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THIRTY YEARS' WAR – THE UPRISING OF THE SILESIAN DUKES AND ESTATES AGAINST THE ROYAL POWER IN 1618: THE RIGHT TO ACTIVE RESISTANCE OR AN ACT OF REBELLION?

WOJNA TRZYDZIESTOLETNIA – POWSTANIE KSIĄŻĄT I STANÓW ŚLĄSKICH PRZECIWKO WŁADZY KRÓLEWSKIEJ W 1618 ROKU: PRAWO DO CZYNNEGO OPORU CZY BUNT?

ABSTRACT: The aim of the article was an attempt to answer the question whether the uprising of the Silesian dukes and estates against the Habsburg kings in 1618–1621 had a rebellious character or whether it was an action taken under the right to active resistance guaranteed to them by the Bohemian kings. The subject of consideration were also the motives of armed actions of the Silesian dukes and estates during the Thirty Years' War, both that at the beginning of the war and the second one from 1633–1635. Options were considered between the perception of conflict as a religious war (denominational motives) and the perception of it as a war conducted in the name of political reasons.

KEYWORDS: Thirty Years' War, Silesia, Silesian estates, uprising, rebellion

Despite sufficient knowledge of the military course, political and diplomatic history and social consequences of the Thirty Years' War in Silesia¹, questions are still being asked about its character. Was the renunciation of obedience to King Matthew and Ferdinand II, nominated king, by the dukes and estates of Silesia,

¹ Jerzy Maroń, *Wojna trzydziestoletnia na Śląsku. Aspekty militarne*, Wrocław 2008 – therein extensive older literature on the subject, especially in German language; *Wojna trzydziestoletnia (1618–1648) na ziemiach nadodrzańskich*, ed. Kazimierz Bartkiewicz, Zielona Góra 1993.

who in September 1618 actively joined the uprising of the Bohemian estates, which lasted from May and was undertaken in the name of defending the law against the violation of the essential elements of the state's political system by the king, or was it, on the contrary, a rebellion against the king's authority, the only one acting as legal? Was the undertaking of the war, with all the characteristics of a civil war, made by the estates in the name of a matter which was sufficiently just and of fundamental importance to qualify this bloody initiative as a "just war" – the only form of war for which Christian thinkers have for centuries sought to find arguments to justify its declaration? In the context of the religious transformations of the epoch, the next recurring question is whether this war had the characteristics of a "holy war", i.e., in defence of faith, or at least a religious war – in defence of one's denomination?² Or were its aims entirely in the struggle for political power, and religion was only a pretext or an accident resulting from historical conditions, especially from the characteristics of denomination as a factor strongly identifying the fighting parties? Although these questions seem to come from an arsenal of contemporary rational critical thought, they nevertheless belonged to the epoch: the accusation of the domination of political reasons for the actions of Protestants in Catholic arguments appeared constantly, and on the Protestant side there was a constant suspicion that religious persecution was part of the political game of Catholic rulers.

In the era in which these conflicts took place, the answers to these questions depended on both political and religious choices. The ways of answering these questions correlated both factors as modules of religious and political identity of the 17th century. One of them identified Catholicism with absolutism – and in the eyes of Protestants with tyranny. The other equated the Protestant confessions with modern parliamentarianism – and, in the Catholic eyes, with chaos and the estates' revolt against legal power. The Catholic-Monarch party assigned the attribute of legitimacy of power exclusively to the king, ignoring in political practice that the members of the estates, especially those acting within the framework of the estates' assembly, were also an entity of state power, and thus – besides the king – also a legal authority. The legal and political ability to rule with the king, acquired by the estates during the Middle Ages and in Early Modernit – *mutatis mutandis*

² Heinz Schilling, *Die konfessionelle Glaubenskriege und die Formierung des frühmodernen Europa*, [in:] *Glaubenskriege in Vergangenheit und Gegenwart*, ed. Peter Herrmann, Göttingen 1996, pp. 123–137; *idem*, *Konfessionelle Religionskriege in politisch-militärischen Konflikten der Frühen Neuzeit*, [in:] *Heilige Kriege. Religiöse Begründungen militärischer Gewaltanwendung: Judentum, Christentum und Islam im Vergleich*, ed. Klaus Schreiner, München 2008, pp. 127–149.

present in almost all countries of the European continent at the time³ – was confirmed by the written laws and functioning of assemblies of the estates as an organ of the estates' governing, making them an organ of state power. From the legal perspective, two legal subjects of state-public power – the monocratic (King) and the collective (Estates) – were competing to expand the spheres of rule in the 16th and 17th centuries. Early Modern royalists not only denied estates the recognition of their political-entity status in the state, but also elevated the absolute obligation of the estates to obey the monarch to the rank of a political priority, which had never before been formulated nor functioned in such a form. Members of the estates also began to be treated as part of all the subjects. Although the monarch and the estates were bound together by a relationship of superior and inferior power, it was not a relationship of subjection, as the first theorist of the Reformation period of the concept of the right to resistance of the Imperial Estates to the Emperor, Johannes Bugenhagen in 1529 noted⁴. The monarch may have demanded obedience, but the estates were not obliged to obey him unconditionally, either in the context of the fief law or the positive law of the Estates Privileges. On the contrary, the constitutional guarantees in the Empire, as well as in almost all countries at that time, included the right of resistance of the estates against a monarch who broke the law. In turn, it should be stressed that the monarch's refusal to recognise the constitutional right of the estates to the status of an entity of state power was as subversive and politically revolutionary for the existing structure of government in the state as the armed estates' uprisings. While the latter manifested themselves as a radical and ready to use military force, but conditional, denunciation of obedience to the king by the estates, the monarch, in the process of the covert and creeping process of the progressive suppression of the estates, their offices and powers, from the decision-making spheres of the State, strived for their permanent political impairment. Often it was only at the climax of the conflict, that the estates, irritated by the Monarch's policy, but usually much less capable of long-term warfare than the Monarch, would renunciate their obedience. The monarchy's proceedings in this conflict cannot be attributed solely to the fact that it defended its legitimate rights. As mentioned, it too has sought to introduce

³ *Ständische Vertretungen in Europa im 17. und 18. Jahrhundert*, ed. Gerhard Dietrich, Göttingen 1974.

⁴ Liuse Schron-Schütte, *Justifying Force in Early Modern Doctrines on Self-defence and Resistance*, [in:] *The European Wars of religion. An Interdisciplinary Reassessment of Sources, Interpretations and Myths*, eds. Wolfgang Palaver, Harriet Rudolph, Dietmar Regensburg, London 2016, pp. 141–144.

profound changes in the structure of the state and the exercise of power, and it has begun to treat referring to the duty of obedience as its attribute and as a means of political struggle. Both authorities found themselves in modern times on the road to a radical political change: the exclusion or serious limitation of the competences of the other authority. In this context, it also seems that, from the perspective of positive law, the king was seeking more radical solutions. Apart from the States General of the North Netherlands and the special case of the Swiss Confederation, the estates did not represent a compact concepts of the functioning of a state without a king. They focused on limiting his power, in extreme cases making it dependent on the estates.

Such tendencies in historiographic interpretations have led to a consensus, albeit differently modified, regarding the nature and thus the general causes of the Thirty Years' War, trying to explain its geographical and political breadth and the duration and persistence of conflicts. At its core is a reference to the paradigm proposed by Johannes Burkhart⁵, who sees the Thirty Years' War as an essential part of the formation of the modern state ("Staatsgründungskrieg"). According to his concept, war became a means of resolving the situation in which alternative ways of building the modern state existed within one state body: either as a dynastic-monarchic state, which in the wake of such a political priority would go to a monarchy of an absolutist type, with a hereditary nature of power, or as a state, which would go to forms of estate-land governance and electoral monarchy, with time also to republican forms. It is also possible to see the estate uprising in the Bohemian Kingdom in this perspective. It can be fully perceived as an expression of the model constitutional and systemic conflict outlined above in an Early Modern state, in which two forces with their own political agenda were confronted in competition to determine its political shape: the dynastic (monarchic) or the estate⁶. It would therefore be a war for extremely important, fundamental reasons, but at the same time such an approach would overshadow, or perhaps almost eliminate, the religious factor. This factor, present for centuries in histories, concepts, myths, and forming the framework of identification, seen as the primary and initiating of

⁵ Johannes Burkhart, *Der Dreißigjährige Krieg*, Frankfurt a. M. 1992.

⁶ Jaroslav Pánek, *Religious Question and the political System of Bohemia before and after the battle of the With Mountain*, [in:] *Crown, Church and Estates. Central European Politics in the Sixteenth and Seventeenth Centuries*, ed. Robert J. Evans, New York 1991, pp. 129–147; Joachim Bahlecke, *Regionalismus und Staatsintegration im Widerstreit. Die Länder der Böhmisches Krone im ersten Jahrhundert der Habsburgermonarchie (1526–1619)*, München 1994.

the conflicts of the 16th and 17th centuries, would be reduced to the role of a mere ideological radicalizing factor, of a rather accidental nature, without which the theories of the causes of the great early modern war could still be built. Even contemporaries had doubts about the religious qualification of many events and initiatives in this war. However, they themselves called it a religious war. Were they, like many generations thereafter, deluded by the value and importance of the religious factor?

In the European perspective of the interpretation of the Thirty Years' War, also this part of it taking place in Silesia can be seen as a complex political conflict between the king and the Silesian dukes and estates related to the formation of an early modern state. At the beginning of the 17th century, the alternative of the political system of the state on the monarchic-dynastic or estate-land principle was particularly conflicting in Silesia, both because of its autonomous internal system and the type of systemic functioning within the Bohemian state. The framework of separateness was created by the functioning of Silesia, consisting of 16–17 duchies, as a royal fief and not as a land directly incorporated into the Kingdom⁷. The fief relationship between the king and the dukes of Silesia, and – in the case of the royal duchies – between the king and the estates of these duchies, provided the fiefs with a much broader independent power than it was guaranteed by the average fief contract. In the case of dukes, it formally included, despite the monarch's practical efforts to limit them, almost full *regale*, along with minting the coin, accepting homage from the knights of their duchies, levying taxes, maintaining military troops and decisions about dynastic associations. Also, the king guaranteed to the estates of individual royal duchies in Silesia, who paid homage to him, among other things, the appointment of a governor of the duchy from among the local nobility, and that regular taxes could only be imposed by the Silesian Parliament. For the military assistance outside Silesia, which resulted from his initiative, the king had to bear the costs. The Silesian dukes and estates had institutions autonomous from the royal authority, with the features of executive, legislative and judiciary power, whose competences included almost full administration and rule in Silesia. The most important of them were: the general assembly of the Silesian estates, held without the participation of the king, the highest ducal

⁷ The act of incorporation of Silesia into the Kingdom of Charles IV from 1348 could not change this status.

tribunal, against whose verdicts there was no appeal to the king⁸, the office of the general starost, who was sworn both to the monarch and the Silesian estates, and according to the law elected only from among the Silesian dukes. Moreover, the establishment by the dukes and estates of an estate tax administration to collect and dispose of Silesian taxes (General Tax Office), with its own treasury and budget, as well as the land defence financed and supervised by them, operating within the framework of a general estate assembly, constitutes a picture of either significant participation or directly independent management of basic spheres of state governance by the estates. The king had poor administrative independence in Silesia and was dependent on the cooperation of the estate assembly. Thus, Silesia functioned as a country whose system was strongly determined by the participation of dukes and estates in power of a state character. Moreover, as it was mentioned, the dukes were still personally equipped with the quantum of public power under the law, i.e. contracts with the Bohemian king for the division of power on the basis of fourteenth-century fief contracts. In political practice, this power was narrowed down by the king, and its severe losses also to the knighthood of the duchies were caused sometimes by the dukes' profligate and reckless policy. However, it still remained significant until the 16th century, and after the Reformation, which was undertaken until about the middle of the 16th century by all Silesian dukes (with the exception of the prince-bishop of Wrocław) and their taking over the authority over the faith and the Church in their dukedoms, the duke's power and authority were significantly revalued and augmented. At the same time, however, the Habsburg kings intensified their efforts to centralize monarchic power and become the only source of power and law in Silesia. The position of the dukes and estates in the political system of Silesia, revealed in the existing institutions with reduced influence of the royal power and resulting from specific fief contracts providing them with significant spheres of public power, in an encounter with the new political tendency initiated by the Habsburg kings, caused a permanent conflict for power between the royal and estate parties. Developed in the 15th and the first decades of the 16th century, the political dualism, based on the principle of the balance, which

⁸ Felix Rachfahl, *Die Organisation der Gesamtstaatsverwaltung Schlesiens vor dem dreißigjährigen Krieg*, Leipzig 1894; Kazimierz Orzechowski, *Historia ustroju Śląska 1202–1740*, Wrocław 2005. Since 1548 the cities in The royal duchies could appeal to the Prague Appeal Chamber, Jaroslav Pánek, *Ferdinand I – der Schöpfer des politischen Programms der österreichischen Habsburger?*, [in:] Petr Maťa, Thomas Winkelbauer, *Die Habsburgermonarchie 1620–1740. Leistungen und Grenzen des Absolutismusparadigmas*, Stuttgart 2006, p. 68.

although labile, was still a balance of these powers, found itself in the last decades of the 16th and early 17th centuries on a collision with the new political aspirations of these two types of political forces.

The political antagonism between the monarch and the dukes and estates of Silesia was part of a much broader conflict in the Bohemian state. As it was pointed out, its centre was much more violent struggle between the monarch and the non-Catholic Bohemian estates, which, like the Silesians, were also joined by the Protestant political estate forces of the other countries of the Bohemian Crown. After four months of the uprising, which began on the initiative of the Bohemian estates in May 1618, the dukes and estates of Silesia provided it with military assistance on the basis of the “union”, as it was then called, i.e. the confederation of 1609. Then they established a new confederation with the Bohemian estates, signed on 31st July 1619. This time it also included the Moravian, Upper and Lower Lusatian estates, i.e. all Bohemian lands. This armed union of the estates was not only a temporary coalition to remove abuses and practices of royal power that were contrary to the law of the monarchy from the ducal-estate point of view. At the same time, it was a fundamental systemic act developing the consequences of the existing law in favour of the estates. This is what draws particular attention to the fact that the new systemic rules have evolved from the rights acquired so far by the estates. Therefore, the Confederation had a state reforming character and bound all Bohemian lands on a federative basis. The State was to become a union of land estates with equal political rights and full religious freedom of non-Catholic denominations, as defined in two Letter of Majesty from 1609, the Silesian and the Bohemian, i.e. the *sub utraque* denominations, i.e. those concentrated in “the Bohemian confession”⁹, and “the Augsburg confession”. Catholicism was allowed as a religion on the territory of the State, but its followers were supposed to have a strongly reduced ability to hold higher, lower, or even local offices. The restrictions resulted not from valuing Catholicism as a religion, but from concerns about the political loyalty of its followers. The dukes and estates of all the Bohemian lands gathered in the confederation dethroned Ferdinand II and elected Frederick V of Palatine the new King. The estates of the other Habsburg lands, especially the

⁹ Jaroslav Pánek, *Der Majestätsbrief zur Religionsfreiheit von 1609 als historiographisches Problem*, [in:] *Religion und Politik im frühneuzeitlichen Böhmen. Der Majestätsbrief Kaiser Rudolfs II von 1609*, eds. Jaroslava Hausenblasová, Jiří Mikulec, Martina Thomsen, Stuttgart 2014, pp. 239–260.

estates of the duchies of Lower and Upper Austria and of the Kingdom of Hungary, also submitted their accession to this confederation.

For a short period of time, the Bohemian uprising became a focal point for the whole central part of Europe. It was a conflict of both an internal nature, i.e. taking place within the Bohemian statehood, and crossing the borders of one state, involving almost all the political organisms of this part of Central Europe where the Habsburgs held the office of monarch or duke. The antagonism between the estates and the royal authority did not therefore arise from problems within a single Bohemian state organism, but all political entities under the Habsburg rule were covered by it, and their estates led to a supra-state agreement, largely confirming the diagnosis contained in Burkhardt's paradigm.

Seen from a long-term European perspective, the political conflict in the Bohemian state might be regarded as typical. The political dualism in most of the then European states has lasted for a long time, and its character leading to rivalry has been evident since the 13th century. In many political and territorial entities, the estates have secured their share of power: in England (Magna Cart) in 1215, in Hungary in 1222, Aragon 1283/1287, Brabant 1312/1314 and 1356 (Joyeuse Entrée), the Burgundian Netherlands in 1477, Bavaria 1302/1311/1358/1392/1429, Brandenburg in 1472, Mecklenburg in 1304, Braunschweig-Lüneburg in 1392. These privileges not only defined their liberties, but also defined the political and legal position of the estates with a clause of renunciation of obedience to the king, or even deprivation of the throne in case of violation of the privileges granted. During the 16th century, these state-wide processes of writing down estate guarantees and at the same time guarantees for the legal renunciation of obedience covered the largest political-state entities in Europe, such as the Kingdom of Poland and then the Rzeczypospolita, the French Kingdom, and above all the Roman Empire of the German Nation. The struggle in these countries covered the entire 16th century: the great political settlement in the Empire in 1555, in which the monarch's authority recognised the *ius reformandi* of the estates, and thus their co-ruling status in the state system, the privileges in the Kingdom of Poland, and then in the Rzeczypospolita in 1501, 1573 and 1607, giving similar status to the "Sejm" estates, and in France eight civil wars, fought in 1558–1598, in which a Catholic-monarch camp trying to suppress the Protestant estate opposition finally had to guarantee them political autonomy with regard to religion in Nantes in 1598. These processes have not closed the phenomenon of similar struggles. In 1577, the Netherlandish estates,

due to both religious oppression and abuse of monarchy power, renounced obedience to their ruler, King Philip II of Spain, practically causing the creation of the first republican state in 1609, although the armed struggle was not ended until 1648. In 1642 the next stage of the struggle between the Crown and part of the estates in England took place, leading to a civil war, an important stage of which was the execution of the king on a charge of treason in 1649. In 1648/1649 the Fronde in France began, an armed uprising of the estates against Louis XVI¹⁰. Taking this background into account, the war started by the uprising of the Bohemian estates in 1618 and the Silesian estates supporting them militarily was situated in the middle of the monarch-estate conflicts of the Late Medieval and Early Modern Europe. However, the signum of conflicts in the Bohemian state – as in the Empire, the Kingdom of Hungary, the Netherlands and France in the 16th century – became the fact that mainly estates of non-Catholic faith were involved in them. The struggle was about the system, but the inherent condition of the conflicts themselves, and not only the accompanying feature, were religious antagonisms.

For the Reformation has introduced a new problem into political life: the situation when a monarch and estates of a state differ in denomination¹¹. A Catholic monarch and Protestant estates became parties to the conflict. These statements do not apply to northern European countries, especially Sweden, Denmark and England, where during the 16th century the implementation of the Reformation became a monarch policy, and to the south-western countries, where the Reformation, with its much weaker resonance, had no significant political dimension. In other states, although it took place only in part of their territory, the Reformation constituted the basis for those estates that changed their religion to demand constitutional protection for new ecclesiastical institutions and the right to public worship. Already these demands alone have led to the transformation of the religious issue into a political problem. For this purpose, the estates made use of their status

¹⁰ The following were used in the compilation: Eberhard Isenmann, *Widerstandsrecht und Verfassung im Spätmittelalter und frühen Neuzeit*, [in:], Helmut Neuhaus, Barbara Stollberg-Rilinger, *Menschen und Strukturen in der Geschichte Alteuropas*, Berlin 2002, pp. 37–69.

¹¹ Eike Wolgast, *Die Religionsfrage als Problem des Widerstandsrechtes im 16. Jahrhundert*, Heidelberg 1980; Diethelm Böttcher, *Ungehorsam oder Widerstand? Zum Fortleben des mittelalterlichen Widerstandsrechtes in der Reformationszeit 1529–1530*, Berlin 1991; Robert von Friedeburg, *Bausteine widerstandsrechtlicher Argumente in der frühen Neuzeit (1523–1668): Konfessionen, klassische Verfassungsvorbilder, Naturrecht, direkter Befehl Gottes, historische rechte der Gemeinwesen*, [in:] *Konfessionalität und Jurisprudenz in der frühen Neuzeit*, eds. Christoph Strohm, Heinrich de Wall, Berlin 2009, pp. 115–166.

of state power, which was lower than the monarch's, but on whose political consensus and cooperation the monarch was dependent in almost all spheres of state governance at the time. Both in order to defend the only true faith, and in order not to weaken their political status in the state system, the estates could not allow to leave to the royal authority the previously undeveloped area of decisions on the legality and correctness of religion.

Another important political aspect of differences in denomination of faith quickly emerged: the problem of active defence of faith by the estates in the face of a higher power, i.e. the monarch. The question arose, the answer to which was the *raison d'être* of estates with a different denomination from that of the monarch: are they – as a lower power than that of the monarch – entitled to put up an active resistance to the monarch in religious matters, or not? Not building such a theory would condemn in advance every religious reform not recognised by the monarch to destruction. The problem was to find a foundation on the basis of which it would be possible to determine both the existence of conflict and its resolution. The reference to religious books was not suitable for this function. On the basis of the Scriptures, each side could only stand firm and steadfast in its own position, because it was only the conviction, the subjective factor, that decided. Moreover, the New Testament contained only scarce material to resolve such conflicts¹².

A practical way in which an attempt was made to permanently solve the problem became the juridization of religions, which transformed *causa religionis* into *causa iuris*. The denominations, their area and methods of functioning of their churches and communities of believers have become part of positive law. This first happened in the second Peace of Kappel of 1531 between the Swiss cantons, and in a developed form in the religious Peace of Augsburg of 1555, a law of the Estate Assembly of the Empire. A law was created to define the functioning of the state's political entities on account of differences in religions, outlining legally verifiable formulas about rule, obedience, defence and tyranny¹³. A similar path was taken by some of other countries of the time. Within the framework of the Bohemian state in Silesia, the juridization of religion was reflected in Rudolf II's Letter of

¹² Only three passages of the New Testament are indicated in this respect: Rom 13:1, followed by Acts 5:29 of the so-called Clause of Peter (*Clausa Petri*) and Matthew 22:21 Date of Caesari..., here compiled after Wolgast, *Die Religionsfrage*, pp. 9–10.

¹³ *Ibidem*.

Majesty from 1609¹⁴. Issued as a royal law, although written under the dictates of the estates, the letter legalized the operation of two denominations, Catholic and Lutheran in Silesia, delegitimizing *eo ipso* all the others. In the case of Catholicism it only confirmed the lack of restrictions, not specified, and for Lutheranism it wrote the formula of equality with Catholicism. It introduced full public rights for both religions, such as the right to public worship, the right to have churches, clergy and teachers. This has resulted in a standard in legal acts which determines what actions in the religious sphere are an offence and provisions on the means to be used for legal compensation. Thus, *causa religionis* was transformed in Silesia not only into *causa iuris*, but directly into *res profane*.

Although religion occupied almost the entire sphere of spiritual life until the Reformation, it was not a political factor because of the religious unity of Christianity. As a result of the Reformation it was not only incorporated into politics, but also became the most explosive and difficult part of it, which radicalized the unstable consensus in power agreements between the monarch and the estates that had lasted for several centuries.

The first stage of efforts to radically resolve the conflict with the monarch on the territory of the Bohemian state by means of armed action ended quite quickly with the defeat of the estates. After undertaking the offensive in 1620, Ferdinand II managed to efficiently divide the common front of the land estates. He also won the diplomatic struggle. Even before the start of military action, he managed to distance the members of the Protestant Union of the Empire from the uprising. He took advantage of both their religious differences – the majority represented Lutheranism¹⁵, while the Palatine Prince-Elector and the new Bohemian King were Calvinists – and the political conflicts between its members¹⁶. Ferdinand also received active military assistance from Duke Maximilian of Bavaria and financial support from the Papacy and the Spanish Habsburgs. The most important factor contributing directly to the estates' disaster was also the short period of time during which the Bohemian lands had to organise themselves for war on a new basis.

¹⁴ Paul Konrad, *Der schlesische Majeätetsbrief Kaiser Rudolfs II. vom Jahr 1609 in seiner Bedeutung für das städtische Konsistorium und die evangelischen Kirchenregiment Breslaus*, Breslau 1909.

¹⁵ Albrecht Ernst, the Saxon Elector, pretended to lead the union, *Union und Liga 1608–1609. Konfessionelle Bündnisse im Reich – Weichenstellung zum Religionskrieg?*, ed. Anton Schindling, Stuttgart 2010.

¹⁶ Also the Elector of Brandenburg was a Calvinist since 1614.

A single battle, which took place on the White Mountain on 8th November 1620, ended the existence of the confederation. The Bohemian lands were treated differently by Ferdinand returning to power. The aforementioned repression against the Bohemian estates was matched by an almost full pardon of the Monarchy for the Silesian participants of the uprising with a promise to keep all their privileges in secular and religious matters, including the Letter of Majesty from 1609¹⁷. The conditions for the restoration of peaceful relations were included in the so-called Dresden Agreement of 1621. The king's only demand towards the Silesian dukes and estates, apart from a one-time considerable gratification, became their admission that they acted rebelliously, which indicates the fundamental political and systemic importance of such a statement. It radically elevated the status of a ruler from the sphere of cooperation with estates to the sphere of full supremacy over them.

Numerous testimonies preserved from that time in the form of letters of the Silesian dukes and estates, in which they explained their arguments, make it possible to learn also the estate interpretation of the conflict. It is characterized by the complexity of reasons for their decisions. In this text it is outlined on the basis of two texts from 1619 and 1621.

The first letter entitled “Fürstentages Beschluß”¹⁸ has the features of a protocol from the Silesian Parliament of September 1619, at which the “Report” of the Silesian envoys from the course of the General Parliament in Prague was heard and, as a result, several fundamental decisions were taken to reorganise both the religious and political affairs of Silesia in relation to the whole state. The most significant feature of the letter is also its character of apologia, aimed at justifying the resolutions adopted. It was intended to present to the public the grounds for joining the confederation of 31st July 1619, to verbalize the reasons for the renunciation of obedience to Ferdinand II, as well as the decision to dethronate him and elect a new king, Frederick Wittelsbach. It also announced some of the most urgent resolutions contained in the Act of Confederation and the ways of their implementation in Silesia. They were prepared in the key period for the uprising (September/October 1619), when the dukes and estates were full of hope for the success of the

¹⁷ The exception was the Duke of Krnov, Johan Georg von Hohenzollern, Herman Palm, *Der Dresdner Accord*, “Zeitschrift des Vereins für Geschichte und Alterthum Schlesiens“, 13 (1876), pp. 151–192.

¹⁸ *Fürstentages Beschluß, wie derselbige von den Herren Fürsten und Ständen in Ober und Nider Schlesien Augspurgischen Confession zugethan...*, gedruckt zu Prag bey Daniel Carl von Carlsberg, [1619].

action undertaken. The second document, entitled “Instruction der an Kurfürst Johann Georg von Sachsen [...] abgeordneten Gesandtschaft”, of 2nd January 1621 is a letter prepared for Silesian envoys sent to talks with the Saxon Elector, who mediated the terms of an agreement between the defeated Protestant dukes and estates of Silesia and Ferdinand, who returned to power¹⁹. The Silesians presented there their arguments and expected them to be the basis – as they initially thought – for the negotiations with the monarch. It also contained an extensive motivation that prompted the dukes and estates to the armed resistance against the Habsburg kings and the deposition of Ferdinand II.

“Fürstentages Beschluß”, although to some extent its argumentation depends on the one used in the “Act of Confederation” of 31st July 1619²⁰, also contains specifically Silesian reasons for joining the uprising. The introduction to this part of the letter, which bears the apologia of the cause of the uprising, was formulated as a kind of preamble. It declares that King Ferdinand II, now also elected Emperor, for reasons that will be presented further on, “deprived himself” of his rule in the Kingdom of Bohemia and therefore the dukes and estates of the incorporated lands, including Silesia, were freed from the obligations arising from the “homage conditionally paid”²¹ in 1617. Therefore, they became entitled to a new election of the king. Frederick V von Wittelsbach was elected at the General Assembly of the Bohemian estates and estates of all incorporated lands. These acts were made by the estates as a confederation, and the right to create a confederation was recognised by both the late Emperor and King Mathias and Ferdinand. When homage was paid to them by the dukes and estates, both swore all the Silesian privileges, including Rudolf II’s Letter of Majesty on the freedom of the Augsburg faith and the right to confederate with the Bohemian estates in defence of religion.

The immediate cause, forcing them, as the dukes and estates explained, to dethrone Ferdinand was the war. It was caused by the evil conduct towards the estates by the king’s “bad advisors”. The king’s guilt, however, was not to remove the advisors from the rule, so the matter was not settled peacefully and the war

¹⁹ *Instruction der an Kurfürst Johann Georg von Sachsen von den schlesischen Fürsten und Ständen abgeordneten Gesandtschaft*, d. d. 2. Januar 1621, *Acta Publica. Verhandlungen und Correspondenzen der schlesischen Fürsten und Stände, Jahrgang 1621*, ed. Hermann Palm, Breslau 1875, pp. 28–51.

²⁰ Winfred Becker, *Ständestaat und Konfessionsbildung am Beispiel der böhmischen Konföderationsakte von 1619*, [in:] *Politik und Konfession*, ed. Dieter Albrecht *et al.*, Berlin 1983, pp. 77–99.

²¹ *Fürstentages Beschluß*, p. 4.

was not avoided. Each of these motives, although obviously combined, also played an independent role in the argumentation. While “unbearable religious oppression” served to emphasize the contradiction of royal conduct with the biblical injunction, the core of which was the duty of the superior authorities to protect the pious (good) and punish the wicked, the latter pointed to Ferdinand’s violation of the power agreement with the estates. Both motifs were among the classic Protestant arguments justifying the use of active resistance to monarch power, and then became part of the concepts shared by the Monarchomachs. They appeared already in the oldest treaties building the theory of the right to actively defend the religious and church reforms carried out by Protestant political forces in the face of the monarch’s opposition. The logic of the first argument was that if a ruler stopped protecting the pious and punishing the wicked, as the Scriptures imposed on him, he also stopped being a Christian ruler. By this omission, he was against the command of God’s word, and by doing so, he was deprived of his office and the lower authorities were no longer obliged to obey him even in the area of temporal matters²². The second motive, the legitimacy of refusing to recognise the power of a monarch in the face of a violation of rights, was more complex. Moreover, in the thought of the Monarchomachs, it was connected with the concept of tyrannical rule, identified as the degeneration of royal power, against which active resistance must be put. Part of the tradition of feudal law contained in this argument was based on the principle that the fief law, binding the fief and feudal lord, recognized in the 16th century – at the level of state authority – as the relationship between a monarch and estates able to participate in an estate assembly, has the character of a power agreement. Its violation, and consequently its invalidation, may be done not only by a fief man, but also by a lord of fief. For fief law contained an *obligatio mutua*, i.e. an obligation on both parties to comply with the agreement. According to it, in case of a breach of contract by a lord, a fief was entitled to leave him, as well as to resist him if he wanted to force his obedience. Thus, reference was made to the *ius resistendii*, valid in the fief law, the right to resistance, the idea of which was incorporated into the 16th–17th century political relations between the two participants in state power. Law historians also see this as the source of the so-called “electoral capitulations”, as conditions for a candidate for king during negotiations

²² Schron-Schütte, *Justifying Force*, p. 142; eadem, *Gottes Wort und Menschenherrschaft. Politisch-Theologische Sprachen im Europa der frühen Neuzeit*, München 2015, pp. 36–38.

by the estates²³. The outlined approach to legal thinking has become decisive in the concepts of the Monarchomachs for the legitimacy of the right to resistance of lower authorities to higher authority in religious matters. Within this current of thought, as mentioned before, there has also been a renewal of the concept of tyrant rule, based on the ancient topos and its medieval continuation (Thomas of Aquinas and Bartolus Sassoferrato)²⁴, which considered the rule of every tyrant to be illegal and obliged to dethrone or even kill him. References to this concept were also present in the letter of the Protestant Silesians. As another circumstance, which *eo ipso*, i.e. by definition deprived Ferdinand II of his right to rule, was his having signed a pact with the 'House of Spain', which sought to bring about a tyrannical rule. This was interpreted as an act of violation of the sworn rights for two reasons. First of all, as it is written in the analysed letter, all Christian nations, regardless of their religion²⁵, abhor and fight "Absolutum Spannschen Dominatum"²⁶. Moreover, the aim of the pact was to rob the Silesian dukes and estates of their "natural" and "everlasting" rights and subject them to "extreme subjection". In pursuing such a goal, the monarch completely ignored the fact, as explained in the letter, that the Silesian dukes joined the Kingdom of Bohemia by their own and unforced will, precisely because it promised to "invariably maintain [their] liberties", in which "nature itself has embedded them"²⁷. Both the reference to historical law guaranteeing the co-reign of dukes and estates and to natural law as a source of political liberties and prerogatives of dukes belonged to the classical argumentation in the concepts of thought of the Monarchomachs. Their violation by a monarch resulted in the cessation of the obligation to obey him, because it was a violation of God's natural order by the ruler. Because of the attribute of "everlasting" to the political status of dukes, this order of nature included in a special way also their rights sanctified by their long duration²⁸.

Then, the narration of the letter again referred to contemporary events. Ferdinand II was reminded that both he and Matthias, as monarchs, sworn to maintain the freedom of religion, as recorded in the Letter of Majesty of 1609. They also confirmed the right to establish a confederation by the dukes and estates with

²³ Wolgast, *Die Religionsfrage*, p. 11.

²⁴ *Ibidem*, pp. 12–13.

²⁵ *Fürstentages Beschluß*, p. 7

²⁶ *Ibidem*.

²⁷ *Ibidem*.

²⁸ Friedeburg, *Bausteine widerstandsrechtlicher Argumente*, pp. 146–152.

a clause on the possibility to renounce obedience to a king, who would violate the guarantees of the freedom of denominations in Silesia and Bohemia.²⁹ Such a case of necessity to defend the *legum regni fundamentalium*³⁰, according to the dukes and estates, occurred then. The estates have repeatedly reported monarchy abuses against the rules of the Letter of Majesty. They have only received assurances contrary to reality that all their privileges were scrupulously respected. They are now standing for the third year under arms and see no inclination on the part of the monarch either to peace or to rectify religious and secular abuse. On the contrary, Ferdinand's *modus procedendi* does not allow any hope of ending the conflict. Since 1617, the monarch has adopted the tactic of affirming all rights and, in practice, not respecting them. In the face of such experiences, the dukes and estates declared that Ferdinand's assurances can no longer be taken seriously, because from what he swore and what constituted *reciprocam partis obligationem ex debito*, i.e. the obligation (to comply) with the parties' mutual obligations, Ferdinand "freed himself by absolution". He was eager to confirm all privileges, but in fact he acted against them. The dukes and estates of Silesia, together with the rest of the Bohemian lands estates, are now demanding "real assurance", i.e. that the ruler confirms the sworn rights "not only by letters and stamp", but that he does not sabotage them and orders their real application. The monarch's method was clearly recognized as political hypocrisy. Ferdinand was explicitly suspected of applying the principle *haereticos pactis non servanda est*, as the letter made clear on several occasions. These accusations may be evidence of the radical frustration of the dukes and estates with the monarch's policy, which has been seen as hypocritical over the past few years. The strong emotionality in the formulation of this accusation, the almost tangible anger behind it, which appears in the letter, raises the question whether the gap between the monarch's words and actions was not one of the reasons for the radicalization of the measures taken by the dukes and estates.

The signed Act of Confederation was made *pro lege publica et fundamentalis*³¹ of the Kingdom of Bohemia. Therefore, it was required that the oath be sworn on this act by all land estates, by cities, by holders of various offices, both Catholics and Evangelicals, as well as certain groups of Catholic hierarchs under the penalty of loss of goods and beneficiaries. It was written that this would take place within

²⁹ Rudolf Stanka, *Die böhmische Conföderationsakte*, Berlin 1932, pp. 100 and 136.

³⁰ *Fürstentages Beschluß*, p. 10.

³¹ *Fürstentages Beschluß*, p. 13.

the framework of the Parliament convened for 21st October to Wrocław, and the oath was to be taken before the Collegium of Defenders. References to this new collegiate body in the Silesian conditions in this letter were scarce, completely ignoring its breakthrough and key character both religious and political, and its systemic significance for the newly formed Bohemian state³². The arguments of “Fürstentages Beschluß” drew on the already rich European tradition of thought about the right to resistance against the monarch. It includes themes already present in the oldest attempts of such concepts by Johannes Bugenhagen of 1529 and the *Confessio Magdeburgensis* of 1550, as well as in the writings of the Monarchomachs François Hotman, Theodor Beza and Junius Brutus Stephanus Celt Duplessy-Mornay/Languet³³ and in the works of Johannes Althusius systematizing these thoughts. It was also drawn from the local Silesian traditions, especially from the political privilege of Władysław Jagiellończyk from 1498 and the Letter of Majesty from 1609, as well as Bohemian traditions.

In the second letter, an instruction from January 1621, although some of the arguments presented in the “Fürstentag Beschluß” were repeated, the narrative was organised differently and, above all, even more clearly, Matthias and Ferdinand II were directly blamed for the situation. On one hand, it was to show that in order to come to the throne, Matthias used all those methods of political struggle which he now refuses to legitimize, since they have become tools of politics of the dukes and estates. On the other hand, both of them were accused of such conduct before being recognised as kings, which was intended to mislead the dukes and estates as to their political and religious intentions as later monarchs. It was extensively pointed out to Matthias³⁴, that it was the non-Catholic estates that gave him the crown – both Hungarian and Bohemian – when he declared the protection of their religious rights and made a promise that the maintenance of the political and religious freedoms of the estates would become an unchanging guideline of his policy. A detailed reference was made in particular to Matthias's support for the

³² Only the composition of this collegial office was given: the defensors were George Rudolf in Legnica (Liegnitz) Georg in Karniów (Krnov), Henry Wenceslaus in Oleśnica (Oels), Charles Frederick in Oleśnica-Bierutowice (Oels-Bernstadt), Joachim von Maltzan in Milicz (Militsch), Hans Ulrich von Schaffgotsch in Żmigród (Trachenberg), from the hereditary duchies it was supposed to be starosts, and from the cities it was supposed to be councillors: from Świdnica (Schweidnitz) Johann Wirt, from Góra (Guhrau) Elia Heldt and from Ząbkowice (Frankenstein) Nikolau Leipert; *Fürstentages Beschluß*, p. 16.

³³ Friedeburg, *Bausteine widerstandsrechtlicher Argumente*, p. 37.

³⁴ *Instruction*, p. 29, 38-39.

Hungarian estates in 1606–1607, when the politics of the then reigning Rudolf II led to the Bocskai uprising in Hungary and then to unrest in Moravia. The authors of the letter pointed Mathias out that when the non-Catholic Moravian estates established a confederation in Eibenschütz in order to protect themselves from religious persecution, he personally joined it³⁵, although he did so against the policy of Rudolf II, who ruled at that time. Not only did he declare that, as a future ruler, he would maintain religious privileges, which he confirmed with documents he issued, but he also confirmed this with military actions: he “went to fight” against the ruling Rudolph II, proclaiming that he was doing so to guarantee the estates “the maintenance of their religion and privileges”³⁶. When he ascended the throne, he legalised the act of the Bohemian-Silesian confederation of estates of 1609, which contained a provision on the possibility of refusing to obey the king in case of his violation of his sworn religious rights. Thus, the estates showed that in 1618/1619 they found themselves in a similar situation as in 1606–1609, and that they applied such methods of conducting politics which only a few years ago were introduced into the practice of political life in the Kingdom or approved by Mathias. In 1618, however, the monarch refused to legitimise such political actions. But with these very methods, the authors continued to point out, he gained the trust of the estates that deceived offered him the crown and throne. Even stronger accusations of responsibility for current unrest in the state were raised in the instruction against Ferdinand II³⁷. The blame for the political crisis in the state was laid on both his persistence in rejecting complaints about the violation of secular and religious law presented to him and his hypocrisy, which consisted, on the one hand, in verbal and written confirmation of all rights and privileges of the dukes and estates of Silesia and, on the other hand, in denying all complaints about their non-application as unjustified slander³⁸. This conduct released the dukes and estates from the conditionally paid homage to Ferdinand as future ruler in 1617.

The estates’ uprising of 1618–1621, although it brought defeat, did not end the resistance of the Protestant dukes and estates of Silesia against the Habsburg monarchs. First, however, between 1621 and 1633, there was a period in which they did not take part in the war, although it was also carried out with material and financial

³⁵ Stanka, *Die böhmische Conföderationsakte*, pp. 89 and 96.

³⁶ *Instruction*, p. 29.

³⁷ *Ibidem*, p. 37.

³⁸ *Ibidem*, pp. 31–32.

resources from Silesia. The state in which they functioned was still involved in the war, but both the conduct of the war and the definition of its goals rested solely in the hands of the Habsburgs. It was not until 1633 that the local Silesian dukes, i.e. dukes from the Piast dynasty in Legnica and Brzeg and Podiebradowicz from Oleśnica, together with the city of Wrocław and the estates of the Duchy of Głogów, joined the Protestant Brandenburg-Swedish-Saxon coalition, including the so-called conjunction in 1634. They also joined the Heilbronn League, initiated by the Swedes, under the directorium of Swedish Chancellor Axel Oxenstierna as a Swedish attempt to seize power in the Empire. The remaining Silesian duchies were already in the hands of Catholic starosts or aristocratic dukes, appointed by the Habsburgs. The minting of their own coin by the Silesian dukes and estates allied against the Habsburg king underlined the irredentist goals of this political and military action. While the uprising of 1618–1621 was intended to reorganize the Bohemian state, the aim of the present political and war effort was to separate Silesia from the Habsburg Bohemian monarchy. This alliance turned out to be a political illusion, and this second war initiative of the Silesians was ended with the Peace of Prague in 1635, concluded without their participation. From that year on, for the next 13 years until 1648, the Silesians no longer took part in military activities as a political actor, giving their area merely as a theatre for fighting and bearing very high costs of these war clashes, both human, material and financial. However, their activity and political power came to the fore once again in 1648. They succeeded in obtaining the diplomatic assistance of Sweden, the United Provinces of the Netherlands and England and in introducing provisions on religious rights for Silesian Lutherans into the international Peace of Westphalia. They were nevertheless limited to 5 Silesian territories, 4 principalities and the city of Wrocław, but included full rights to public worship of the Augsburg Confession.

Apart from the documents written by the Silesians themselves, the reasons for the anti-Habsburg political options of the Silesian Protestant elite can be observed through the peace provisions ending their ally-military initiatives in the period called the Thirty Years' War. They were either entirely or largely made under the dictates of royal power: the Dresden Accord of 1621, the additional recession to the Peace of Prague of 1635 and the Peace of Westphalia of 1648. While the above discussed letters presented a Silesian-Protestant point of view on the causes of the conflict, in the above mentioned treaties the monarch was the instance that determined it. His diagnosis was concise and unchangeable: rebellion of the

subjects. Regardless of political reasons, in the context of such an interpretation of the action taken by the estates, the monarch placed himself above the law, even the one he issued himself. The provisions of the individual treaties have already been analysed in detail in the literature of the subject³⁹. The current task is not to attempt additional analysis of them within the limited framework of this article. What draws attention is their common feature. These treatises that ended the conflicts – in contrast to the narrative of the letters prepared by the dukes and estates who quoted extensive religious argumentation, but even more extensive and closely intertwined with it, political one – contained mainly provisions only in the religious scope, paradoxically, on the principle of a far-reaching settlement of the monarch with the Protestant dukes and with Wrocław, the only Silesian city so exceptionally treated. They were guaranteed full religious freedom, but in a practical interpretation reduced to tolerance in place of the previous equality of religions.

With regard to matters from the political sphere, however, the provisions were very concise and minimalistic, both in terms of the amount of space devoted to them and the content of the provisions. The Habsburgs' suppression of the political dimension of demands and claims was probably motivated by the fact that they did not accept the existence of a political program, represented by the estates of their ruled countries, including the Silesian Protestant estates, which was opposed to their system of rule. Maybe it was also the monarch's conscious trick to not verbalize the fundamental difference between his concessions and the dukes' and estates' efforts to place the right to religious freedom in the system of law and governance in Silesia. After the political defeat of the dukes and estates, the religious concessions granted to them – on the basis of royal grace individually to the dukes and the city of Wrocław – lost their explosive political power for royal rule. As can be seen, for the monarch who made Catholicism a *raison d'état*, the difference in religion itself was not a threat. It only became so when it was linked to the system of rule. Today there is a tendency to identify the religious factor solely with conviction and faith and to see the struggle of the 16th and 17th centuries as a struggle for freedom of conscience. In the 17th century it was also a very concrete dimension of power that was at stake. The dukes and estates had a limited control over the Catholic Church. Only the king was

³⁹ Palm, *Der Dresdner Accord*, pp. 180–192; *idem*, *Die Conjunktion der Herzöge von Liegnitz, Brieg und Oels so wie der Stadt Breslau mit dem Kurfürsten von Sachsen, Bandenburg und der Krone Schweden in den Jahren 1633–35*, "Zeitschrift des Vereins für Geschichte und Alterthum Schlesiens", 3 (1860), pp. 227–368; Norbert Conrads, *Schlesien in der Frühmoderne. Zur politischen und Geistigen Kultur eines habsburgischen Landes*, Wien 2009, pp. 53–69.

a force that cooperated in this Church. Whereas in the Protestant denominations, in Lutheranism and Calvinism, the Church was reorganized into an organ of ducal and estate governance, almost eliminating royal influence (if the king stayed with Catholicism). In such a context, therefore, the king's religious concessions were concessions from the monarchy sphere of rule in favour of the religiously privileged estates. The Bohemian monarch, after breaking the political prestige of the Protestant dukes and estates of Silesia, was not afraid to make these concessions. They did not become a part of the system law and did not concern the governance of the Silesian country. Instead, they brought a promise of peace in the lands which were one of the most important resources for the war he waged.

A rebellion of the estates or their self-defence against the provocative and disempowering monarch policy? A just war, in which religion and worship of God were at stake, or a new, politically aggressive attempt at a power struggle between political entities of the state? A war of religion or a war of reign? The timeliness of the problems presented in this article seems to lie in the fact that even today the choice of answers to these questions is made subjectively and on one's own responsibility on the basis of the represented religious, political and perhaps above all moral values.

STRESZCZENIE

W artykule na podstawie pism politycznych książąt i stanów śląskich z 1619 i 1620 r. analizowano sformułowaną przez nich argumentację wystąpienia zbrojnego przeciwko królowi w oparciu o istniejące, gwarantowane królewską przysięgą prawo. Podstawą podjęcia akcji była według nich obrona przed nadużyciami władzy i prawa przez króla. W trakcie analiz ujawnił się nierozzerwalny związek między charakterem konfliktu i jego przyczyną: uzyskanie prawa do wydawania decyzji o legalności wyznania okazywało się zmaganiem o polityczne kompetencje. Sformułowane w otoczeniu królewskim treści z aktów o charakterze pokojowym, kończące dwa stadia wypowiedzenia posłuszeństwa przez książęta i stany królom czeskim, w latach 1618–1621 i 1633–1635 oraz postanowienia w międzynarodowym pokoju kończącym wojnę trzydziestoletnią, posłużyły z kolei do próby zdefiniowania stosunku króla do charakteru konfliktu wojennego z książętami i stanami śląskimi. Królewskie warunki przywrócenia z nimi pokoju, zawarte w akordzie drezdeńskim z 1621 r., w recesie dodatkowym do pokoju praskiego z 1635 r. oraz w paragrafach dotyczących Śląska z tekstu pokoju westfalskiego z 1648 r., dążyły z jednej strony do wprowadzenia zasady pokoju augsburskiego na Śląsku. Paradoksalnie, z drugiej strony, król po zażegnaniu groźby włączenia prawa do wolności wyznaniowej książąt i stanów do konstytucyjnych śląskich praw krajowych, gwarantował na zasadzie przywileju pełną wolność sumienia i kultu na śląskich terytoriach książęcych i miastu Wrocław. Dla obydwu stron uzyskanie prawa do decyzji o wyznaniu i określanie zakresu jego wolności było polityczno-ustrojowym zmaganiem o władzę i o podmiotowy status polityczny.

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