditions of accession to the Polish community demonstrate the ideological infrastructure of the concept of this community. Such construction is an attempt to find a positive solution in what appears to be the confrontation of the two already mentioned national models. These

models, exemplified by the French and German cases, are based either on a civic concept of belonging, or the ethnic one, i.e. “genetically” inherited. Oral tests of knowledge about Poland being a condition of accession meet the requirements of the civic model. The interview with the candidate “for the Pole”²³ involves a test of knowledge of national culture, either acquired at home or—learned. Of course, on the French path of national identity-making, the “mechanism of cultural nationalization” was initially employed almost exclusively on the territory of France itself. The process of inclusion to the Polish national community, taking the form of an “exam for the Pole”, occurs far beyond the (eastern) borders of the modern Polish state. Its purpose is to merge the national community, so far separated by political borders, which means a symbolic cancellation of these borders. According to the ideas contained in the Card, this governmental policy attempts to reunite Poland with its compatriots, who happen to be citizens of other sovereign states. Although the Card claims only the formal confirmation of belonging to the Polish nation, in fact this ID functions as a passport in a sense, and thereby allows inclusion into the civic community as well. Modern definitions of the nation—as culturally constructed—equate this concept with the notion of citizenship. In both cases the mechanism of identification is similar—it is a question of the mental state of the individual, regardless of the place of origin of the person involved or of his/her parents. At the same time, however, it should be noted that although the modern model of citizenship is inclusive and egalitarian, meaning that citizens have equal rights and obligations, in practice both citizenship and the nation remain tools of “more or less hidden practices of establishing hierarchy and exclusion” (Smoczyński & Zarycki, 2017, p. 219). Hence the ideological attempt to determine the “type of an ideal citizen”, which further serves as the reference point in consular practice. The process of selection of would-be Poles described in the law was based on maximally general and open criteria, but in practice it has become a tool for hidden practices of hierarchization and exclusion.

At first glance, the requirement of knowledge of the state language, i.e. Polish literary language, is a condition referring to the French model of citizenship. Through this, as in France, various communities living in Poland became

²³ The wording “exam for the Pole” is taken from Belarusian and Ukrainian educational offers that advertise preparatory courses to the talk with consul. The market for private educational services in this area is wide, and therefore the Card has its price and it follows the mechanisms of demand and supply, cf. www.karta-poljaka, <http://www.kurs.stepbystep.by/karta-poljaka>; also a short instructional film, entitled *Karta Poliaka. Moia istoriia. Sobesedovanie s konsulom* (2015), *Pol'sha/Karta Poliaka. Prodam Pol'skuii chest'!* (2016) and *Karta Poliaka! Moi vpechatleniia ot zapisi na ekzamen* (2016).

institutionally unified. In the case of the Card, however, this requirement is directed to citizens of other countries. In addition, the legislator postulates that the candidate “for the Pole” not only demonstrates a basic knowledge of the Polish language but also claims it to be candidate’s mother tongue, meaning: inherited from his ancestors. This condition suggests that, in addition to inclusive construction of the nation (the French model), there is a reference to the ethno-cultural concept here (as in a German construction). A hybrid of national-civic models is thus created. Employing a condition of language as a hereditary element excludes those who understand language as a tool of assimilation, and thus acquire it through the path of study and the pursuit of voluntary identification in the values it brings. Seen in such light, the procedure of granting the Card, which leads to a veiled Polonization, as I will demonstrate below, is thus a tool of symbolic violence.

Although for the Poles of the Kresy (*Polacy Kresowi*), Polish is often still the closest language, it deviates from the contemporary standard Polish literary language.²⁴ Knowledge of Polish speech of the Kresy does not meet the requirements of Polish language skills put forward by consuls. Thus, the Poles of the Kresy are subjected to the procedure of Polonization in the same way as all the others, as aliens: they are required to learn the Polish literary language and the “canon” of Polish traditions and customs. This “canon” is presented in the contents of teaching materials and the examination questionnaire, where Polish customs and traditions are enumerated and described as a part of the “Polish culture”. In this way, “Polish culture” has been objectified in the Card’s granting procedure. Clearly, as these materials as well as conversations with administration involved in the process show, such “Polish cultural canon” is an object of fantasy, loaded with subjective ideas of a given diplomat. The thematic scope of questions in the field of “knowledge about Poland” concerns only those

²⁴ According to the former Polish ambassador in Belarusian Minsk, Leszek Szerepka, statistical census data confirm that the number of people who declare Polish ethnicity is continually decreasing. Also, a dramatic decline in declaring Polish as a family communication language has been recorded. “According to the census of 2009, in Belarus lived 294,549 people declaring themselves as Poles. They accounted for 3.1 per cent of the total population of the state. For comparison, the census from 1999 indicated 395,712 Poles. [...] The mentioned census from 2009 confirmed the weaker knowledge of the Polish language—only 5.4 per cent of Belarusian Poles declared it as the mother tongue (in 1999 it was 16.5 per cent). **Only few individuals declared the use of the Polish language at home**” (*emphasis in bold by the author of this article*; Szerepka, 2016, pp. 170–171). It needs to be mentioned that these statistics are not connected to the emigration from Belarus but rather with the process of rutenization typical in Belarus, the first step of which is the abandoning of Belarusian language in favour of Russian.

traditions that contributed to building a model of Polishness developed after 1945, i.e. the ideological and organizational form of Poland which emerged after the loss of “the East”, in a new place and within new borders. There is no room in this scope for modalities, nor for experience of Polishness in the Kresy. The analysis of the set of examination questions leaves no doubt that the objectified “Polish culture” is a very specific cultural construct. It is founded on a specific historical experience which stressed ethnic, religious and linguistic purity as the dominant feature of community making. (This is, of course, due to the propaganda work done in the Polish People’s Republic). The procedure of granting the Card is a means of objectification through which such a model of Polish culture is presented to the candidates for Poles and expected to be accepted. The requirement of positive verification means that the candidates need to adapt to this model, which means that the entire Card institution acts like a “factory of Poles”. It is an educational (socialization) project, which belongs to one of the cultural technologies of rule that are essential for the work of state-building and community-forming process in the understanding of Benedict Anderson (1991). The identity of the nation is not given but culturally constructed, collectively imagined through the work of the educational system, an extension of which is the Card. The ultimate goal of these activities is Polonization, in the ethno-cultural sense. Therefore, adepts of centrally devised Polishness are not able to demonstrate knowledge of their native form of Polishness because—to say the least—it is not recognized by the national narrative dominating in Poland. The Card procedure, established in order to implement the “Polish civilization mission in the East” is, as it follows from the intentions of the Polish legislator, a combination of two traditions. This is so because it refers to both the tradition of French assimilationism and of German ethno-culturalism.

A similar ideology accompanied the Polish institutional presence in the East in the interwar period. The Polish-Russian rivalry for the Belarusian “soul”, i.e. for the shape of its national identity, has also been the catalyst of the administrative activities in the Kresy. For example, the voivode of Nowogródek Adam Sokołowski believed that:

These lands should be turned into Polish lands. [...] Poland must be one and compact. So, the Kresy are Poland, but, between us, they have to be subjected to an internal re-conquest. [...] We do not demand too much and if they cannot change their hearts, they have to change their skin. I believe that the Belarussian element in Nowogródzczyzna can be changed, without backing away from strong methods. (Mironowicz, 2007, p. 95)

The postulate of “skin change”, from Belarusian to Polish, is an example of a colonial discourse and thinking. The “skin” in this case is not an emblem of race, but of ethnicity (though not of a “heart”, meaning deep, intimate and “authentic” identification with national values). I see a similar logic of socialization embedded in the Card procedure. The Card is a Polonizing educational project that serves to provide the “proper”, ideologically desired identity. Polish education in the Kresy played a similar role during the interwar period.²⁵ In his study *Polesie. Ethnological studies* (2007 [1936]), ethnographer and sociologist Józef Obrębski systematically deconstructed the ideas and tools of the Polonization of the day. In order to illustrate this process, he constructed a metaphor of a student-Polesian (*Poleszuk*) and a Polish teacher, which reflected the hierarchy of statuses and identity signs. The analogy in the process of granting the Card is clear. Obrębski wrote:

What way and from what content does this shared world of values of student-Poleszuk and Polish teacher come? It does not originate from the experience and interests of the Polesian child, which are shaped outside the school, but from the political and social functions of the school, whose task is not only cultural (linguistic) but also political assimilation of the Polesian youth: instilling in the young Poleszuk the sense of Polish national belonging, introducing him to the Polish nation. From the first encounter with the school, a Polesian child learns that he is a Pole who cannot speak Polish. From the first encounter with the school, he exercises in a difficult art of Polishness, gradual learning and assimilation of which leads him out of the initial situation of nothingness and worthlessness in the school world and provides him with a new position and a new meaning: a student-Pole. The assimilation of patterns of the school by a child from the Polesia is, as assumed by the school, also the assimilation of the pattern of a Pole, a member of the Polish nation. And the assimilation of a child by

²⁵ The “merits” of Polish education in the implementation of Polonization policy were described by ethnographer Wanda Paprocka in a text entitled ‘Belarusian education in the Eastern Kresy in view of the minority policy of the Second Polish Republic’. The Polonising aspect of education was introduced as a result of “the victory of the incorporational concept which strengthens the assimilationist tendencies towards the Belarusian population” (Paprocka, 1998, p. 52). The idea of a full incorporation of the Kresy, or, as the Voivode of Nowogródek Sokołowski wrote, the “re-conquest”, stemmed from the idea of supremacy of the Polish nation “as the exclusive distributor of economic resources of the country and the only heir of cultural values. In the field of education, the national character of the state was to be achieved in practice by introducing the principle that the only official language could be Polish, the only state school – a school with the Polish language of instruction” (Paprocka, 1998, p. 53).

a school has to mean his national assimilation. The book and lecture of the teacher open perspectives to the school child for the wider extra-rural world; the school world becomes enlarged by the world of group values and historical traditions of the Polish nation. [...] [This is not exclusively—author's note] encyclopedic information about Poland, but the cult of Poland, the cult of its collective values and the sense of solidarity and communication with the wider society of Poland is an important content of this education. This is the learning of Polish collective group values, more of a school of heart than exercise of the mind. (Obrębski, 2007, p. 400)

Obrębski analysed the content and form of the educational project, in this way deconstructing the Polish civilizing mission in the Kresy as a version of the occidentalizing Polonism. He perceived Polonization as a desire to build a Polish cult among the Ruthenian population, to transplant Polish group values to its soil. He also believed that although the Polish school in the Kresy stresses the meaning of “heart” over “reason” (sic!) in the effort of forming the identity, which means that it tries to take over emotions, it does so however without success. Because

Polish school teaches him [a Polesian—author's note] to play the Pole, it teaches him to be a Polish 'not for real' [...] The Polishness of this student is the Polishness of his imaginary but not his real roles. The Polish 'we' of this student, 'we' of his school class, the children of Lwów and Piłsudski is confined to the school doorstep and the boy's playground. (Obrębski, 2007, pp. 402–403)

Although this issue has been discussed many times, the novelty here is that Polonization efforts are also experienced by ethnic Poles of the Kresy, *Polacy Kresowi*. This, in turn, suggests that for the Polish state they, like all other candidates for the Pole, have the same status of the Other. As the American sociologist Rogers Brubaker (1992) points it out, the internal policy of the Prussian state experienced a similar problem over a hundred years ago. It combined assimilationist efforts for state-national concerns, that is Germanization of the Polish population, and “dissimilationist” actions oriented towards the depreciation of ethnically-defined ‘internal aliens’, in this case *Reichspolen*—Polish fellow citizens treated as enemies of the Reich, i.e. second-class citizens (Brubaker, 1992, p. 128; Smoczyński & Zarycki, 2017, p. 228). Likewise, the determinants of the Polish Nation inscribed in the Card on the one hand attempt to cleave off the Poles of the Kresy (*Polacy Kresowi*) from the sea of others (e.g., Ukrainians and Belarusians) and, on the other hand, they open the doors

of Polishness defined nonetheless through the sheer sense of belonging. It is no surprise that the Card procedure is full of contradictions and provides themes for ongoing debate: the verification of the ethnic Poles of the Kresy, after all, proceeds alongside two mutually exclusive principles, *jus soli* and *jus sanguinis*.

6. Faces of nationhood: the formula of the Polish Nation included in the Card as an example of a constitutional tort

The Act on the Pole's Card provoked many discussions and polemics regarding the meaning of the term 'belonging to the Polish Nation'. Both the critics and the supporters of this solution unanimously indicated that defining unambiguously the criteria to resolving this problem is impossible because it belongs primarily to the sphere of human psychic feelings. After the adoption of the Act on the Pole's Card, M. Dworczyk, adviser to the Prime Minister for Polish diaspora and Poles abroad, explained the doubts related to the character and understanding of the concept of 'belonging to the Polish Nation', by stating: "It should be noted that the Act on the Pole's Card does not state one's Polish origin. It certifies only belonging to the Polish nation on a cultural basis, such as, for example, belonging to the American nation. The nation is defined as a community of culture, language and history. The Constitution of the Republic of Poland, on the other hand, speaks of Polish origin in the ethnic sense". (Wrońska, 2014, pp. 275–276)

Contrary to intentions, the above explanation of the formula of the Polish Nation in the provisions of the Card does not make the issue any clearer. However, it opens the way to countless conflicting interpretations, which certainly does not make life easier for the Card candidates. Moreover, this explanation suggests that although the definition of nation in the Card is different from that in the Constitution, it is, by its universalist character, superior to the provisions contained in the Constitution. This explanation also suggests that the formula of the Polish nation in the Card applies to the general public in the territory of the Republic of Poland.

Dworczyk's explanation is informed by the assimilationist concept of nationhood, typical of the French model, discussed above. This is evidenced by references to culture, language and history. However, this is only a part of what has been written in the Act. As argued above, hidden under the declared

inclusive formula of Polish national identity are mechanisms of establishing hierarchy. These mechanisms have a transformational potential functioning to ensure the inclusion of only the individuals who meet the requirements of a very narrow, exclusive formula of the Polish Nation. As a result, this process necessitates the abandonment of current identities considered “non-Polish” and secures the unified and coherent character of the community.

In recapitulation, I strive to reconsider how Polishness is conceptualized in the Card document. The judicial decisions of Polish courts regarding Silesianness will be especially instructive here. I will further confront them with the stipulations defining Polishness in the Card.

Several years of work on the Act on the Pole's Card contributed to the emergence of the objectified “canon of Polishness” and its requirements. Therefore, it was established that it is necessary to prove one's ethnic Polish origin (or to present documents certifying that one's ancestors had Polish origin up to the third generation). The granting of the Card is also possible by presenting a document certifying that in the past (before 1939) Polish citizenship was held by direct admission. A parallel requirement is to demonstrate relationships with Polishness by at least the basic knowledge of Polish, which is considered to be the native language, and knowledge and cultivation of Polish traditions and customs. The problematic nature of demonstrating competences in the domain of Polish traditions, customs and history of Polish statehood was discussed above. At this point, I will emphasize the role of the consul (and after the amendment of the act in 2015, also every Polish voivode) that personally assesses the Polishness of the candidate for the Pole.

Additional light on this issue is shed from Western Polish borderland, namely by the situation of the Silesian minority and their attempts to raise their legal status. The term “Polish nation” appearing in various legal provisions has a different semantic scope, depending on the context it is more universalist (alluding to the citizenry as the bases of belonging) or minimalist (based on ethno-cultural principle). The question that arises is whether the formula of the category of the Polish Nation, adopted in the Act on the Pole's Card, corresponds, and if so, to what extent, to the one included in the Preamble to the Constitution of the Republic of Poland.

Silesians strived to maintain the right to be affiliated with their own organization and the right to use in its name the term “Silesian nationality” (*narodowość śląska*). A series of court hearings during this process became the arena for negotiation of this term in the legal field. During these hearings—as though in

passing—the legal definition of the concept of the Polish Nation was derived from the constitutional preamble. In the ruling of the Supreme Court of 5 December 2013, for example, it was considered that according to the legal definition of the Polish Nation, it may include “**all ethnic Poles with no requirement of having Polish citizenship**”, i.e., for example, Poles of the Kresy, as well as all those “who have a document certifying their Polish **citizenship**”. Another opinion was issued a few years earlier by academic lawyers, Jacek Jagielski and Dorota Pudzianowska. Referring also directly to the Preamble of the Constitution, they reckoned that the Polish Nation was “**a collectivity of all citizens of the Republic and regardless of ethnic origin**”. Such wording makes a significant difference to the provisions of the Card. Thus, the question remains open whether there may be two incoherent definitions of nation in the Polish jurisprudence, and if so, whether the interpretation of the Supreme Court of 5 December 2013, supported by the ruling of the Constitutional Tribunal, takes precedence over the other provisions? In my opinion this is the case, and thus the definition of the Polish Nation in the Act on the Pole’s Card may not meet the requirements of constitutionality.

The provisions of the Polish nation included in the Pole’s Card were not changed even with the amendment of the Act in 2015. The lack of conformity of the Act with the Constitution makes the legitimacy of the application of this legal act dubious.

In the analysis of Pudzianowska and Jagielski, carried out in 2008, the constitutional preamble with the reference “We, the Nation” “does not exclude the possibility for the legislator to use the notion of a Polish nation with some other semantic contents for the purposes of specific regulations” (Pudzianowska & Jagielski, 2008, p. 73). Therefore, according to the authors, the qualification of belonging to the Polish Nation

is based—on the one hand—on a strictly subjective premise, in the form of a person’s declaration of Polish nationality, and on the other—on the person’s fulfillment of conditions [...] that contain also in part subjective elements (such as in the case of Polish as a native language). These conditions are closely related to declaring of Polishness and, in the substantive sense, they constitute a confirmation of belonging to the Polish Nation. The only condition referring directly to declaring of Polishness is a formal (written) declaration of belonging to the Polish Nation. [...] The Act does not provide for verification of the declaration of belonging to the Polish Nation, which seems to be perfectly understandable. We are dealing

here with an act of will resulting from personal feelings and beliefs that would be difficult to undermine (what objective measures could be used to assess this declaration?). (Pudzianowska & Jagielski, 2008, pp. 73–74)

Jagielski and Pudzianowska continue that

Granting the Pole's Card [...] although it is based on the fulfillment of conditions relating to the declaration of Polish nationality and Polish origin, there are no binding provisions there in the matter of nationality or origin (the decision to grant the Pole's Card is not a decision 'on' belonging to the Polish Nation or Polish origin). The granting of the Pole's Card does not in any way affect the belonging to the Polish Nation nor does it establish the existence of such belonging in a legally binding manner, as declarative administrative acts do. [...] The Pole's card, in a way 'itself' does not give grounds to be recognized as a confirmation of the holder's Polish nationality. Only on the basis of the provision of Paragraph 1 [...] Article, the Card has obtained the meaning of a document confirming belonging to the Polish Nation. This document has the form of a certificate (or certification). (Pudzianowska, Jagielski, 2008, p. 94)

In the view of the above findings, a question arises about the meaning and purpose of creating the Card and demonstrating it as a document that confirms belonging to the Polish Nation. Jagielski and Pudzianowska write: “[T]he answer is in the sphere of determinants, above all social, not juridical. It seems that underlining this attribute of the Card makes it a kind of ‘evidence of belonging to the Polish nationality’” (Pudzianowska & Jagielski, 2008, p. 94). This, in my opinion, is contrary to the letter of the law in Poland. Because the Polish Nation—as concluded by the Supreme Court—is recruited from people of Polish ethnicity (who are or are not citizens of the Republic of Poland), as well as Polish citizens who originate from other ethnicities (Judgement Decision SK10/13, p. 8). All those who have already acquired the Card and belong to a large group of non-ethnic Poles by choice do not meet any legal or customary formulas that would allow them to be included in the definition of the Polish Nation, and even more so in its current legal understanding. They are neither of Polish ethnicity, nor are they Polish citizens of other ethnicities. In this context, the category ‘Polish Nation’ enshrined in the Card is contrary to the Constitution. On the other hand, the requirement to declare the will to belong to the Polish Nation provided for in the consular procedure is in fact the practice of forcing a declaration of national change.

7. Polish Nation

The confrontation of the principles of determining belonging to the Polish Nation according to the general norms of Polish law with the provisions of the Act on the Pole's Card clearly shows the level of difficulty to be faced. Silesians in Poland were denied the possibility of referring to the subjective feeling of their national/ethnic identity. This right, however, was granted in a very generous way in the case of verification of Polishness stipulated in the Card. The role of the consul (now also the voivode) in the process of verifying Polishness is therefore enormous, and the decision here is almost arbitrary and subjective. This results from the ambiguity of the concepts used in the Act and their various interpretations, and the lack of provisions in a separate regulation or other executive acts to the Act containing a set of determinants, which "ultimately" could be based on the process of verification of Polish nationality. This noticeable duality in relation to the Silesianness and Polishness of the Kresy exposes the implicit acculturationist tendencies present in the Polish legislation. This fact reveals, in my opinion, the polonocentric character of Polish legislation.

8. Instead of a conclusion

The Card, which has been in force since 2008, has created a real ferment outside the eastern borders of Poland because it clearly divides the local societies. Having a real legal weight, it establishes new social distinctions on the territory of foreign countries, offering real-life opportunities, sometimes even social advancement. Hence, material motivation is the most common reason for applying for the Card. This way, the category of Polishness has acquired a material dimension that demonstrates a real social status and has contributed to the reorganization of existing social stratifications. Thus, contrary to the intentions of the originators of the Card who emphasized the "cultural" formula of Polishness, due to the causative character of the Card, Polishness gained the material aspect. The Card launched transformative processes as to identity declarations both among the Poles of the Kresy and among the Belarusians and Ukrainians living side by side with them. It has opened a new channel of labor migration to Poland, but also—what the creators of the Card see as a significant success—has enabled an educational career path in Poland for young people from the East. Today it is an indisputable fact that the population of the Card holders is an ethnically diverse community. At the same time, the legal construction of the 'Polish Nation'

enshrined in the Card uses a narrow category of Polish ethnicity.

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