Marcin Michał Wiszowaty¹

**Acceptance of Foreign Orders by the President of the Republic
of Poland with Regard to Polish Legal Regulations and
Practice of Bestowal and Acceptance of Decorations²**

Keywords: President of Poland, Orders, Decorations, Sweden, Royal Order of the Seraphim

Słowa kluczowe: Prezydent RP, Ordery, Odznaczenia, Szwecja, Order Św. Serafinów

Summary

The first orders had been established and awarded by monarchs long before the republican concept of presidency was developed. The many powers which presidents took over from monarchs include, inter alia, the awarding (and revoking) of state honours. The issue, usually regarded as marginal, does not appeal to constitutional law scholars. Poland's legal regulations concerning orders are hardly precise (this being particularly true as far as the constitutional law is discussed) and the fact gives rise to many practical problems concerning application of the country's constitution and statutes from the field, quite frequently going beyond the matters of orders in the strict meaning of the phrase. One of the questions of the kind, not having become an object of interest to legal scholars so far, is the acceptance by the President of the Republic of Poland of foreign orders and

¹ The Author is an Associate Professor in the Department of Constitutional Law and Political Institutions of the Faculty of Law and Administration of the University of Gdansk. E-mail: mwiszowaty@konstytuty.pl.

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distinctions received either within his capacity as the supreme representative of the State in international relations or as a private individual. The picture resulting from an analysis of practice and theory of order-related issues is hardly a coherent one. The following paper – besides due presentation – aims at sharpening the somewhat blurry image.

Streszczenie

Przyjmowanie przez Prezydenta RP obcych orderów, na gruncie polskiej regulacji prawnej i praktyki orderowej

Prezydenckie prawo do nadawania orderów i odznaczeń określane jest powszechnie jako jedno z „tradycyjnych uprawnień głowy państwa”. Pierwsze ordery ustanowili i nadawali monarchowie, w czasach przed nastaniem instytucji prezydenta. Wśród wielu uprawnień, które prezydenci przejęli od monarchów znalazło się m.in. właśnie nadawanie (i pozbawianie) orderów i odznaczeń państwowych. Zagadnienie to, traktowane na ogół jako marginalne, ze względu na jego głównie symboliczny charakter, nie wzbudza dużego zainteresowania doktryny prawa konstytucyjnego. Regulacja prawna dotycząca zagadnień orderowych, szczególnie w jej konstytucyjnej części nie jest precyzyjna, co rodzi wiele interesujących kwestii praktycznych dotyczących stosowania konstytucji i ustaw, nierzadko wykraczających poza ścisłą tematykę orderową. Jedną z takich kwestii, która do tej pory nie znalazła się w obszarze zainteresowań doktryny i zasługuje na omówienie jest przyjmowanie przez Prezydenta RP obcych orderów i odznaczeń oraz ich status jako odznaczeń uzyskiwanych w ramach pełnionej funkcji najwyższego przedstawiciela państwa w stosunkach międzynarodowych, czy przez osobę prywatną. Z analizy praktyki i teorii zagadnień orderowych wyłania się niespójny obraz. Niniejsze opracowanie ma na celu odtworzenie i rozjaśnienie tego obrazu i uzupełnienie dorobku doktryny o kilka tez i spostrzeżeń dotyczących interpretacji przepisów konstytucji i ustaw odnoszących się do tytułowej materii.

I.

The first orders had been established and awarded by monarchs long before the republican concept of presidency was developed. The many powers which presidents took over from monarchs include, *inter alia*, the awarding (and re-

voking) of state honours. The issue, usually regarded as marginal, does not appeal to constitutional law scholars. And yet, while not concerning the cornerstones of the political regime, the matter does deserve attention. Poland's legal regulations concerning orders are hardly precise (this being particularly true as far as the constitutional law is discussed) and the fact gives rise to many practical problems concerning application of the country's constitution and statutes from the field, quite frequently going beyond the matters of orders in the strict meaning of the phrase. One of the questions of the kind, not having become an object of interest to legal scholars so far, is the acceptance by the President of the Republic of Poland of foreign orders and distinctions received either within his capacity as the supreme representative of the State in international relations or as a private individual. The picture resulting from an analysis of practice and theory of order-related issues is hardly a coherent one. The following paper – besides due presentation – aims at sharpening the somewhat blurry image.

II.

A succinct statement of Art. 138 of the Constitution of Poland declares that the "President of the Republic of Poland shall confer orders and decorations". The power, according to Art. 144 § 3 item 16 of the Constitution, does not require a counter-signature by the prime minister. Detailed rules for the award and revoking of orders and distinctions have been established by pieces of legislation lower in rank than the Constitution – mainly the Act on Orders and Decorations (hereinafter referred to as the "Act" or as the abbreviation of "uoo") and secondary legislation to the latter, enacted by the President³. It is also the President that makes a decision to revoke an order or distinction (Art. 36 uoo). A specific competence of the President is his expressing consent to the acceptance by a Polish citizen of an order, decoration or other coveted distinction granted by the supreme authorities of a foreign country. It is

³ The President decides about description, material, dimensions and visual designs of distinctions, orders and decorations, detailed procedures of bestowing orders and decorations (Art. 9 uoo), the ranking and order of wearing honours, the abbreviations of the names of specific orders and decorations (Art. 9 uoo).

quite a unique power of the head of State, nowadays almost non-existent in republics. The right has a twofold objective. Traditionally, the conferral of an order by a monarch would bind the knight of the order with the monarch as the grand master of the order, creating a relationship of subordination and superiority between the two. The need to seek consent of relevant monarch, as the sovereign, for the award of an order to his subject by another monarch was, on the one hand, a kind of a protection against the foreign monarch making the domestic subject dependent on him. On the other hand, the requirement was supposed to let a monarch keep full sovereignty (and protect his majesty) by leaving with him the right of the final decisions regarding his own subjects. The traditional royal right has been taken over by some presidents. Since it is no more personal sovereign authority that is exercised by them, the presidents representing a sovereign state instead, part of the former reasons for the right to be retained remains valid, mostly as far as the symbolic meaning is concerned.

The current scholarly interpretation of the requirement to seek President's consent for the acceptance of a foreign order or distinction links it up to the duty of loyalty to the Republic of Poland, as provided for in Art. 82 of the Constitution, and the President's general role as, *inter alia*, the supreme representative of the Republic of Poland, the guard of the sovereignty and security of the State (Art. 126, § 1 and 2 of the Constitution) and of Poland's *raison d'État*⁴.

Pursuant to the Act (Art. 5), the acceptance of a decoration is subject, each and every time, to prior consent expressed by the President. Against the background of practical application of the provision a number of constitutional doubts has emerged. First of all, the question is whether the expressing of consent always requires a counter-signature by the prime minister, and also if consent has to be sought by every citizen, including the prime minister himself/herself when receiving an order of a foreign state in meeting his constitutional duties, during a foreign visit (the prime minister directs the activities of the Council of Ministers encompassing, according to Art. 146 § 1 of the Constitution, the conducting of Poland's foreign

⁴ See D. Dudek, *Prawo konstytucyjne w zarysie. Wybór źródeł*, Lublin 2000, pp. 71–72; R.K. Tabaszewski, P. Jakubowski, *Ustawa o orderach i odznaczeniach. Komentarz*, Lublin 2013, pp. 51–52.

policy, and even (as Art. 146 § 4 item 9 puts it) “general control in the field of relations with other States”).

The legal scholars, referring to interpretation of legal regulations and rules of application of the above said provision of the Act, as followed in the practice of the Chancellery of the President speak, for the most part, with a common voice. In their opinion, consent for the acceptance of an order is required in case of all citizens of the Republic of Poland, the prime minister or the President’s spouse being no. exclusion. As Art. 131, § 2–4 of the Constitution provide, if the President of the Republic is unable to discharge the duties of his office, these are assumed by the Marshal of the Sejm (the first chamber of the Parliament) or the Marshal of the Senate. It is thus also him/her that may give consent for the acceptance of foreign orders and decorations. Interestingly, Marshal B. Komorowski, when acting as the President after L. Kaczyński’s death in 2010, agreed that honours be received by persons that had not been able to accept them due to the late President’s delay in giving the authorisation⁵. The case in question allows to make a few comments. Firstly, the absence of the President’s consent may be active in nature, taking the shape of a negative decision or be of passive character, manifesting itself in the absence of a decision, the ensuing result – the citizen’s inability to accept the order – being identical in both cases. As far as the latter case is concerned, given the absence of any dead-line in Polish legal regulations, the authorisation may be given by the President’s successor or even substitute. The only doubt is whether consent could be given by a substitute of the President performing the President’s duties while the latter is temporarily unable to perform them (although there do not, in fact, exist any legal restriction in that respect, and reasons of courtesy may perhaps set up the only limitation). Secondly, it should be assumed that the Marshal of the Sejm (or Senate) is authorised both to bestow

⁵ Marshal B. Komorowski gave his consent as regards 14 persons that had been waiting for the President’s authorisation. The group included, *inter alia*, K. Marcinkiewicz (France’s National Order of the Legion of Honour), P. Zaleski (the National Order of the Legion of Honour and the Order of the Star of Italian Solidarity) and H. Gronkiewicz-Waltz (the National Order of the Legion of Honour). The first two of the above mentioned persons had been waiting for the President’s consent as long as three years. *Komorowski „odblokował” order dla Marcinkiewicza. Lech Kaczyński zwlekał trzy lata*, “Gazeta Wyborcza”, www.wiadomosci.gazeta.pl, 05.07.2010 (30.03.2014).

orders and decorations and accept, on behalf of the Republic of Poland, foreign orders and decorations when substituting the President⁶.

Different opinions are voiced by legal scholars on the issue whether a counter-signature is required for the President's decision to give consent to acceptance of a foreign distinction (or refuse it). Voices can be heard both that the right to do so is part of the general competence to confer orders and decorations and as such it is not subject to prime-minister's counter-signature, pursuant to Ar. 144 § 3 item 16 of the Constitution⁷, and that the counter-signature is, actually, required. While it is the first option that dominates, the arguments in favour of the counter-signature should be considered reasonable.

III.

Whereas generally applicable law mentions the bestowing of orders by the President or his giving consent to acceptance of foreign orders by citizens of the Republic of Poland, it is, in fact, silent on the matter of their acceptance by the President himself. The exception is Polish orders received by the President by operation of law, on account of "being elected". This concerns the Order of the White Eagle (Art. 23 § 2 of the Act) and the Order of Polonia Restituta (Art. 25 § 2 of the Act). It should be considered that the President remains a knight of both orders also upon termination of his term of office⁸. The case is different with the function of the grand master of the orders, which passes to the next president after office has been assumed by the person (neither of the questions is actually governed by clear provisions of the Act).

In the light of the law in force the President should be recognised as the only person within the State who, in order to accept a foreign order or other distinction, does not have to seek consent of another authority. The decision is taken independently by the President. The said means that in an ex-

⁶ This raises an interesting, albeit a rather theoretical question, whether an order could be bestowed upon the President if it was earlier granted to the Marshal of Sejm (Senate) substituting him. A relevant decision would rest with the state (authority) granting the order, as it is not provided for by Polish law.

⁷ See R.K. Tabaszewski, P. Jakubowski, *Ustawa...* pp. 52–53.

⁸ The opinion is also shared by B. Banaszak, *Kompetencje...*, p. 35.

ceptional situation the President could refuse to accept an order. Such a state of affairs alludes to the tradition followed by Polish monarchs who, despite the numerous limitations of their powers, made autonomous decisions on acceptance of foreign orders by them⁹.

Under the current law there arises a question of importance for the practice of application of Polish order-related legislation – does the President's act of consent to accept a foreign order require a counter-signature? A majority of the scholars deem the competence to be a prerogative of the President. It should, however, be noted that the position recognising a need to seek a counter-signature is also justified. Two arguments are raised by those supporting the position: the acceptance of orders has not been expressly mentioned in Art. 144 of the Constitution as a prerogative and, moreover, the decision to accept (and, even more so, to refuse the acceptance of) a foreign order is part of foreign policy, the conducting of which policy, as mentioned above, lies with the Council of Ministers. Particularly questionable is the situation in which a difference of opinion would arise between the President and the prime minister as regards the acceptance of a foreign distinction by the head of State. The prime minister opposed to such an award could – assuming that his counter-signature is necessary – make it impossible to the President to accept a foreign order. The interpretation may rise doubts in the light of Art. 126 § 1 and Art. 138 of the Constitution, referring to the President as the “supreme representative of the Republic” and vesting the President in the exclusive power to confer orders and decorations. The prime minister's inter-

⁹ Three examples are well-worth quoting in that respect. Poland's Sigismund I the Old, when accepting the Order of the Golden Fleece, with the consent of emperor Charles of Habsburg bestowing the order upon him stressed that he would only observe selected items of the rules for the order. He thus laid down a tradition followed by almost all subsequent Polish monarchs. Accepting the order-related duties in full would have meant a considerable limitation of sovereignty of the Polish monarch (e.g. a duty of loyalty to the bestowing emperor and order confraters, thus limiting the king's capacity to pursue an independent foreign policy). Michał (Michael) Korybut-Wiśniowiecki, the only king not having made the reservation, was accused of putting at stake the royal majesty and the good of the Polish-Lithuanian Commonwealth (as the state was then referred to). King Stephen Báthory, as the only Polish monarch, refused to accept the Order of the Golden Fleece. Starting from the 16th century, Polish kings were knights of many foreign orders (see H. Sadowski, *Ordery i odznaki zaszczytne w Polsce*, Warszawa 1904, pp. 18–22).

ference with the order-related policy, using the institution of counter-signature to that end, could be found colliding with the presidential powers. On the other hand, the autonomous decisions of the President to accept (and, particularly, to refuse the acceptance of) a foreign order can have impact on relations with other states, i.e. a broadly termed foreign policy. There is no doubt that cooperation of both authorities (the Council of Ministers and President) on the matters would be advisable.

In the current order-related practice of the Chancellery of the President of the Republic of Poland, when expressing consent to accept a foreign order, a counter-signature by the prime minister is not sought. Applications for expressing consent, filed by relevant authorities of a foreign country, reach the Chancellery of the President via the Ministry of Foreign Affairs. It is at that very stage that the positions of both authorities (the prime minister and President) concerning the award can be agreed on. It can be thus inferred that, once no objections are being raised by the Ministry of Foreign Affairs, the fact means an implicit, positive position of the government on the acceptance of a foreign decoration. The final decision rests, as the Act provides, with the President of the Republic of Poland.

Following the general rules of the diplomatic protocol, during the official highest-ranking visits (so-called state ones) an exchange of the highest state decorations takes place, albeit solely between the heads of states. Customarily, a much broader circle of persons meritorious to the state represented by the guest are decorated, although with lower-ranking decorations. The number of the decorations bestowed by the guest is usually smaller than that awarded by the host. The balance may be restored during a return visit being paid¹⁰.

An article of the Constitution that has to be taken into account when problems of acceptance of foreign decorations by the President are being analysed is Art. 132, a provision limiting the range of public offices and functions that may be performed by the President to those related to the office held by him. Once elected to the position of the President, the person in question operates in three spheres – as an executive authority, as the head of state performing (mostly symbolic) functions related to it and

¹⁰ See M.M. Wiszowaty, *Wizyty oficjalne*, [in:] *Leksykon prawa i protokołu dyplomatycznego. 100 podstawowych pojęć*, eds. S. Sykuna, J. Zajadło, Warszawa 2011, pp. 354–355.

as a person taking actions in the non-public sphere. In the latter respect the President remains a private individual and as such has, for instance, the capacity to contract obligations, but is also subject to civil liability as provided for by general rules of the civil law. It should be also recognised that the President may be a member of associations and other organisations (such as a university alumni association)¹¹. Of key importance for order-related matters is the question of due qualification of the President as a knight of a foreign order. A number of detailed issues depends on a response to the question, the degree of the President's freedom and the basis for his decision whether to accept a foreign decoration or the status of the President as a knight of the order during his term of office and upon its completion. For example, if the order is bestowed upon the President as the supreme representative of the Republic, there arises again the issue of the prime minister's participation in the decision of the President and yet another question has to be considered – that of ownership of the order insignia, either falling to the President or becoming the property of the state and Nation. Naturally enough, the issues are no longer relevant should it be understood that the decorations are received by the President as a private individual.

On the one hand it is reasonable to consider that the bestowing of orders and decorations upon the President as the head of State is of official character and is closely related to his performing a public function, *vulgo*: the order is received because the person in question is a President, and not because of the individual's personal traits (merits to a foreign country). The bestowing thus concerns the State, simply epitomised by the President as the State's supreme representative. On the other hand, if a specific order of a given state has been awarded to a President of the Republic of Poland, not all subsequent

¹¹ In commentaries to the Constitution, Art. 132 is touched on very briefly. The Authors usually limit themselves to quoting the example of the function of the grand master of the order which can be performed by the President in conformity with the discussed provision of the Constitution. P. Sarnecki mentions, as allowed to the President (since not subject to the limitation set up by Art. 132), performance of functions within associations or foundations. As an example of functions not covered by the limitation, instances of honorary patronage are pointed out to by P. Winczorek (see: P. Sarnecki, *Art. 132, [in:] Konstytucja...*, p. 2; P. Winczorek, *Komentarz do Konstytucji Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r.*, Warszawa 2008, p. 289, B. Banaszak, *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa 2009, p. 658).

Presidents of the country are supposed to receive it as well (the decision resting with the awarding state), which means, for instance, that the successors may not have the right to wear the predecessor's order on official occasions. The awarding is, in principle, personal in nature, meaning that it concerns a specific person identified by name. As regards Poland, there have been cases of specific orders being bestowed upon one or a few presidents, others not having received them. The fact may be a result of highly varied circumstances, from personal matters (merits of a president to or his relations with a foreign country) up to the current status of bilateral relationships between the countries, favouring (or not) the decoration of the incumbent president. It may also happen that the return visit, paid by the head of a foreign state, takes place already during the term of office of a successor of the Polish President (an outstanding "return of a favour"). In such a situation the successor symbolically plays the role of a substitute of his predecessor. Usually, however, nothing prevents the foreign state from decorating the current, and – beside him – the former president, in recognition of special merits of the latter. Exceptions may occur where the rules concerning a specific order limit the circle of its knights and dames to the heads of state.

Does the personal nature of the act whereby an order is bestowed upon the president of the state justify a thesis that upon completion of the term of office the president may keep the order insignia as a memento of the office held? The diplomatic protocol and practice concerning gifts exchanged during official visits provide guidance applicable to orders as well. It is assumed that the gifts are either of public or personal nature. The less costly, of personal character and small value may, in principle, be kept by those endowed. As opposed to them, expensive gifts – works of art, historical documents and the like are customarily bequeathed by the presidents to the state-owned public collections¹².

Referring to the practice concerning diplomatic gifts, the insignia (*distinctoria*) of orders, as a manifestation of respect shown to the supreme representative of a state, not a private individual, should be considered State property, not a private gift to persons holding a public office. As such, they should be, upon completion of the persons' term of office, reverted by presidents to the

¹² T. Orłowski, *Protokół dyplomatyczny. Ceremonia i etykieta*, Warszawa 2006, pp. 244–245.

state ownership, e.g. as a donation to the collection documenting the history of Polish presidency at the Presidential Palace in Warsaw, at the official residence of the President or as a separate exhibition available to the public¹³.

IV.

It is worthwhile to supplement the general rules concerning the acceptance of foreign orders and distinctions by the President of the Republic of Poland by information of specific expressions of the practices of distinction conferral.. Two orders – the Danish Order of the Elephant and the Swedish Order of the Seraphim – will serve as the examples. The reason lies in the unique feature of both orders, resulting from the rules concerning them; they have to be additionally personalised by indication of the coat of arms of the individual upon whom the order is bestowed. The rule can be traced back to the times when it was solely members of the gentry that were eligible for the distinction.

Sweden's Royal Order of the Seraphim, the highest-ranking order of the country, was established by king Frederic I in 1748. Nowadays it comes in a single class and since 1975 has been awarded only to heads of state (monarchs, presidents or their equivalents) and members of the Swedish royal family¹⁴.

Also Denmark's Order of the Elephant is the highest state award in the country in question. Its statute comes from 1693, yet the history of the order is much longer. Traditionally, the order was bestowed upon men of noble descent. Since 1958 membership of the order may also include women. In the history of the order knights that were not of noble birth could be encountered (always, however, as an exception from the rule). The phenomenon has

¹³ In 2010, in Białogard, the home town of Aleksander Kwaśniewski, an exhibition presenting the orders and decorations received by the president during his two terms of office was opened at the local Municipal Public Library. The exhibits have been made available by the former president for a period of 10 years. Admission to the exhibition is free. *Muzeum Aleksandra Kwaśniewskiego. Z Dariuszem Florkiem, dyrektorem Miejskiej Biblioteki Publicznej w Białogardzie, w której znajduje się sala z pamiątkami byłego prezydenta Aleksandra Kwaśniewskiego, rozmawiał Michał Kuc*, www.radiownet.pl, 09.08.2013 (30.3.2014).

¹⁴ *The Order of the Seraphim*, Swedish Royal Court, <http://www.kungahuset.se> (30.03.2014).

expanded with the advent of heads of state not being noblemen. To date, the Danish Order of the Elephant has been also awarded to private individuals¹⁵.

Membership of both orders is strongly personalised, and their statutes retain certain relics coming from the times where admittance to the orders was restricted to the nobles. These are expressed, *inter alia*, in the use of the “order” coat of arms. Each knight or dame (member) of the order, after the latter has been bestowed upon him (her), is officially requested to indicate his/her coat of arms along with the motto¹⁶. Rules of both orders provide for what is termed as matriculation of the knight (or dame), i.e. making a relevant entry, with the image of the coat of arms attached, in a special register, and a particular distinction added – the shield being displayed at a place specially destined to that end (the royal palace or knight’s chapel)¹⁷.

Where the knight or dame of the order has a family coat of arms it is used, as a rule, as the coat of arms serving the order-related purposes. Where the person in question does not have a coat of arms, two suitable approaches are available – either a special coat of arms is being designed, to become the personal coat of arms of the member of the order (it is not hereditary, since bestowing of the order does not confer a nobility status on the person) or the coat of arms of the country where the dame or knight is the president is used. There is no strict rule on the issue and it is the will of the decorated person that is crucial in that respect.

The group of Polish presidents is not broad and consist of 9 persons (not including the “presidents” in exile). Among them there are two knights of the Order of the Elephant and three of the Order of the Seraphim. In 1923 President Stanisław Wojciechowski was decorated with the Order of the Elephant. In 1936 President Ignacy Mościcki was admitted to the Order of the Seraphim. Lech Wałęsa became a knight of both orders in 1993 and, finally, the group of knights of the Order of the Seraphim was joined by President

¹⁵ *De kongelige Ridderordener*. <http://kongehuset.dk> (31.03.2014).

¹⁶ B.O. Kälde, *President Wałęsa’s coat-of-arms and Dr. Adam Heymowski*, “Biuletyn Polskiego Towarzystwa Heraldycznego” 1995 (September), special issue, p. 25.

¹⁷ As regards the Order of the Elephant, the place is a chapel at Frederiksborg castle in Hillerød. Coats of arms of the living members of the Royal Order of the Seraphim are placed at a special hall of the Royal Castle in Stockholm. After member’s death, his/her coat of arms is transferred to the church on the Riddarholmen islet (within the boundaries of Stockholm).

Bronisław Komorowski. Interestingly, only one person from the circle, Lech Wałęsa, did not have, as at the moment of bestowing, a coat of arms of his own, other Presidents coming from noble families and, consequently, having family coats of arms¹⁸. Certainly enough, Poland being a republic, nobility is not a legal category, but a phenomenon of traditional, cultural or genealogical meaning. Nevertheless, although the Constitution of the Republic of Poland of 1921 in its Art. 96 declared that the state would recognise neither family coats of arms nor privileges of the noble, when President S. Wojciechowski was decorated in 1923, he indicated the “Nałęcz” family coat of arms as his “order” one. In 1936 (under a new Constitution of April 1935, also a republican one, and again not restoring coats of arms or nobility as legal categories), President Ignacy Mościcki, a knight of the Order of the Seraphim, indicated, as his coat of arms to be used for the order purposes, “Ślepowron”, his family one. Since then, the “Nałęcz” of the Wojciechowski family has been featured in the register of the knights of the Order of the Elephant against the name of President Stanisław Wojciechowski, whereas the Mościckis’ “Ślepowron” has been depicted among coats of arms of other dames and knights in the *Riddarholmskyrkan* church of Stockholm. To Lech Wałęsa, who did not have a coat of arms of his own, designing it was offered as an option. The task was undertaken by one of the most outstanding Polish heraldists of the 20th century, meanwhile the Court Librarian of the King of Sweden, Adam Heymowski (1926–1995). It is interesting to note that L. Wałęsa’s coat of arms developed for the purpose of the Swedish order was also used for Denmark’s Order of the Elephant¹⁹. President B. Komorowski, a knight of the Order of the Seraphim of 2011, who has historic rights not only to the family “Korczak” coat of arms, but also to the count’s coronet, decided to follow the practice of his predecessors, having indicated his family coat of arms, not that of the state.

The group of presidents of republican states decorated with the Order of the Seraphim includes those who indicated the coats of arms of their states,

¹⁸ As a curiosity it is worth to mention here that among all presidents of the Republic of Poland there has been a predominance of persons of noble origin. Besides those mentioned above, the group has also included: G. Narutowicz, W. Jaruzelski and L. Kaczyński, the total percentage thus being 66%. With Józef Piłsudski (of Kościeszka coat of arms), the “Chief of the State” in the years 1918–1922, added, the share increases to 70% (7 out of 10).

¹⁹ B.O. Kälde, op.cit., pp. 25–26.

those for whom a personal coat of arms was designed, but also ones that indicated the coat of arms of their own (belonging to the noble or “burgher” family). A number of interesting examples may be indicated as far as the latter are concerned, the persons being Patrick MacMahon, President of France (of Irish extraction) or Richard von Weizsäcker (Richard Karl Freiherr von Weizsäcker), President of the Federal Republic of Germany. The coat of arms of Richard von Weizsäcker is topped by a baron’s coronet, to which the von Weizsäcker family is entitled (the title having been conferred on them by Wilhelm II in 1916). The fact comes as a surprise, considering the regulations of the German law. Not only does it abstain from recognising titles of nobility, but it also qualifies the pronouns (particles), once indicating the noble birth of a person, as parts of a compound surname, devoid of noble character. His own family coat of arms was also indicated by Carl Gustav Freiherr (Baron) von Mannerheim, the President of Finland, while Josip Broz-Tito, the President of the Republic of Yugoslavia, indicated his state’s coat of arms. Worthy of attention are also two cases of contemporary presidents – Rudolf Schuster (president of Slovakia in the years 1999–2004) and Lennart Meri (the Estonian president having served two terms of office in the years 1992–2001). The former, not being aware of his being entitled to a family coat of arms, indicated initially the coat of arms of the Republic of Slovakia. When, thanks to the research done by Swedish heraldists, the coat of arms of a burgher family of Schusters, from which the president had been descended, was discovered, the entry on and image of the coat of arms were corrected accordingly. The Estonian president, while having a family coat of arms, indicated the coat of arms of Estonia, assuming that it was the state represented by him, not he himself, that was honoured. The only US President upon whom the Order of the Elephant has been bestowed (none has been awarded the Order of the Seraphim so far), Dwight Eisenhower, requested for development of a personal coat of arms²⁰.

²⁰ Based on: *Serafimersköldar*, <http://www.debatthuset.com/forums> (30.03.2014); M.M. Wiszowaty, *Prezydenci RP i ich... herby (w Szwecji i Danii)*, <http://www.konstytuty.pl/archives/1629> (28.03.2014); P. Nordenvall, *Kungliga Serafimerorden: 1748–1998*, Sztokholm 1998; J. Pedersen, *Riddere af Elefantordenen, 1559–2009*, Syddansk 2009. The Author’s special thanks are due to: Mr Marcus Karlsson from Debatthuset.com forum, Mr Ronny Andersen, the Court Armorial Painter of the Kingdom of Denmark and Mr Tom Bergroth from the

The circle of knights and dames of both orders also includes presidents of states of Africa, Asia, the Arabic world, with whose “coats of arms” the walls of the knight’s chapel are decorated.

Personalisation of the bestowal of foreign orders, made by presidents, does not, in fact, mean infringement of law. The best that can be said is that certain solutions are closer to the democratic nature of the presidential office. The decision of the president of Estonia, willing to strongly emphasise it by abstaining from personalisation of the coat of arms, can be regarded as exemplary. On the other hand, respecting the domestic tradition, as was the case with Polish presidents, was not alien to foreign heads of state. There is no reason to express critical opinions on the practice.

The acceptance of a foreign decoration by the President of Poland does not, as a rule, entail negative consequences. No real dangers, similar to those connected historically to e.g. the bestowing of the Order of the Golden Fleece upon Polish monarchs can be spoken of now. The statutes of both Scandinavian orders discussed above provide mostly for ceremonial duties and privileges of members of the orders.

V.

There is no doubt that legal regulations concerning acceptance of orders by Presidents of the Republic of Poland are still short of detail and need to be further defined. At the same time, as concrete examples reveal, in the process of interpretation of law, as general as the Constitution in particular, competency in other areas of expertise, like phaleristics, heraldry or diplomatic protocol referred to above, may come in useful. The example of order-related matters proves that the otherwise seldom used historical method continues to apply in the interpretation of the Constitution, as a supplement to the fundamental methods – the grammatical, systemic or purposive one.

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