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Work-life balance concept and Artificial intelligence vs. human

Euroscepticism on the Polish political scene

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CONTENTS

SPIS TREŚCI

THEORIES AND METHODS IN EUROPEAN STUDIES

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The essence and specificity of the state multiculturalism policy

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Abstract
The main aim of this article is to examine multiculturalism as a specific policy of multi-ethnic states, and its essence and specificity. Multiculturalism can be considered as a policy aimed at preserving and developing cultural diversity in a particular state, as well as a theory or ideology justifying such policy. In the essence of multiculturalism lies the idea of the peaceful coexistence of different groups – ethnic, racial, religious, cultural, and other – within one state. The present study addresses the following research question: how multiculturalism obligations have been considered by state policy? In the course of the research, the answer to this question was achieved by analysing what multiculturalism is, and then – examining several theoretical approaches to this policy. As a result, the author concluded that multiculturalism can be a component of state policy only in states where the government actively promotes and protects the rights and interests of various cultural groups.
Keywords: multiculturalism, pluralism, public policy, tolerance, identity, Europe, Canada, Australia

Istota i specyfika państwowej polityki wielokulturowości

Streszczenie
Głównym celem artykułu jest analiza wielokulturowości jako polityki sektorowej państw wieloetnicznych, jej istoty i specyfiki. Wielokulturowość może być rozpatrywana jako polityka mająca na celu zachowanie i rozwój różnorodności kulturowej w danym państwie oraz jako teoria lub ideologia uzasadniająca taką politykę. Wielokulturowość opiera się na idei pokojowego współistnienia różnych grup – etnicznych i rasowych, religijnych, kulturowych itp. – w obrębie jednego państwa. W artykule podjęto próbę odpowiedzi na pytanie badawcze: w jaki sposób uwzględniana jest specyfika wielokulturowości w polityce publicznej państwa? W toku prowadzonych badań odpowiedź na to pytanie uzyskano, analizując istotę wielokulturowości, a następnie rozważając kilka teoretycznych podejść do tej polityki. W rezultacie został sformułowany wniosek, że wielokulturowość może być

integralną częścią polityki tylko w tych państwach, w których rząd aktywnie promuje i chroni prawa i interesy różnych grup kulturowych.
Słowa kluczowe: wielokulturowość, pluralizm, polityka publiczna, tolerancja, tożsamość, Europa, Canada, Australia

There are many states in the world with a multi-ethnic structure. People in multi-ethnic societies, who believes that they or others have distinct historical identities and ways of being, may coexist within the same political space. Typically, multi-ethnic states are those that are home for more than one ethnic group (Grillo 2014: p. 144). The source of multi-ethnicity for some states is the historical habitation of different peoples in their territories, while for other states it is modern migration processes. No matter what a source of ethnic diversity is, we can certainly say that in the modern world there are almost no state consisting of one ethnic group. However, in almost all states there is a major ethnic group with a major representation in state formation. The imposition of the dominant group's culture or language and the suppression of the independent cultural practices of whole ethnic communities are two examples of discrimination against immigrants or minority groups (Brown 1996: p. 268). It is important to have specific policies to manage this diversity, especially in states with rich ethnic and cultural diversity. The most widespread policies in this regard are assimilation, isolation, integration, and multiculturalism (Rodríguez-García 2010: p. 252). We know from world history that, besides multiculturalism, all other policies to regulate ethno-cultural diversity are old methods. Multiculturalism policy is relatively new approach to solving old problems. However, it is also already considered as old and sometimes even unsuccessful. This fact led to the refusal of this policy by states as the United Kingdom and Germany. The well-known researcher and expert in the subject of multiculturalism Will Kymlicka argues that "anti-multiculturalist rhetoric may simply play into the hands of xenophobes who reject both multiculturalism and interculturalism" (Kymlicka 2012: p. 214).

As we can observe, the subject of multiculturalism is rather problematic, because on the one hand – there is a stance of maintaining various groups' traditions and cultural values, as well as the right of every individual to profess any religion, speak their native language, etc. On the other hand, it is important to create a strong society and state, particularly in states where the ethnic conflicts occur. As a result, since most states are multi-ethnic and have various approaches for dealing with the diversity that exists inside their boundaries, there are several types of multiculturalism policies in the contemporary world.

The aim and methodology of the research

The ideology of multiculturalism, in general, postulates equality of rights and chances for all social groups and communities of people to practice their cultural traditions. The main aim of this article is to examine multiculturalism as a specific policy of the multi-ethnic states, and its essence and specificity. The present study addresses the re-

search question: how multiculturalism obligations have been considered by state policy? In the course of the research, the answer to this question will be found by analysing what multiculturalism is, and then examining several theoretical approaches to this policy.

To address the research question, this article provides a critical overview of the most prominent theories and approaches to multiculturalism that have been written by scholars. To determine the essence, scope, and theoretical approaches of the study, the basic concepts and ideas of such scholars as Will Kymlicka, Brian Barry, Bhikhu Parekh, and others will be discussed in this article. Generally, the review of the scholarly literature will be focused mainly on the development of multiculturalism policy within liberal Western societies and reflected the essence of multicultural policy from liberal approaches. In addition, document analysis and comparative analysis will be used as a qualitative research technique to analyse and evaluate the multiculturalism policies of various states.

Theoretical frameworks and concepts of multiculturalism

The term "multiculturalism" is frequently used to describe society's diversity (Song 2020) and it is a relatively recent phenomenon. This phrase may be used in a broad or narrow sense, depending on the context. In a broad sense, multiculturalism refers to the presence of various ethnic, racial, religious, and cultural groups. In the more restricted meaning, multiculturalism refers to the approach that the state takes towards the various ethnic, religious and cultural groups that already exist within society. Multiculturalism is both a response to the fact that there are many different cultures in modern democracies and a way to compensate for the exclusion, discrimination, and oppression that some groups of people have faced in the past (Eagan WWW). As a political ideology, we might see it as a call for equal treatment. Multiculturalism is all about equality, mutual respect, acceptance, and tolerance between representatives of different nations, religions, cultures, communities, etc. (Barry 2001: p. 124). Tolerance for the many different ways that people live their lives is the foundational principle of the multiculturalist worldview. Social justice, equal opportunities, and democracy are all ideals that the idea of multiculturalism includes.

In contrast to the process of assimilation, the idea of multiculturalism holds that the dominant and minority cultures of a given state should be seen as being on equal level. This helps the integration of these cultures. In this context, Tariq Modood highlighted that multiculturalism might be contrasted with a strategy of assimilation, but should be regarded as a way of integration, given its focus on recognising multiple identities (Modood 2020: p. 2). There are different models of multiculturalism in the modern world due to the fact that most countries are polyethnic, and they have different ways of interaction with the diversity existing within their borders. The influential study by Bhikhu Parekh has shed more light on multiculturalism. This author argues that "almost all modern societies are multicultural, and their cultural diversity derives from a number of sources, such as the process of globalization, the collapse of traditional moral consensus, the liberal emphasis on individual choices, and immigration" (Parekh 2005, Parekh 1997: p. 54).

From the arguments of scholars, we understand that multiculturalism can be a part of government policy only in those states where the government "actively encourages and supports the rights and interests of different cultural groups" (Dumouchel 2015: p. 29). This argument raised another question: which groups exactly are the object of multiculturalism? We can read in the *Stanford Encyclopedia* that: "Contemporary theories of multiculturalism, which originated in the late 1980s and early 1990s, tend to focus their arguments on immigrants who are ethnic and religious minorities" (Song 2020). The basic principles of multiculturalism are true tolerance, true equality, true freedom (Forbes 2019: p. 168). The notion *melting pot*, in which minorities are supposed to adapt to the dominant culture, is rejected by multiculturalism. It has been referred to as *salad bowl* in the United States, and *cultural mosaic* in Canada, rather than *melting pot*. According to some scholars, the most crucial thing for minority groups is to be tolerated by the state (Kukathas 2003: p. 213). Others argue that accepting minorities' differences is not the same as treating them equally.

When multiculturalism is perceived as an ideology, it is essential to emphasise the significance of guaranteeing the rights of individuals belonging to the LGBT community, as well as people with disabilities, women, or members of any other oppressed or marginalised group in any state. Even multiculturalism has faced much criticism for excluding certain communities from its primary goal. Each of these connections between the majority and the minority calls for individualised attention and not in the scope of aim of this article.

Another important aspect to be considered in the analysis of multiculturalism policy is the policy's theoretical foundation. Multiculturalism began to be positioned as a philosophical theory that originated from a debate between proponents of the theoretical tendencies of liberalism and communitarianism. The liberal tradition offered the theoretical basis for multiculturalism. Will Kymlicka, Brian Barry, Charles Taylor, Chandran Kukathas, Michael Walzer, Tariq Modood, Keith Windschuttle, John W. Berry are among the Western scholars, who have studied the challenges of implementing liberal multiculturalism policies in immigrant states and nation-states. The subject of multiculturalism is researched in connection with other topics, such as discrimination, stereotypes, conflicts, and the creation of mechanisms of tolerance.

Philosophically, multiculturalism is a broad concept. In addition to the concept of recognising cultural diversity, multiculturalism is a philosophical theory that is a synthesis of the ideas of liberalism and communitarianism. However, it should be noted that in the framework of liberalism, multiculturalism can be considered from the point of view of classical and modern liberalism. The classical liberal multiculturalism might be regarded as the most tolerable regime. It could be so tolerant that it is willing to tolerate the existence of others who oppose him in its society or, as Kukathas noted, that "classical liberal multicultural society may contain within it many illiberal elements" (Kukathas 2004: p. 14). At the same time, it does not provide any single group or community with special privileges or protection. It does not prohibit anybody from following their own objectives or traditions, but it does not support, fund, or give preference to any aims or traditions. However, there are some liberal theorists, who are unsatisfied with such interpretation

of multiculturalism due to the fact that it does not give adequate guarantees for the expression of values that are considered as essential component of the liberal ideology. A common argument against classical liberal multiculturalism is the belief that liberal state cannot tolerate its citizens' tolerance for non-liberal views. This is the view held by British social philosopher and political scientist Brian Barry (Barry 2001: p. 124). This means that the state must, among other things, assume responsibility for the education of children, so that cultural or religious groups do not indoctrinate the future generation with wrong ideals. Women's rights in the home and cultural minorities' refusal to discriminate against individuals who leave these groups must also be guaranteed by the legislation.

Other liberal thinkers, like Kymlicka, support the so-called "hard" form of multiculturalism in opposition to the "soft" approach. This author believes that the liberal state must actively take steps to provide resources to groups in order to promote their way of life. This entails not just financial support for their activities, but also legal and political protection from discrimination and harsh conditions. At the same time, the state must ensure that all cultural groups respect the fundamental civil rights guaranteed by the liberal system (Kymlicka 1991: p. 140). Even though Barry argues that there is a need to be more active in ensuring that cultural minorities conform to the principles of liberalism, both of these authors reject the call for the state to take a more "neutral" position on minority issues that is aimed by classical liberalism. Furthermore, Kymlicka suggests more stringent policies to ensure the cultural autonomy of minority groups.

Discussing what are often referred to "hard" and "soft" forms of multiculturalism, it is essential to highlight, as Kukathas has noted, *soft multiculturalism*, which does not accept state intervention in the management of minority group relations in society, is based on classical liberalism, while multiculturalism, which advocates active state intervention in the management of those relations, is based on modern liberalism. The general "reason why liberalism does not have a problem with multiculturalism is that liberalism is itself, fundamentally, a theory of multiculturalism. This is because liberalism is essentially a theory about pluralism; and multiculturalism is, in the end, a species of pluralism." (see more: Kukathas 1998: p. 690).

Even though they have significant disagreements about multiculturalism, Kymlicka and Barry both believe that in a liberal society, the values of liberalism must be respected by all communities or subgroups, at least to some extent. Barry believes that the only way for groups to differ from liberal ideals is if they are entirely voluntary groups that unite free adults. Additionally, he is of the opinion that certain illiberal forms of association of such organisations should not be supported by state in any capacity (Barry 2001: p. 240). In contrast, Kymlicka supports the providing assistance to all cultural minorities. This is due in part to the fact that only with such assistance members of cultural minorities will be able to enjoy a certain degree of autonomy, which Kymlicka considers as the most essential component of liberal values.

In the context of cultural independence for national minorities, Kymlicka proposes new kinds of multicultural citizenship, which often include some mix of the six elements listed below:

- "federal or quasi-federal territorial autonomy;
- official language status, either in the region or nationally;
- guarantees of representation in the central government or on constitutional courts;
- public funding of minority language universities, schools and the media;
- constitutional or parliamentary affirmation of multinationalism;
- accorded an international personality (for example, allowing the sub-state region to sit on international bodies, or sign treaties, or have their own Olympic team)" (Kymlicka 2010: p. 101).

These are indicators that minorities are given assistance both in their efforts to become fully integrated into society and in their efforts to keep living their "unique" lives. First of all, such groups should have advantages under the law and within the political system that will increase the number of chances available to them to grow and survive within society. It may be that it is about exempting certain groups from some of the statutory obligations, recognising their cultural traditions (for example, by including them in state symbols or compiling a list of official holidays taking into account the religious rites of a minority, not just those of the majority), or giving them special rights to representation in government (Kymlicka 2007a: p. 589). Secondly, this kind of help makes it possible to enact laws that provide members of the cultural minority with the ability to protect themselves from the impact of outside forces. In particular, Kymlicka suggests granting the right to self-government to indigenous peoples of the land in order to better serve their needs (Kymlicka 2007b: p. 622). Kymlicka has ideas that are distinct from those held by Barry, yet the two of them agree that *autonomous* organisations operating inside liberal state are obligated to uphold a number of core liberal principles. To the fullest extent possible, liberal standards should not be disregarded by any group.

The concept of multiculturalism presented in Kymlicka's works is less abstract. Analyzing these works, Bhikhu Parekh noted that the concept presented in them is distinguished by the least philosophical content. He wrote that "Kymlicka is concerned with offering a liberal theory of minority rights" (Parekh 1997: p. 55). Kymlicka begins own book *Multicultural Citizenship* by defining what he personally considers as the founding principles of liberalism. From his point of view, every person strives for a *good life.* To consider his life good, a person must live in accordance with his values and also be able to freely revise these values, that is, according to Kymlicka, be *autonomous* (Kymlicka 1995: p. 59).

Liberal values must be affirmed through education and financial support. Neither outside the state nor within the state it is possible to develop liberalism through violence. Relations between national minorities and the state must be determined by dialogue. Kymlicka believes that the state cannot be separated from ethnic problems and ethnicity in general (Kymlicka 2010: p. 101). He acknowledges that the demands of a number of ethnic and religious groups for the provision of state financial support for certain cultural activities are just, meaning those actions that work to support and promote the richness and diversity of cultural resources. This increases stability in society and eliminates disparities between ethnic and religious groups.

An overview of state multiculturalism policies: *case study*

In the 1960s, the Royal Commission on Bilingualism and Biculturalism in Canada promoted the concept of *multiculturalism* to counter *biculturalism*. In 1971, Pierre Trudeau's Cabinet in Canada introduced the concept of multiculturalism in response to the cultural, ethnic, social, and political aspirations of national minorities and immigrants. As a result, Canada became the first state in the world, which established a multiculturalism policy that was aimed at political solution to address both the growing francophone nationalism in Quebec and the country's growing cultural plurality (Jedwab 2020). Later, this concept has been used in different states such as Australia, the USA, United Kingdom, Sweden, Switzerland, even broadening into other social aspects in the context of human rights and equality. For instance, the goals of the many initiatives that are strengthening multiculturalism in Switzerland are to preserve the peace that exists between different cultures and to avoid the isolation of various national, linguistic, and religious communities (Matyja 2018: p. 84). It is possible to describe multiculturalism as a kind of identity politics and/or political philosophy[1] that aims to establish equality amongst people of various cultures, while at the same time respecting their cultural uniqueness (Eriksen 2015: p. 30).

Canadian multiculturalism is considered as one of the most successfully implemented models of multiculturalism policy. As it was already mentioned, the concept of multiculturalism to a certain extent belongs to the Canadians. It is based on the idea of ethnic pluralism, the so-called "mosaic", firstly proposed by travel writer from the United States, Victoria Hayward in 1922 (Raska 2020). Other authors subsequently popularised the term *mosaic* and associated it with multiculturalism in Canada. Berry notes three distinct definitions of multiculturalism in Canada: *demographic fact, ideology*, and *public policy* (Berry 2013: p. 664). Today, the term *Canadian Cultural Mosaic* is often used to refer to the country's multiculturalism strategy. Canadian society was originally formed by ethnically diverse British and French immigrants, and indigenous peoples – aborigines. After the British and French people, Germans, Italians, Chinese, Ukrainians, and North American Indians were the most common ancestors of the present population of Canada. Such ethnic diversity has continued to grow after the modern migration processes of the last thirty years. Canada is defined as a "multicultural society" in two ways, according to research published by the Library of Parliament Background Papers, which offers in-depth study of policy issues: "As a sociological fact, multiculturalism refers to the presence of people from diverse racial and ethnic backgrounds. Ideologically, multiculturalism consists of a relatively coherent set of ideas and ideals pertaining to the celebration of Canada's cultural diversity. At the policy level, multiculturalism refers to the management of diversity through formal initiatives in the federal, provincial, territorial, and municipal domains" (Brosseau, Dewing 2009: p. 1).

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[1] In political philosophy, the ideas of *multiculturalism* are focused on the ways of responding to cultural and religious differences in societies. It is often associated with "identity policy", "the policy of difference", and "the policy of recognition" (Kucheryavaya et al. 2020: p. 61).

This understanding of multiculturalism in Canada comes from the *Canadian Multiculturalism Act*, which is a basis for the *Canadian Multiculturalism Policy*, which defines important aspects of this policy. One of the most fundamental aspects of Canadian multiculturalism is that the notion of diversity based on bilingualism has been a legally acknowledged doctrine in Canada since 1971. The *Canadian Charter of Rights and Freedoms* was included in the country's Constitution in 1982 (see: *The Constitution Acts 1867 to 1982* WWW). This was followed by the adoption of the *Canadian Multiculturalism Act* in 1985. In fact, the ethnocultural mosaic has been raised to the level of essential principles in Canadian society and designated the foundation of the country's national identity. This is strengthened by legislative and political actions.

Another example of multiculturalism policy is Australian. Having former *White Australia Policy* during 1970s after the Canada, Australia also addressed multiculturalism policy in accordance with its diverse society. There is a view that multiculturalism in Australia has always been a policy of settlement and integration, and it has never pushed for the growth of ethno-cultural groups separately (Moran 2017: p. 25). As a result, the Australian context may provide a unique viewpoint to the current global discussion, advocating for the conceptualisation of multiculturalism and interculturalism as complementary rather than conflicting, mutually contradictory approaches to effective diversity governance (Elias et al. 2021). In contrast to Canada, Australia has no constitutional provision for multiculturalism, and the operations of the Australian Multicultural Affairs are managed by the Department of Home Affairs of the Australian Government. Each city has a commission for ethnic matters, which also deals with the legitimacy of new laws related to minorities. Furthermore, there are many non-governmental organisations (NGOs) in the state that run numerous initiatives for ethnic, religious, and cultural minorities.

As already noted, the multiculturalism policy originated in Canada. This idea did not work out, when it was attempted to be applied to the civilisational different states of Europe, such as France, Germany, and Great Britain, for instance. The multiculturalism policy that has been implemented in Europe over the period of the last several decades is now being questioned not just by sceptics, but also by several European leaders. This is the case for several different reasons. On 16 September 2010, former Chancellor of Germany Angela Merkel told at the meeting in Potsdam: "This [multicultural] approach has failed, utterly failed" (Weaver 2010). On 5 February 2011, former Prime Minister of the United Kingdom David Cameron followed a similar idea: "State multiculturalism has failed and left young Muslims vulnerable to radicalization" (Falloon 2011). A little bit later, former President of France Nicolas Sarkozy concluded in television interview: "We have been too concerned about the identity of the person who was arriving and not enough about the identity of the country that was receiving him" by adding that multiculturalism a failed concept in France (*Sarkozy declares…* 2011). Such declarations of the leaders of these nations do not mean that these governments have no policy to manage ethnic and cultural diversity or have chosen the route of total assimilation. We are of the opinion that this is, in the primary sense, an issue of avoiding from the multiculturalism paradigm. It might be seen as releasing the concept of diversity from the additional responsibilities

that come with it. Because, as it has been demonstrated in the preceding analyses, liberal multiculturalism imposes a lot of pressure on the state, the most serious of which is *autonomy*. This autonomy may eventually lead to the formation of a separate nation. This presents a particularly grave threat to those governments that are already struggling with the influence of separatist aspirations.

Nevertheless, that in many states, the policy of multiculturalism has failed, but there are still states – such as Canada and Australia – where this policy is being successfully continued. However, there are also states in Europe that are effectively implementing a multicultural policy regarding many different groups in their populations. Switzerland, Belgium, Sweden, Denmark are examples of these states. In addition, there is a view that the multiculturalism policy is quite acceptable in those countries, where interethnic conflicts occur.

Measurement of multiculturalism policy is important analytical tool for empirical analysis and comparative analysis of the policy of multiculturalism pursued by states of the world and for the determination of the ranking of the states. Numerous tools have been created in modern science to study various aspects of the policy of multiculturalism in different states. Marc Helbling indicates the various measurement indices in his article *Validating integration and citizenship policy indices* and defines their total number as 9 (Helbling 2013: p. 557).

The most important of these indices for our study is the *Multiculturalism Policy Index* (MCP Index). It is "a scholarly research project that monitors and the evolution of multiculturalism policies across the Western democracies. Under the direction of Profs. Keith Banting and Will Kymlicka, the project is designed to provide information about multiculturalism policies in a standardized format that aids comparative research and contributes to the understanding of state-minority relations." (*The MCP Index Project* WWW). Generally, the *Multiculturalism Policy Index* contains an index for each of three main types of minorities (immigration groups, historic national minorities, indigenous peoples). For example, the *MCP Index for Indigenous Peoples* is developed to assess the degree of this change over the previous three decades, by evaluating the implementation of the following nine policies:

1) "recognition of land rights/title;
2) recognition of self-government rights;
3) upholding historic treaties and/or signing new treaties;
4) recognition of cultural rights (language, hunting/fishing, religion);
5) recognition of customary law;
6) guarantees of representation/consultation in the central government;
7) constitutional or legislative affirmation of the distinct status of indigenous peoples;
8) support/ratification for international instruments on indigenous rights;
9) affirmative action." (Davidson, Coburn 2021).

The project assumes that this is not a complete list of all possible forms of state policy aimed at recognising or accommodating the special status of indigenous peoples. However, creators of MCP Index methodology believe that this list reflects the main

elements of the "multiculturalist turn" towards such groups. While analysing MCP for each of three above-mentioned main types of minorities, we can observe that states like Canada, Australia, the United States, New Zealand and Denmark are more successful in the implementation of different type of multiculturalism policies.

Different types of multiculturalism policy in Europe and other parts of the world may vary. The most common feature of all these policies is their acceptance of ethnic, religious, and cultural diversity in a certain state. However, as we understand for multiculturalism policy (assuming the state calls it that), just recognition is insufficient. Why? The following example of a definition of Canadian multiculturalism policy may help us better understand it: "The Canadian policy of multiculturalism intends to eliminate racism and discrimination in all walks of life and guarantee to the minorities the right to maintain and promote their cultural identities" (Srikanth 2012: p. 17). If we will underline the words *guarantee* and *promote* in this definition, it will be almost clear what we are waiting for a state declared multiculturalism as a state policy.

Conclusions

Based on our research of the essence of state multiculturalism policy, we conclude that *multiculturalism* is a policy aimed at protecting a state's internal stability and improving its image in the international arena as a political ideology, concept and strategy, as well as protecting the rights and moral values of various ethnic, religious, and cultural groups. Multiculturalism may be called *public diplomacy* this way. Multiculturalism is ethnic and cultural policy paradigm. The choice of cultural policy model is important for any contemporary state, because the state's social, cultural, economic, and political growth is directly dependent on this decision. On the other hand, inadequate policy and its violent execution results in genuine and prospective conflicts.

Many aspects of national security (such as economic security, energy security, food security, etc.) are all constituent parts of the state security. Each of them plays a significant role in the state's existence. It is also important to integrate multiculturalism values as a component of national security, because they are essential components of moral, spiritual, and ideological existence. We can conclude that the state (especially diversed ethnically and religiously) must provide multicultural security in the same way that it assures energy security, economic security, and national security. Multicultural security consists of several principles that require the state to be fair, confident, and capable of qualitative renewal.

The examination of literature allows us to generalise the most important steps that governments must take, when dealing with multiculturalism policy:

1) First and foremost, the state is obligated to recognize the existence of diversity.
2) The state should take steps to safeguard existing diversity. This kind of care offers systematic financial assistance for numerous ethnic, religious, and cultural organisations' activities.
3) From the political point of view, all ethnic and religious groups and their members within society should be treated equally by the state.

4) Protection of the rights of minority groups must be guaranteed by the legislation. In the best cases by the constitution of the state.
5) The state should provide special privileges to chosen members of various minority groups for participation in government.
6) For the protection and development of ethnocultural diversity, the support should be not from only the state, but also from society.
7) If a state refers to its approach toward ethnic and religious diversity as *multiculturalism*, in this situation such strategy should be based on a liberal theory of multiculturalism.

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References:

BARRY Brian (2001), *Culture and Equality: An Egalitarian Critique of Multiculturalism*, Cambridge.

BERRY John W. (2013), *Research on multiculturalism in Canada,* "International Journal of Intercultural Relations", vol. 37 no. 6. DOI: 10.1016/j.ijintrel.2013.09.005

BROSSEAU Laurence, DEWING Michael (2009), *Canadian multiculturalism*, "Background Paper", no. 2009-20-E, https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/200920E (15.09.2009).

BROWN Richard Harvey (1996), *Cultural representation and state formation: discourses of ethnicity, nationality, and political community*, "Dialectical Anthropology", vol. 21, no. 3/4. http://www.jstor.org/stable/29790432

DAVIDSON Adrienne, COBURN Veldon (2021), *Multiculturalism Policy Index: Indigenous Peoples* (Second edition), School of Policy Studies, Queen's University, Kingston.

DUMOUCHEL Paul (2015), *Comparative Multiculturalism and Justice: a Methodological Suggestion*, "InterViews: An Interdisciplinary Journal in Social Sciences", vol. 2 no. 1.

EAGAN Jennifer (WWW), *Multiculturalism*, "Encyclopedia Britannica", https://www.britannica.com/topic/multiculturalism (23.08.2022).

ELIAS Amanuel, MANSOURI Fethi, SWEID Reem (2021), *Public Attitudes Towards Multiculturalism and Interculturalism in Australia*, "Journal of International Migration and Integration", vol. 22. DOI: 10.1007/s12134-020-00784-z

ERIKSEN Thomas Hylland (2015), *Multiculturalism, Anthropology of,* in: James D. Wright (ed.), *International Encyclopedia of the Social & Behavioral Sciences*, Elsevier. DOI: 10.1016/B978-0-08-097086-8.12113-0

FALLOON Matt (2011), *Multiculturalism has failed in Britain – Cameron,* "Reuters", https://www.reuters.com/article/uk-britain-radicalisation-idUKTRE71401G20110205 (05.02.2011).

FORBES Hugh Donald (2019), *Multiculturalism in Canada. Constructing a Model Multiculture with Multicultural Values,* Palgrave Macmillan, DOI: 10.1007/978-3-030-19835-0

GRILLO D. Ralph (2014), *Multi-Ethnic Societies,* in: Masamichi Sasaki, Jack Goldstone, Ekkart Zimmermann, Stephen K. Sanderson (eds), *Concise Encyclopedia of Comparative. Sociology,* Brill, DOI: 10.1163/9789004266179_015

HELBLING Marc (2013), *Validating integration and citizenship policy indices,* "Comparative European Politics", vol. 11. DOI: 10.1057/cep.2013.11

JEDWAB Jack (2020), *Multiculturalism*, in: *The Canadian Encyclopedia*, https://www.thecanadianencyclopedia.ca/en/article/multiculturalism (20.03.2020).

KUCHERYAVAYA Elena, WITKOWSKA Marta, KALINOVSKAYA Viktoriya, SELEZNEV Pavel, ZUBANOVA Svetlana, FEDYAKIN Aleksey (2020), *The multiculturalism Policy in Europe*, „Online Journal Modelling the New Europe", no. 32/2020. DOI: 10.24193/OJMN.2020.32.04

KUKATHAS Chandran (1998), *Liberalism and Multiculturalism: The Politics of Indifference*, "Political Theory", vol. 26, no. 5. DOI: 10.1177/0090591798026005003

KUKATHAS Chandran (2003), *The Liberal Archipelago: A Theory of Diversity and Freedom*, Oxford University Press. DOI: 10.1093/019925754X.001.0001

KUKATHAS Chandran (2004), *Theoretical Foundations of Multiculturalism*, Georg Mason University, https://econfaculty.gmu.edu/pboettke/workshop/fall04/theoretical_foundations.pdf (23.09.2022).

KYMLICKA Will (1991), *Liberalism, community, and culture*, Oxford University Press.

KYMLICKA Will (1995), *Multicultural Citizenship: A Liberal Theory of Minority Rights*, Oxford University Press, New York.

KYMLICKA Will (2007a), *Multicultural Odysseys*, "Ethnopolitics", vol. 6, no. 4. DOI: 10.1080/17449050701659789

KYMLICKA Will (2007b), *Liberal Multiculturalism and Minority Rights: A Reply to Bell, Guiraudon, Keating and Schmidtke*, "Ethnopolitics", vol. 6, no. 4. DOI: 10.1080/17449050701659797

KYMLICKA Will (2010), *The rise and fall of multiculturalism? New debates on inclusion and accommodation in diverse societies,* "International Social Science Journal", vol. 61, no. 199. DOI: 10.1111/j.1468-2451.2010.01750.x

KYMLICKA Will (2012), *Comment on Meer and Modood, "*Journal of Intercultural Studies", vol. 33, no. 2. DOI: 10.1080/07256868.2012.649528

MATYJA Mirosław (2018), *Determinant factors of multiculturalism in Switzerland*, "Review of Nationalities", vol. 8, no 1. DOI: 10.2478/pn-2018-0005

MODOOD Tariq (2020), *Multiculturalism as a New Form of Nationalism?, "*Nations and Nationalism", vol. 26, no. 2. DOI: 10.1111/nana.12571

MORAN Anthony (2017), *The Public Life of Australian Multiculturalism*, Palgrave Macmillan, DOI: 10.1007/978-3-319-45126-8

MULTICULTURALISM POLICIES FOR NATIONAL MINORITIES (WWW), Queen's University, https://www.queensu.ca/mcp/national-minorities (28.09.2022).

PAREKH Bhikhu (1997), *Dilemmas of a Multicultural Theory of Citizenship*, *"Constellations"*, vol. 4 no. 1. DOI: 10.1111/1467-8675.00036

PAREKH Bhikhu (2005), *Unity and diversity in multicultural societies*, Geneva.

RASKA Jan (2020), *Early Political and Public Responses to Canada's Official Multiculturalism Policy, 1971-1972,* Canadian Museum of Immigration, https://pier21.ca/research/immigration-history/canadas-official-multiculturalism-policy (04.11.2020).

RODRÍGUEZ-GARCÍA Dan (2010), *Beyond Assimilation and Multiculturalism: A Critical Review of the Debate on Managing Diversity,* "International Migration and Integration", vol. 11. DOI: 10.1007/s12134-010-0140-x

SARKOZY DECLARES multiculturalism "a failure" (2011), "France 24", https://www.france24.com/en/20110210-multiculturalism-failed-immigration-sarkozy-live-broadcast-tf1-france-public-questions (10.02.2011).

SONG Sarah (2020), *Multiculturalism*, in: Edward N. Zalta (ed.), *Stanford Encyclopedia of Philosophy* (Summer 2020 Edition), https://plato.sydney.edu.au/archives/sum2020/entries/multiculturalism/ (09.09.2022).

SRIKANTH Hskant (2012), *Multiculturalism and the Aboriginal Peoples in Canada,* "Economic and Political Weekly", vol. 47, no. 23, https://www.jstor.org/stable/23214913

THE CONSTITUTION Acts 1867 To 1982 (WWW), Current to January 1, 2021, Published by the Minister of Justice: https://laws-lois.justice.gc.ca/pdf/const_trd.pdf (23.09.2022).

THE MCP INDEX PROJECT (WWW), Queen's University, https://www.queensu.ca/mcp/about (28.09.2022).

WEAVER Matthew (2010), *Angela Merkel: German multiculturalism has "utterly failed",* "The Guardian", https://www.theguardian.com/world/2010/oct/17/angela-merkel-german-multiculturalism-failed (17.10.2010).

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Evolution of globalisation and firm internationalisation under crisis conditions – the perspective of Polish exporters amidst the COVID-19 pandemic in 2020-2021[1]

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Abstract
The COVID-19 pandemic triggered an economic crisis of a global nature, which – among its many consequences – had a significant impact on international economic activity carried out in various forms. Thus, the processes of globalisation, which on the one hand allow diversification of international activities of the enterprise, at the same time contribute to the transmission of economic shocks. The authors attempt to provide an initial answer to the research question of how Polish firms conducting export activities with various degrees of advancement perceive the impact of the pandemic crisis, as well as their reactions to this crisis. The article presents the results of quantitative research conducted in June 2022 among 120 Polish companies from the manufacturing sector.
Keywords: exporters, COVID-19 pandemic, economic crisis, firm internationalisation, crisis resilience.

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Ewolucja globalizacji a umiędzynarodowienie przedsiębiorstwa w warunkach kryzysu – perspektywa polskich eksporterów na pandemię COVID-19 w latach 2020–2021

Streszczenie

Pandemia COVID-19 zapoczątkowała kryzys gospodarczy o charakterze globalnym, który – wśród swoich rozmaitych konsekwencji – znacząco wpłynął na międzynarodową działalność gospodarczą prowadzoną w różnych formach. Tym samym procesy globalizacji, które z jednej strony pozwalają na dywersyfikację międzynarodowych działań przedsiębiorstwa, jednocześnie przyczyniają się do transmisji szoków gospodarczych. Autorzy podejmują próbę odpowiedzi na pytanie badawcze, w jaki sposób polscy przedsiębiorcy prowadzący działalność eksportową o różnym stopniu zaawansowania postrzegają wpływ kryzysu pandemicznego, jak i swoje reakcje na ten kryzys. W artykule przedstawiono wyniki badań ilościowych przeprowadzonych w czerwcu 2022 pośród 120 polskich przedsiębiorstw z sektora przetwórstwa przemysłowego.

Słowa kluczowe: eksporterzy, pandemia COVID-19, kryzys gospodarczy, umiędzynarodowienie przedsiębiorstw, odporność na kryzys

One of the streams within the discussion about the economic manifestations and consequences of the COVID-19 pandemic pertains to the international activity of companies, which, paradoxically, can be also regarded as one of the key factors contributing to a significant level of global linkages in terms of economic, environmental or medical threats (Wolf 2020). Hence, it comes as no surprise that the academic debate sometimes compares the current crisis and its negative impact on international business to the financial crisis of 2008 (Walsh 2020). The financial crisis of the end of the first decade of the 21st century has attracted the attention of economics and finance researchers trying to explain its long-term consequences (Claessens et al. 2010). The COVID-19 pandemic created a major global disruption affecting many areas of human activity worldwide, including international business (Seric et al. 2020; Walsh 2020). However, its effects on globalisation at large, and firm internationalisation in particular, are still uncertain (Gorynia 2021; Wolf 2020).

Since one of the key questions in research on firm internationalisation is whether the increase in internationalisation is beneficial for firm performance (Matysiak, Bausch 2012). It is reasonable to consider the role of the external environment in this relationship, because the crisis has a tangible impact on firm performance (Antonioli et al. 2011; Berrill, Kearney 2011; Teece et al. 1997; Wu 2010).

The objective of this article is to explore the impact of the COVID-19 pandemic on Polish exporters. In particular, the authors attempt to answer the research question of how the level of internationalisation affects both the affectedness and responses to the pandemic crisis. This article is structured as follows. In the first section, the effects of the COVID-19 crisis on globalisation are briefly reviewed. Subsequently, based on research in the fields of international business and economic crises, a number of expectations are formulated regarding the role of internationalisation in the context of the pandemic crisis. Next, the research methodology and empirical findings are presented. The article closes with a conclusion and some implications of the obtained results.

Conceptual overview

Globalisation and the pandemic crisis

Globalisation has led to increased international trade and foreign direct investment (FDI) in recent decades, which coincided with such phenomena as reduction of global poverty (Walsh 2020). At the same time, however, far-reaching inequality, both between countries and within individual economies (Sandbu 2020), remained one of the major challenges for the global economy. As nations gradually became economically more interdependent, international political stability also increased at a global level.

Globalisation experienced stages of growth, contraction and mutation, in line with structural changes in the international economic and geopolitical landscape, with recent developments including the rise of emerging economies and firms, particularly those from Asia (Olivié, Gracia Santos 2020). The most recent COVID-19 related turbulence significantly affected international business operations, and simultaneously reinforced the phenomena shaping globalisation already before the pandemic. In fact, fragmented supply chains and limited mobility of people strengthen such factors as the reinforcement of protectionism securing national supply of critical goods, or stricter immigration control (Legrain 2020). Accordingly, an incremental path of globalisation cannot be taken for granted. While some scholars argue that globality is irreversible in the sense that no country or group can isolate itself from others due to the multitude of economic, cultural or political ties (see e.g. Beck 2009), temporary or permanent contractions of international economic activity have long co-existed with the aforesaid interconnectedness (Benito, Welch 1997).

Therefore, the question arises as to what impact of the pandemic crisis on the phenomenon of globalisation can be expected, and what this effect is contingent upon. According to the World Health Organization, globalisation can be defined as increased interconnectedness and interdependence of peoples and countries (WHO 2020). Globalisation has been discussed from the perspective of its potential to boost economic growth and contribute to poverty reduction, particularly in the developing world (Bhagwati, Srinivasen 2002; Catão, Obstfelt 2019; Dollar 2001; Stiglitz 2006). Even if the related empirical literature is mixed, there is sound evidence that trade openness and economic integration are contributing positively to growth (see e.g., Candelon et al. 2018), while growth and improvement in living standards lead in turn to poverty reduction, particularly in emerging economies (Bhagwati 2007).

However, regarding the trajectories of globalisation in the context of the pandemic, Gorynia et al. (2022) discuss several scenarios. Firstly, what they refer to as disrupted globalisation assumes that there will be a return to pre-pandemic configurations given the extensive financial and non-financial public support for the affected sectors. In the second scenario of de-globalisation, overall decreases in trade and FDI can be expected, with significant divestments and a reinforced focus on home operations of companies, shortening of value chains and protection of domestic sectors by governments. Finally, the most nuanced scenario of a rebalanced globalisation suggests that the diversifica-

tion of international supply sources would continue, with the firms' efforts to increase resilience being supported by more interventionist government policies and selective sectoral measures.

Firm internationalisation and crisis symptoms

As the previous section indicates, the effects of the pandemic on globalisation are ambiguous and far from obvious. Therefore, a vital question arises as to how the pandemic impact interacts with various levels of micro-level internationalisation. In other words, it is crucial to establish whether firm-level internationalisation is beneficial in terms of firm affectedness and the ability to react to the crisis, or not, and in what specific aspects.

While there are numerous empirical premises regarding the negative impact of the crisis on the competitive position of an enterprise, on the other hand, there are enterprises that are able to improve their competitiveness, even in the most unfavourable external conditions (Tushman, Anderson 1986). The level of vulnerability to the crisis and the ultimate impact of the crisis situation on the performance of the enterprise may depend, among others, on the country of origin (Berrill, Kearney 2011), the age of the enterprise (Burlita et al. 2011; Latham 2009; Shama 1993), the industry sector (Zelek, Maniak 2011), the implemented competitive strategy (Latham, Braun 2010), the size of the enterprise (Burlita et al. 2011), the resources owned (Teece et al. 1997; Türel et al. 2012; Wu 2010), and above all, the degree of internationalisation (Antonioli et al. 2011). This article concentrates on the latter aspect.

Under crisis conditions, a wide network of international operations may enable companies to react faster to the changes in the external environment, for example by taking advantage of the differences in the intensity of crisis occurrence between different markets, in which a given company is present (Kogut, Kulatilaka 1994; Roberts, Tybout 1997). This may be an advantage as compared to local companies, especially small and medium-sized enterprises (SMEs), which are struggling with economic crises, especially in such aspects as a decline in orders and sales, delayed or canceled payments (Orłowski et al. 2010), a decline in goodwill and an increase in costs (Brojak-Trzaskowska, Porada-Rochoń 2012; Nečadová, Breňová 2010; Grądzki, Zakrzewska-Bielawska 2009) or deterioration of financial performance (Michoń 2011; Scholleova 2012). On the other hand, the conducted export activity may help to minimise the negative effects of the crisis and increase the ability to survive (Wołodkiewicz-Donimirski 2010).

Therefore, it can be expected that the level of internationalisation, both in terms of its depth (i.e. intensity of servicing foreign markets) and breadth (i.e. the number of foreign markets served), will play a moderating role in relation to the effects of the pandemic crisis for companies. Thanks to a stronger international engagement, these firms will be able to compensate external shocks to a larger extent by recurring to different sources of demand. On the other hand, the companies may benefit from a more diversified sourcing and production base. Therefore, it can be expected that with greater involvement of the companies in international activities, the intensity of pandemic phenomena, which reflects the degree of impact from the crisis on them, will be lower in the case of more

internationalised companies. Therefore, it can be assumed that the depth and breadth of internationalisation will have a negative impact on the company's susceptibility to the impact of the crisis caused by the COVID-19 pandemic.

Firm internationalisation and reactions to crisis

For companies with a proactive orientation, the period of crisis may provide an opportunity for expansion (Sauvant et al. 2010). Zelek and Maniak (2011) indicate that local SMEs most often show a tendency to defensive rather than offensive reactions to the crisis. Moreover, in the context of Polish SMEs as a post-transformation economy, there is evidence of a relatively low perceived effectiveness of expansion into new markets in times of crisis (Burlita et al. 2011). Symptoms of the crisis, such as fluctuations in exchange rates, sometimes even induce companies to limit their export activities (Kowalczyk 2012).

However, the situation may be different for the companies with better resources (Pantzalis 2001; Mishra, Gobeli 1998; Kotabe et al. 2002). Basing on the resource theory, researchers generally agree that having more developed skills by firms, such as R&D intensity or marketing intensity, can further enhance the positive impact of internationalisation on firm performance (Kotabe et al. 2002; Mishra, Gobeli 1998). Indeed, there are some indications that the propensity to export under crisis conditions may positively interact with having higher capacities compared to competitors (Lee et al. 2009). In addition, researchers found that companies facing economic crises can improve their ability to cope with uncertainty and perform better if they invest in knowledge development (Jansson et al. 2010).

Therefore, it can be expected that involvement in internationalisation will be associated with the desire not to limit proactive actions in times of economic crisis and to use this situation as a foundation for international growth in a post-pandemic perspective. Therefore, it can be argued that the depth and breadth of internationalisation will be positively related to proactive rather than reactive actions taken by companies in response to COVID-19.

Materials and Methods

Data collection and sample

The sampling for the study was based on data on Polish exporters from the BISNODE database and embraced firms meeting, *inter alia*, the following criteria:

- majority-owned by Polish shareholders;
- active in manufacturing sectors;
- exporting to at least 2 countries and showing at least 10% of foreign sales to total sales (FSTS);
- employing at least 10 people.

Based on the criteria, 358 randomly selected firms with an equal split of small, medium and large enterprises and low, mid and high-tech manufacturing were contacted by

a professional market research agency. Primary data were gathered from the *computer assisted telephone interviews* (CATI) with the owners, top managers or sales or export-related managers of 120 firms, conducted between June and July 2022. This resulted in a response rate of 34%.

The study follows up on an earlier survey from 2020 by Gorynia and Trąpczyński (2022), who explored some first descriptive statistics pertaining to the affectedness and responses to crisis by Polish exporters with diverse levels of internationalisation. The current sample characteristics are presented in *Table 1*. The respondents answered a number of questions on export strategy, business models and internationalisation performance, as well as a block of questions devoted to the COVID-19 pandemic, which is the focus of the present article.

Data measurement

As for how to measure the symptoms of the crisis, according to the selected previous studies on the effects of the economic crisis (e.g. Burlita et al. 2011; Zelek, Maniak 2011) the authors asked the respondents about the susceptibility of their company to the limitation or suspension of sales due to the changes in regulations, supply disruptions, decrease or increase in demand, limiting the possibility of meetings with business partners, limiting the possibility of meetings with suppliers, delays in payments by customers or business partners, increased employee concerns, difficulties in accessing financing, difficulties in transporting goods, costs and difficulties in adapting the workplace to the applicable sanitary requirements, difficulties with the coordination and control of employees working remotely, increased unused production capacity, distorted sales and production planning, and an excessive increase in inventories. The respondents were hereby asked to rate the related statements on a 7-point Likert scale, where: 1 – does not apply to our company; 7 – largely concerns our company.

As for the responses to the crisis, solutions adopted in previous studies were used (Zelek, Maniak 2011; Kowalczyk 2012) and the questionnaire was expanded to include the effects of the COVID-19 pandemic observed in economic practice and the reactions of companies, taking into account such activities as the use of remote work, digitisation of internal/external communication and sales or service provision, the scope of hygiene procedures, the price level of products offered by the company, amount of remuneration, obtaining state aid funds, investments in new technologies or processes, production volume, employment, average working time, national and international employee mobility, number of new products / services introduced to the offer, number of new applications of existing products, intensity research and development activities. Respondents were asked to rate related statements on a 7-point Likert scale, where 1 – significant decrease, 4 – no changes, 7 – significant increase compared to the corresponding period before the pandemic.

Finally, internationalisation depth was measured by using *foreign sales to total sales* – FSTS (e.g. Velez-Calle et al. 2018), while internationalisation breadth was operationalised as the number of markets served by the firm (e.g. Casillas, Acedo 2013).

Table 1: Sample characteristics (N=120)

Employment (as of 2021)	**# firms**	**Manufacturing sectors**	**# firms**
10-49 employees	41	Low-tech	40
50-249 employees	39	Mid-tech	40
50-249 employees	40	High-tech	40
# export markets		**FSTS**	**# firms**
1-10	89	10-19%	44
11-20	25	20-30%	51
>21	6	>30%	25

Source: authors' own elaboration.

Results and Discussion

Differences in the impact of the COVID-19 crisis depending on internationalisation level

In the first step of the analysis, the distribution of variables related to the impact of the crisis was verified with the Kolmogorov-Smirnov. The calculations showed that the distributions of these variables are far from the normal distribution ($p > 0.05$ in the case of the Kolmogorov-Smirnov test). Moreover, the values of skewness and kurtosis in many cases exceed the absolute value of 2, and in some cases the absolute value of 1. Additionally, outliers exceeding the third standard deviation were noted in many variables. For this reason, the analyses for these variables were based on non-parametric tests.

In order to check whether the depth and breadth of companies internationalisation differentiate the variables related to the impact of the crisis, a series of Kruskal-Wallis tests were performed. In the case of statistically significant results, post hoc tests with the Bonferroni correction were additionally performed. For the sake of clarity, all ensuing tables only display statistically significant results.

The analysis shows that the depth of internationalisation differentiates the impact of the crisis on the limitation or suspension of sales by legal regulations, supply disruptions, delays in payments by customers or trade partners, difficulties in accessing external financing, difficulties in transporting goods (moderate effects) and increasing employee anxiety (weak effect).

The firms with a shallow internationalisation depth experienced a greater degree of supply disruption than the firms with a greater internationalisation depth. As for remaining challenges with statistically significant effects, differences were noted only between the companies with low and high depth of internationalisation. The companies with a low depth of internationalisation experienced the above-mentioned challenges to a greater extent than the companies with a high depth of internationalisation. Other comparisons turned out to be statistically insignificant.

Table 2: Differences in crisis impact depending on depth of internationalisation

	Depth of internationalisation								
	low (*n* = 42)		medium (*n* = 46)		high (*n* = 32)				
	average rank	*Me*	average rank	*Me*	average rank	*Me*	*H* (2)	*p*	η²
Limitation or suspension of sales by legal regulations	70.69 [a]	5.00	60.39 [ab]	4.00	47.28 [b]	3.00	8.54	**0.014**	0.06
Supply disruptions	75.13 [a]	6.00	53.34 [b]	4.00	51.59 [b]	4.00	12.01	**0.002**	0.09
Payment delays by customers or business partners	72.11 [a]	6.00	58.72 [ab]	4.00	47.83 [b]	3.50	9.40	**0.009**	0.06
Increase in employee concerns	71.58 [a]	5.00	57.12 [ab]	5.00	50.81 [b]	4.00	7.49	**0.024**	0.05
Difficulties in accessing external financing	71.80 [a]	5.00	58.33 [ab]	4.00	48.80 [b]	4.00	8.48	**0.014**	0.06
Difficulty in goods transportation	73.74 [a]	5.00	58.43 [ab]	5.00	46.09 [b]	5.00	15.57	**<0.001**	0.12

Annotation: The mean ranks with different letter indices differ at the level of p <0.05 with the Bonferroni correction. Source: the authors' own elaboration.

The second part of these analyses examined how the breadth of internationalisation differentiates the aspects related to the impact of the crisis on the activities of enterprises. The test results are presented in *Table 3.*

Table 3: Differences in crisis impact depending on the breadth of internationalisation

	Breadth of Internationalisation								
	low (*n* = 58)		medium (*n* = 24)		high (*n* = 38)				
	average rank	*Me*	average rank	*Me*	average rank	*Me*	*H* (2)	*p*	η²
Limitation or suspension of sales by legal regulations	78.09 [a]	5.00	49.42 [b]	3.00	40.64 [b]	2.00	30.80	**<0.001**	0.25
Supply disruptions	77.27 [a]	6.00	42.65 [b]	3.00	46.18 [b]	4.00	27.45	**<0.001**	0.22
Payment delays by customers or business partners	77.90 [a]	6.00	46.65 [b]	3.00	42.70 [b]	3.00	29.37	**<0.001**	0.23
Increase in employee concerns	73.72 [a]	5.00	43.10 [b]	3.50	51.32 [b]	4.00	17.76	**<0.001**	0.13
Difficulties in accessing external financing	73.90 [a]	5.00	47.29 [b]	3.00	48.39 [b]	4.00	17.17	**<0.001**	0.13
Increase in borrowing costs	68.86 [a]	4.00	47.44 [b]	3.00	55.99 [ab]	4.00	7.69	**0.021**	0.05
Increase in delivery costs	72.53 [a]	5.00	45.29 [b]	4.00	51.75 [b]	4.00	14.80	**<0.001**	0.11

Annotation: The mean ranks with different letter indices differ at the level of p <0.05 with the Bonferroni correction. Source: the authors' own elaboration.

The results of the tests indicate statistically significant effects for the following challenges: limitation or suspension of sales by legal regulations, supply disruptions, delays in payments by customers or business partners (strong effects) and increased employee anxiety, difficulties in accessing external financing, increase in delivery costs (moderate effects). Significant differences were also observed regarding the increase in the costs of servicing, however, the effect of external financing is weak.

The pairwise comparisons showed that companies with low internationalisation breadth differ from the companies with medium internationalisation in terms of the increase in borrowing costs. Moreover, the companies with low internationalisation breadth experienced the challenges of the crisis more strongly than the companies with medium and high internationalisation breadth in terms of all the remaining challenges mentioned as significant. In every aspect, companies with low internationalisation have experienced difficulties with greater intensity than the other companies.

Differences in the reactions to the COVID-19 crisis depending on internationalisation level

In the next part of the analyses, the distributions of variables related to the response to the crisis were checked. The conclusions from the analyses are similar as before: the results of the Kolmogorov-Smirnov tests are statistically significant, which indicates a distribution distant from the Gaussian curve. Skews and kurtoses, exceeding the absolute value of 2 or in some cases 1, indicate significant asymmetry of the distribution and outliers. For this reason, non-parametric tests were used again to verify whether the responses to the crisis related to the COVID-19 pandemic were dependent on the internationalisation level of the surveyed companies.

This was further tested in crisis responses depending on the depth of internationalisation of the company. The results of the performed tests are presented in *Table 4*.

The analysis showed statistically significant differences depending on the depth of internationalisation for the scope of digitalisation of communication within the company and with external entities, the volume of sales and purchases via the Internet, the scope of digitalisation of the provision of services, obtaining governmental aid, average working time and the level of general enterprise costs. Almost every effect was of moderate strength - with the exception of obtaining governmental aid and the average working time (weak effects).

Successive post hoc tests showed that a greater degree of activities within the scope of digitalisation of communication, both within the company and with external entities, the volume of sales and purchases via the Internet, as well as the scope of digitalisation of the provision of services, were undertaken by the companies with a low internationalisation depth in relation to the companies with a large depth of internationalisation. On the other hand, the companies with a large depth of internationalisation put significantly less emphasis on obtaining governmental aid as compared to the companies with an average depth of internationalisation. At the same time, the companies with a large depth of internationalisation operated to a greater extent in the area of general enterprise costs than

the companies with an average depth of internationalisation and in the area of average working time in relation to the companies with a low depth of internationalisation. Other comparisons do not indicate statistically significant differences.

Table 4: Differences in crisis responses depending on the depth of internationalisation

	Depth of internationalisation								
	Low (*n* = 42)		Medium (*n* = 46)		high (*n* = 32)				
	average rank	*Me*	average rank	*Me*	average rank	*Me*	*H* (2)	*p*	η²
The scope of digitisation of communication within the company	70.79 [a]	6.00	59.74 [ab]	6.00	48.09 [b]	6.00	9.16	**0.010**	0.06
The scope of digitisation of communication with external entities	72.95 [a]	6.00	58.35 [ab]	6.00	47.25 [b]	6.00	13.66	**0.001**	0.10
Internet sales volume	72.17 [a]	6.00	57.91 [ab]	6.00	48.91 [b]	6.00	10.45	**0.005**	0.07
The volume of purchases over the Internet	68.21 [a]	6.00	62.71 [ab]	6.00	47.20 [b]	6.00	10.22	**0.006**	0.07
Scope of digitisation of service provision	64.43 [a]	6.00	68.45 [a]	6.00	43.92 [b]	5.00	13.16	**0.001**	0.10
Obtaining governmental aid funds	60.21 [ab]	5.00	69.07 [a]	6.00	48.56 [b]	5.00	7.68	**0.022**	0.05
Average working time	54.40 [a]	1.00	56.97 [ab]	1.00	73.58 [b]	4.00	7.85	**0.020**	0.05
General enterprise costs	59.45 [ab]	4.00	52.85 [a]	4.00	72.88 [b]	5.00	9.10	**0.011**	0.06

Annotation: The mean ranks with different letter indices differ at the level of $p < 0.05$ with the Bonferroni correction.
Source: the authors' own elaboration.

Analogical analyses were performed in response to the crisis depending on the breadth of internationalisation (see: *Table 5*).

The conducted tests show that the breadth of internationalisation differentiates the degree of activity in the area of digitalisation of communication within the company, the volume of sales via the Internet, the scope of application of hygiene procedures, prices of products offered by the company, average working time, intensity of activities in the area of research and development and the level of operating costs. Only the differences in the intensity of activities in the area of research and development show a moderate effect, the rest of the observed effects is weak.

Subsequently, post-hoc tests showed that companies with a small breadth of internationalisation put more emphasis than the companies with a large breadth of internationalisation on activities in the area of digitalisation of communication within the company, as well as on the volume of sales via the Internet. The opposite was true in the case of the scope of application of hygiene procedures, the prices of

products offered by the company and the level of costs of general company activities. In this case, there were the companies with a large breadth of internationalisation that focused more on these aspects as a response to the crisis than the companies with a small breadth of internationalisation. On the other hand, despite the statistically significant effect of the average working time, pairwise comparisons did not show any significant differences between the compared groups. In addition, the companies with a medium breadth of internationalisation reacted to a lesser extent than the companies with a large breadth of internationalisation in the area of research and development. There were no other statistically significant differences between the groups in response to the crisis.

Table 5: Differences in crisis responses depending on the breadth of internationalisation

	Breadth of Internationalisation								
	low (*n* = 58)		medium (*n* = 24)		high (*n* = 38)				
	average rank	*Me*	average rank	*Me*	average rank	*Me*	*H* (2)	*p*	η²
The scope of digitisation of communication within the company	65.95 [a]	6.00	64.58 [ab]	6.00	49.61 [b]	6.00	6.47	**0.039**	0.04
Internet sales volume	65.60 [a]	6.00	65.04 [ab]	6.00	49.84 [b]	6.00	6.40	**0.041**	0.04
The scope of application of hygiene procedures	54.76 [a]	6.00	58.88 [ab]	6.00	70.29 [b]	6.00	6.07	**0.048**	0.03
Prices for products offered by the company	54.76 [a]	4.00	56.69 [ab]	4.00	71.67 [b]	4.00	6.75	**0.034**	0.04
Average working time	55.68	1.00	55.90	1.00	70.76	4.00	6.05	**0.049**	0.03
Intensity of activities in the area of research and development	57.94 [ab]	4.00	48.71 [a]	4.00	71.86 [b]	4.00	8.81	**0.012**	0.06
General enterprise costs	55.50 [a]	4.00	56.73 [ab]	4.00	70.51 [b]	4.50	6.67	**0.036**	0.04

Annotation: The mean ranks with different letter indices differ at the level of p <0.05 with the Bonferroni correction.
Source: the authors' own elaboration.

Conclusions

The crisis triggered by the COVID-19 pandemic unfolded at a time, when some scholars had been questioning the successes of globalisation in the last decade, and national identities had come to the forefront more clearly than ever before. Importantly, the pandemic revealed weaknesses in global value chains and, therefore, the limits of globalisation itself (Legrain 2020). Paradoxically, however, a limitation of global economic ties would also diminish the global economy's ability to counteract global challenges, including the pandemic itself (Walsh 2020).

At the microeconomic level this exploratory study presents a series of statistical analyses in various subgroups related to the depth and breadth of internationalisation in order to shed light on the relationship between the COVID-19 pandemic and the internationalisation at the company level. Initial support – requiring further research – was found to support the statement that the companies with greater depth and breadth of internationalisation tend to be more resistant to the effects of the pandemic crisis. Likewise, it has been tentatively stated that more internationalised companies are more cautious in their COVID-19 responsiveness. However, this effect depends on the specific areas of the measures taken amidst the crisis. For instance, for areas related to digitalisation, less internationalised firms turned out to be more active, while research and development related measures were more predominant among highly internationalised companies.

Moreover, it is worth noting that the provided empirical premises relate to the companies from a post-transition economy and, therefore, may exhibit different characteristics and behaviour patterns than typical companies from the emerging markets or, even more, from the developed economies. Due to the limited scale of operations, limited experience of operating in international markets, as well as a low level of conventional intangible assets, typical of their counterparts from the more developed countries, these companies provide a promising context for studying the relationships discussed here.

Due to the obvious limitations of this early study, there are numerous opportunities for the further research in the context of the pandemic. Regarding the determinants of commitment to internationalisation, further important variables need to be considered by resorting to more advanced quantitative methods, including the nature of the underlying business models and the use of the specific online tools. These features of enterprises may affect both the course of internationalisation and condition actions while facing crisis situations.

Regarding the proactive and reactive nature of the crisis response, this research shows, surprisingly, that the most internationalised companies are less proactive in their actions, especially with regard to new product launches or R&D. A more in-depth examination of these relationships, while taking into account the sectoral breakdown and the related knowledge intensity, could shed more light on these interesting results.

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References:

ANTONIOLI Davide, BIANCHI Annaflavia, MAZZANTI Massmiliano, MONTRESOR Sandro, PINI Paolo (2011), *Economic Crisis, Innovation Strategies and Firm Performance. Evidence from Italian-Firm Level Data*, "Quaderno", vol. 2/2011.

BECK Ulrich (2009), *What is globalization?*, Cambridge.

BENITO Gabriel R.G., *WELCH Lawrence S. (1997), De-Internationalization, „Management International Review",* vol. 37.

BERRILL Jenny, KEARNEY Colm (2011), *Has the International Banking and Financial Crisis Damaged Emerging Market MNCs?,* "Contemporary Studies in Economic and Financial Analysis", vol. 93. DOI: 10.1108/S1569-3759(2011)0000093012

BHAGWATI Jagdish (2007), *In defense of globalization,* New York.

BHAGWATI Jagdish, SRINIVASEN Thirukodikaval Nilakanta (2002), *Trade and Poverty in the Poor Countries*, „American Economic Review", vol. 92 (2).

BROJAK-TRZASKOWSKA Małgorzata, PORADA-ROCHOŃ Małgorzata (2012), *Zakres i struktura działalności innowacyjnej badanych przedsiębiorstw województwa zachodniopomorskiego w okresie kryzysu gospodarczego,* „Współczesne Zarządzanie", vol. 1.

BURLITA Augustyna, BURSIAK Leszek, GRZESIUK Aleksandra, LACHOWSKA Anna, MANIAK Grażyna, ŚWIERGIEL E., ZELEK Aneta (2011), *Przetrwać dekoniunkturę. Przedsiębiorstwa i gospodarstwa domowe wobec kryzysu*, Szczecin.

CANDELON Bertrand, CARARE Alina, HASSE Jean-Baptiste, LU Jing (2018), *Globalization and the New Norm*, IMF Working Paper – WP/18/75, International Monetary Fund, Washington D.C.

CASILLAS José, ACEDO Francisco J. (2013), *Speed in the internationalization process of the firm,* "International Journal of Management Reviews", vol. 15, no. 1. DOI: 10.1111/j.1468-2370.2012.00331.x

CATÃO Luis A.V., OBSTFELD Maurice (eds) (2019), *Meeting Globalization's Challenges. Policies to Make Trade Work for All*, Princeton University Press. DOI: 10.2307/j.ctvh1dr13

CLAESSENS Stijn, KOSE M. Ayhan, TERRONES Marco E. (2010), *The global financial crisis: How similar? How different? How costly?,* "Journal of Asian Economics", vol. 21.

DOLLAR David (2001), *Globalization, Inequality and Poverty since 1980*, World Bank, Washington D.C.

GORYNIA Marian (2021), *Will COVID-19 Kill Globalization?*, in: Marin A. Marinov, Svetla T. Marinova (eds), *Covid-19 and International Business. Change of Era*, Routledge, London.

GORYNIA Marian, NOWAK Jan, TRĄPCZYŃSKI Piotr, WOLNIAK Radosław (2022), *Globalization in a COVID-19 Afflicted World,* "International Business in Times of Crisis": Tribute Volume to Geoffrey Jones, vol. 16.

GORYNIA Marian, TRĄPCZYŃSKI Piotr (2022), *Strategie polskich eksporterów wobec pandemii koronawirusa – wyniki badań empirycznych*, in: Iwona Pawlas, Anna Czech (eds), *Podmioty gospodarki światowej wobec pandemii COVID-19*, Katowice.

GRĄDZKI Ryszard, ZAKRZEWSKA-BIELAWSKA Agnieszka (2009), *Przyczyny i objawy kryzysu w polskich przedsiębiorstwach,* in: J. Bieliński, R. Płoska (eds), *Przedsiębiorstwo w warunkach kryzysu*, „Prace i Materiały Wydziału Zarządzania Uniwersytetu Gdańskiego", Gdańsk.

JANSSON Hans, HILMERSSON Mikael, SANDBERG Susanne (2010), *The Impact of the Great Global Recession on the International Competitiveness of SMEs from Southern Sweden*, 33 Annual Meeting of SNEE (Swedish Network for European Studies in Economics and Business): European Integration in Swedish Economic Research, Mölle, 2010.

KOGUT Bruce, KULATILAKA Nalin (2001), *Capabilities as real options,* "Organization Science", vol. 12, no. 6. DOI: 10.1287/orsc.12.6.744.10082

KOTABE Masaaki, SRINIVASAN Srini S., AULAKH Preet S. (2002), *Multinationality and firm performance: The moderating role of R&D and marketing capabilities*, "Journal of International Business Studies", vol. 33, no. 1.

KOWALCZYK Jacek (2012), *Drobne firmy sparzyły się na zagranicznych rynkach*, „Puls Biznesu".

LATHAM Scott F. (2009), *Contrasting strategic response to economic recession in start-up versus established software firms*, "Journal of Small Business Management", vol. 47(2).

LATHAM Scott F., BRAUN Michael R. (2010), *Jilted? The manager's little book for keeping customers in a recession,* "Journal of Business Strategy", vol. 31.

LEE Seung-Hyun, BEAMISH Paul W., LEE Ho-Uk, PARK Jong-Hun (2009), *Strategic choice during economic crisis: Domestic market position, organizational capabilities and export flexibility*, "Journal of World Business", vol. 44.

LEGRAIN Philippe (2020), *The Coronavirus Is Killing Globalization as We Know It,* "Foreign Policy", 12 March 2020, https://foreignpolicy.com/2020/03/12/coronavirus-killing-globalization-nationalism-protectionism-trump/ (12.03.2020).

MATYSIAK Lars, BAUSCH Andreas (2012), *Antecedents of MNE Performance: Blinded by the Obvious in 35 Years of Literature,* "Multinational Business Review", vol. 20, no. 2.

MICHOŃ Piotr (2011), *Nie taki kryzys straszny? Wpływ recesji gospodarczej na kondycję regionu Wielkopolski*, Poznań.

NEČADOVÁ Marta, BREŇOVÁ Lubomíra (2010), *Impact of Economic Crisis on Czech Firms from Managers' Point of View – The Results of Primary Research,* "Economics and Management", vol. 15.

OLIVIÉ Iliana, GRACIA SANTOS Manuel (2020), *The end of globalisation? A reflection on the effects of the COVID-19 crisis using the Elcano Global Presence Index*, "ARI" no. 60/2020, Real Instituto Elcano, 4 May 2020, http://www.realinstitutoelcano.org/wps/portal/rielcano_en/contenido?WCM_GLOBAL_CONTEXT=/elcano/elcano_in/zonas_in/ari60-2020-olivie-gracia-end-of-globalisation-reflection-on-effects-of-covid-19-crisis-using-elcano-global-presence-index (04.05.2020).

PANTZALIS Christos (2001), *Does location matter? An empirical analysis of geographic scope and MNC market valuation,* "Journal of International Business Studies", vol. 32, no. 1.

ROBERTS Mark J., TYBOUT James R. (1997), *The decision to export in Colombia: an empirical model of entry with sunk costs,* „American Economic Review", vol. 87, no. 4.

SANDBU Martin (2020), *The Economics of Belonging: A Radical Plan to Win Back the Left Behind and Achieve Prosperity for All*, Princeton University Press.

SAUVANT Karl P., MASCHEK Wolfgang A., MCALLISTER Geraldine (2010), *Foreign Direct Investment by Emerging Multinational Enterprises, the Impact of the Financial Crisis and Recession, and Challenges Ahead*, in: Karl P. Sauvant, Geraldine McAllister, Wolfgang A. Maschek (eds), *Foreign Direct Investments from Emerging Markets. The Challenges Ahead*, Palgrave Macmillan, New York.

SCHOLLEOVA Hana (2012), *The Economic Crisis and Working Capital Management of Companies*, "Theoretical and Applied Economics", vol. XIX (2012), no. 4(569).

SERIC Adnan, GÖRG Holger, MÖSLE Saskia, WINDISCH Michael (2020), *Managing COVID-19: How the pandemic disrupts global value chains*, 27 April 2020, "World Economic Forum", https://www.weforum.org/agenda/2020/04/covid-19-pandemic-disrupts-global-value-chains (27.04.2020).

SHAMA Avraham (1993), *Marketing strategies during recession: a comparison of small and large firms*, "Journal of Small Business Management", vol. 31, no. 3.

STIGLITZ Joseph E. (2006), *Making Globalization Work*, New York and London.

TEECE David J., PISANO Gary, SHUEN Amy (1997), *Dynamic capabilities and strategic management,* "Strategic Management Journal", vol. 18.

TÜREL Ahmet, TÜREL Asli, NEEDLES Belverd E. (2012), *Financial Characteristics of High Performance Companies in Turkey: A Comparative Analysis of Stable Economy in the Financial Crisis Era*, "Accounting and Management Information Systems", vol. 11, no. 1.

VELEZ-CALLE Andres, SANCHEZ-HENRÍQUEZ Fernando, CONTRACTOR Farok (2018), *Internationalization and performance: The role of depth and breadth*, "Academia Revista Latinoamericana de Administración", vol. 31, no. 1. DOI: 10.1108/ARLA-04-2017-0125

WALSH Bryan (2020), *The coronavirus is a force for deglobalization*, "Axios Future", 20 May 2020, https://www.axios.com/coronavirus-economic-globalization-744b0660-ce56-4ffa-93e9-cc4c20ee135c.html (20.05.2020).

WOLF Martin (2020), *How Covid-19 will change the world?,* "Financial Times", 16.07.2020.

WOŁODKIEWICZ-DONIMIRSKI Zdzisław (2010), *Kondycja finansowa eksporterów,* in: *Kryzys finansowy a handel zagraniczny*, Warszawa.

WHO (2020), *Health Topics. Globalization*, World Health Organization, https://www.who.int/topics/globalization/en/ (10.08.2020).

WU Lei-Yu (2010), *Applicability of the resource-based and dynamic-capability views under environmental volatility*, "Journal of Business Research", vol. 63.

ZELEK Aneta, MANIAK Grażyna (2011), *Polskie MSP wobec dekoniunktury gospodarczej 2007-2010 – studium przedsiębiorstw Pomorza Zachodniego*, in: A. Zakrzewska-Bielawska (ed.), *Wyzwania rozwojowe małych i średnich przedsiębiorstw. Innowacje, technologie, kryzys*, Warszawa.

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Monitoring the implementation and resolving disputes under the Brexit Withdrawal Agreement[1]

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Abstract
The aim of this article is analysis of how the *Agreement on the withdrawal of the United Kingdom from the European Union* governs the mechanisms for monitoring its implementation and resolving disputes. All solutions are based on the international principle of good faith, which obliges the parties of the Agreement to apply it fully. Constant contact between them is ensured by the Joint Committee together with the Special Committees. Any dispute between the parties can only be solved based on the solutions contained in the Agreement, through international arbitration by an arbitration panel. Furthermore, of interest are the provisions governing the specific extension of the jurisdiction of the Court of Justice of the European Union and the practice of the parties to date. Two methods of legal analysis have been employed in this research: dogmatic (analysis of the provisions of the Agreement) and functional (an attempt to predict the consequences of their implementation).
Keywords: Brexit, Withdrawal Agreement, monitoring, disputes

Kontrolowanie stosowania i rozwiązywanie sporów z brexitowej umowy o wystąpieniu z UE

Streszczenie
Celem niniejszego artykułu jest analiza, w jaki sposób *Umowa o wystąpieniu Zjednoczonego Królestwa z Unii Europejskiej* reguluje mechanizmy kontroli jej stosowania i rozwiązywania sporów. Wszystkie rozwiązania opierają się o prawnomiędzynarodową zasadę dobrej wiary, która zobowiązuje strony

[1] This article was prepared based on the author's master thesis, entitled *Agreement on the withdrawal of the United Kingdom from the European Union and control of its implementation*, defended at the University of Lodz in July 2021 under the supervision of prof. dr hab. Anna Wyrozumska.

Umowy do jej pełnego stosowania. Stały kontakt między stronami zapewnia Wspólny Komitet wraz ze Specjalnymi Komitetami. Wszelkie spory mogą być rozwiązywane jedynie w oparciu o postanowienia zawarte w Umowie, w oparciu o arbitraż międzynarodowy przed panelem arbitrażowym. Interesujące są również postanowienia regulujące szczególne rozszerzenie jurysdykcji Trybunału Sprawiedliwości Unii Europejskiej oraz dotychczasowa praktyka stron. W badaniu zastosowano dwie metody analizy prawnej: dogmatyczną (analiza postanowień Umowy) oraz funkcjonalną (próba przewidywania skutków ich realizacji).
Słowa kluczowe: Brexit, Umowa o wystąpieniu z UE, kontrolowanie, spory

The withdrawal of the United Kingdom from the European Union was, of course, an unprecedented phenomenon. The normalised Brexit process was made possible by the conclusion of the *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community* of 24 January 2020 (see: Agreement 2020; Council Decision (EU) 2020/135), following the procedure referred to in Art. 50 TEU. It is an act of international law, to which the United Kingdom and the European Union are parties, not its Member States. The substance of the Agreement can be divided into two categories: the first one includes provisions setting out the conditions for withdrawal, and the second one provides for the means of the implementation of the Agreement and resolving disputes. As Lauterpacht (1946) wrote, international law should be directed towards ensuring peace between nations and protecting human rights. The international legal principle of good faith explicitly confirmed in Art. 5 of the Agreement, occupies a primary role here. It obliges the parties to implement the Agreement in a concerted manner, in which constant contact between the parties is essential. The Joint Committee with subordinate Special Committees were established for this purpose. However, if a conflict arises between the parties which cannot be resolved through negotiation, the Agreement provides for a dispute settlement mechanism based on international arbitration. Equally interesting are the provisions regulating the specific extension of the competencies of the Court of Justice of the European Union.

This article's aim is to analyse the mechanisms of monitoring the implementation of the Agreement together with the resolution of disputes, and to indicate the practice previously existing in this respect (see further: Van Nuffel 2021). Two methods of legal analysis have been employed in this regard: dogmatic (analysis of the provisions of the Agreement) and functional (an attempt to predict the consequences of their implementation).

Joint Committee and Special Committees

The Joint Committee is the only permanent body established under the Agreement. It provides a forum where its parties have regular contact and can exchange views, in particular on contentious situations. As it is not a separate entity in the relationship between the EU and the UK, therefore it cannot provide, for example, good offices to both parties to the Agreement.

The Joint Committee meets at least once a year and is co-chaired by a member of the European Commission and a representative of the British Government at the ministerial level or by senior officials nominated as their alternatives (Art. 164(2) of the Agreement). Meetings are confidential (Rule 10(1) of Annex VIII) and take place alternatively in Brussels and London (Rule 4 of Annex VIII). It may also be decided, which is of particular importance during the COVID-19 pandemic, the meeting will be held by video or teleconference. The Joint Committee aims to supervise (fr. *superviser*) the implementation of the Agreement, thereby supporting the parties to fulfil their obligation to apply the Agreement in good faith (Art. 5 of the Agreement). To this end, it may give binding decisions and appropriate recommendations (Art. 166 of the Agreement). Crucially, this prerogative is only exercised by mutual consent. The Joint Committee has limited legislative power to amend the Agreement on issues of both technical (Art. 164(4)(f) of the Agreement) and substantial nature (Art. 164(5)(d) of the Agreement, see also: Dashwood 2020: p. 183–192).

The Joint Committee is assisted by Special Committees: (1) on citizens' rights, (2) on the other separation provisions, (3) on issues related to the implementation of the Protocol on Ireland/Northern Ireland, (4) on issues related to the implementation of the Protocol relating to the Sovereign Base Areas in Cyprus, (5) on issues related to the implementation of the Protocol on Gibraltar, and (6) on the financial provisions (Art. 165(1) of the Agreement). The functioning of the Special Committees is similar to that of the Joint Committee, except that they may only draw up draft decisions and recommendations, which they must submit to the Joint Committee for adoption, as they do not possess such a competence (Art. 165(2) of the Agreement). In addition, neither the EU nor the UK is prevented to refer any matter directly to the Joint Committee for discussion (Art. 165(4) of the Agreement).

Arbitration panel

Relations between the parties are to be based on extensive cooperation. Nevertheless, it cannot be excluded that a dispute of law or fact will arise between them. Such a conflict can only be settled by peaceful means (Art. 167 of the Agreement) and by adhering to the procedures provided for in the Agreement (Art. 168 of the Agreement, see also: art. 344 TFEU and Judgment of the CJEU 2006) starting with consultations within the Joint Committee (Art. 169 of the Agreement). If no agreement is reached in this manner within 3 months, either party may request the establishment of an arbitration panel.

Proceedings before an arbitration panel

The arbitration panel (fr. *groupe spécial d'arbitrage* – special arbitration group) is not part of any existing international judicial body. It was created solely for the Agreement. Incidentally, it is worth recalling that arbitration proceedings and proceedings before a permanent international court are among the judicial methods of settling international disputes. The major difference is their composition: the arbitral tribunal is *ad hoc*, while,

generally, the permanent international court is composed independently of the will of the parties to the dispute (see: Crawford 2019: p. 693–694).

By the end of the transition period, the Joint Committee was required to establish a list of twenty five able and willing individuals to serve as a member of the arbitration panel. To this end, each party to the Agreement proposed ten individuals and both of them jointly – five individuals to "act as chairperson of the arbitration panel" (Art. 171(1) of the Agreement). The members of the arbitration panel are required to be unquestionably independent, to possess the necessary qualifications to occupy the highest judicial offices in their respective countries or to be lawyers of recognised competence, and to have specialised knowledge or experience in EU law and public international law. Members, officials or other servants of the institutions of the EU, the Government of its Member State or the Government of the UK could not be proposed (Art. 171(2) of the Agreement). Decision No 7/2020 proposed as arbitrators, among others, A. Nußberger, a former German judge and Vice-President of the European Court of Human Rights, and J. Klučka, a former judge of the Slovak Constitutional Court.

The arbitration panel for a specific dispute can be established by the parties based on an application by one of them. It must state the subject matter of the dispute to be considered and a summary of the legal arguments in support thereof. The request is to be transmitted in writing to the other party and to the International Bureau of the Permanent Court of Arbitration in The Hague (International Bureau), which provides secretarial and additional logistical support to the arbitration panel (see: Art. 170(1) of the Agreement, Point 20 of Annex IXA).

The arbitration panel will be composed of five members (Art. 171(3) and (4) of the Agreement). Each party appoints two members from its list. They select by consensus the chairperson from the jointly designated candidates. In the absence of consensus, either party may request the Secretary General of the Permanent Court of Arbitration (PCA Secretary) to select a chairperson by lot (Art. 171(5) and (6) of the Agreement). The sole language of proceedings before the arbitration panel is English (Point 40 of Annex IXA).

Once the arbitration panel is established, its members enjoy immunity from legal proceedings in the EU and the UK (Art. 181(2) of the Agreement). The *Code of Conduct for Members of Arbitration Panels* requires, *inter alia*, that they must observe confidentiality and information obtained in the course of the proceedings (see: Point 9 of Annex IXB). By default, arbitration panel hearings take place in The Hague, at the seat of the Permanent Court of Arbitration (PCA) (see: Point 24 of Annex IXA).

The Agreement provides that proceedings before the arbitration panel should be concluded within 12 months of its establishment (Art. 173(1) of the Agreement). An expedited procedure was established in Art. 173(2) of the Agreement. Within 10 days from the date of establishment of the arbitration panel, either party may submit a reasoned request stating the matter is urgent. The arbitration panel rules on the urgency of the matter within 15 days and, where urgency is established, the panel must make every effort to notify its ruling within 6 months from the date of its establishment.

Technical assistance from the Permanent Court of Arbitration

The Permanent Court of Arbitration (PCA) has been given special powers to ensure the trouble-free functioning of the arbitration panel. The creation of the PCA, operating based on the Hague Convention, was the result of an attempt to institutionalise international arbitration that took place during the Hague Peace Conference in 1899 (Czapliński, Wyrozumska 2004: p. 828). It aimed at consolidating the system of international dispute resolution, especially because of the then-recent armed conflicts, such as the Second Boer War (1899–1902), the Russo-Japanese War (1904–1905) and the Russo-British incident on the Dogger Bank in 1904 (van den Hout 2008: p. 644; Rosenne 2001: p. XIX).

The International Bureau headed by the PCA Secretary, in addition to the Administrative Council, is the only permanent body of the PCA whose function is to act as a secretariat for the Court. Given the general idea behind the establishment of the PCA, i.e., the creation of a permanent forum ready for the settlement of international disputes, the Hague Convention provides that the International Bureau "is authorized to place its offices and staff at the disposal of the Contracting Powers for the operation of any special Board of Arbitration" (Art. 47 of the Hague Convention). On this basis, the International Bureau provides necessary assistance to other arbitral tribunals not operating under the PCA.

A well-known arbitral tribunal using PCA's premises is the Iran–United States Claims Tribunal. The PCA Secretary, as in the case of the Withdrawal Agreement, has the power to appoint its arbitrators (Iran–United States Claims Tribunal 1983: Art. 6, 7). Similarly, the International Bureau performed supporting functions for the *ad hoc* tribunal to hear the Malaysian–Singapore *Straits of Johor* dispute (van den Hout 2008: p. 653–654; Award of the PCA 2005). Even though only states are members of the PCA, the extensive practice does not preclude the International Bureau from providing support to an arbitral tribunal to which even a non-state international law entity may be a party, as it is a case in the Agreement. Thus, the solution in the Agreement is in line with existing international practice.

Lack of jurisdiction concerning EU law

As stipulated in the art. 174(1) of the Agreement, the arbitration panel may not rule, when the dispute referred to it for arbitration involves either a question of interpretation of a concept or provision of EU law, to which the Agreement refers (thus, still binding on the parties to the Agreement) or its object is to assess whether the UK has complied with its obligations under Art. 89(2) of the Agreement (whether it has complied with a judgment of the CJEU made against the UK). In such a case, a hearing of the parties takes place and the arbitration panel is obliged to request the CJEU to give judgement in this respect. This is the exclusive competence of the arbitration panel, which makes this decision alone. The parties to the proceedings may also make such a request to the arbitration panel and, in the event of a refusal, request its review (Art. 174(2) of the Agreement). In both cases, the CJEU's jurisdiction is based on Art. 272 TFEU. According to its wording, it has jurisdiction to give judgment under

any arbitration clause contained in a public or private law agreement concluded by or on behalf of the EU.

Pending the judgement of the CJEU, the time limits for the proceedings before the arbitration panel are suspended. The UK side is entitled to participate actively in the proceedings before the CJEU, i.e., as if it were still the Member State of the EU. The arbitration panel gives its ruling no later than 60 days after the conclusion of the proceedings before the CJEU (Art. 174(3) and (4) of the Agreement).

The mechanism described is the counterpart of the power of a court of the Member State to refer a question for a preliminary ruling under Art. 267 TFEU. It preserves the role of the CJEU as the only body empowered to interpret EU law (first subparagraph of Art. 19(1) TEU; Judgement of the CJEU 2021: par. 107). In addition, according to the *Salonia* judgement (see: Judgement of the CJEU 1981), only the referring court (here: the arbitration panel) has the power to decide whether request the CJEU to give a ruling thereon. The requests of the parties to the proceedings in this respect are not binding on the arbitration panel. In addition, it is reasonable to assume that the CILFIT doctrine comprising the doctrines of *acte claire* and *acte* éclairé (see: Judgement of the CJEU 1982) also applies to the proceedings before the arbitration panel.

Decisions and rulings of the arbitration panel

The primary method of decision-making by the arbitration panel is by consensus. If it cannot be reached, the matter is decided by a majority vote, but dissenting opinions are not published (Art. 180(1) of the Agreement). All decisions must be made in English (Point 40 of Annex IXA). According to Art. 175 of the Agreement, reproduced in Art. 180(2), they are binding in their entirety on the parties, which should take all measures necessary to implement them in good faith and within a reasonable time.

In case of a ruling in favour of the complainant, the respondent, no later than 30 days later, notifies the complainant of the time limit it considers necessary to comply with it (Art. 176(1) of the Agreement). This is called as "reasonable period of time for compliance". If the parties to the Agreement have not reached an agreement on this point, the complainant requests in writing the original arbitration panel to determine the length of the reasonable period. At least one month before the expiry of the reasonable period, the respondent informs the complainant in writing of the progress made in implementing the ruling. A reasonable period may be extended by mutual agreement.

The execution of the Agreement in good faith constitutes the implementation of the arbitration panel ruling. Nevertheless, the possibility cannot be excluded that the parties fail to reach an agreement on whether a ruling of the arbitration panel has been implemented. The Agreement provides for two possible measures of enforcement.

The first way requires the involvement of the arbitration panel. If, after the expiry of this period, the complainant believes the respondent has not complied with the ruling, it may submit a written request to the original arbitration panel to rule on the matter. If the arbitration panel determines the respondent has not complied with the ruling, it may, at the request of the complainant, impose a lump sum or periodic penalty payment, which

will be paid to the complainant. In delivering its ruling, the arbitration panel takes into account the seriousness and duration of the non-performance and the related breach of obligation (Art. 178(1) of the Agreement). If the respondent fails to pay the penalty imposed on it in due time, the complainant receives extraordinary power to enforce the respondent's lawful conduct. In this case, under Art. 178(2) of the Agreement, it enjoys the right to suspend its obligations under any provision of the Agreement beyond Part Two (entitled *Citizens' Rights*) or any part of any other agreement between the EU and the UK under the conditions set out therein. The exercise of this power is subject to three conditions (Art.178(2) of the Agreement):

- the respondent must be informed of the suspension, which may not be applied earlier than 10 days after that date;
- the complainant must consider whether the suspension of the provisions of the Agreement is not more appropriate than the suspension of the provisions of another agreement between the parties;
- the suspension must be proportionate to the breach of the obligation and take into account the seriousness of the breach and the rights affected, whether a periodic penalty payment was imposed on the defendant, and whether the respondent has paid it or is still paying it.

The second method to compel the respondent to comply with the arbitration panel ruling also arises from Art. 178(2) of the Agreement. The complainant may exercise the right to suspend the provisions of the Agreement or any other agreement between the parties as soon as the respondent has failed to comply with the first ruling of the arbitration panel in the case within six months. Importantly, the grounds for exercising this right are identical to those described above. The present procedure cannot be regarded as an accelerated version of the previous mechanism, as more than 6 months elapse between the first ruling in the case and the suspension of obligations, whereas the standard procedure takes, without interference, just over 4 months.

In both cases, the respondent has the right to judicial review of the measure taken if it considers it to be disproportionate. The request is submitted in writing to the original arbitration panel within the 10-day deadline following the notification by the complainant. Until the arbitration panel notifies the parties of its ruling, obligations must not be suspended and any suspension that has already occurred should be consistent with the ruling of the arbitration panel. This means the submission of the respondent to the arbitration panel, in principle, suspends the possibility of further suspension of obligations under any agreement between the parties (Art. 178(3) of the Agreement).

Once a measure to compel compliance with the Agreement has been imposed (recourse to payments or suspension of obligations), the respondent must notify the complainant of any measure it has taken to comply with the arbitration panel ruling (Art. 179(1) of the Agreement).

If both parties fail to agree on whether the measure adopted by the respondent restores legal compliance, either of them has the right to seek recourse to the original arbitration panel for a ruling on the matter. If the arbitration panel rules that the respondent

has brought the matter into conformity, or if the complainant fails to request a ruling within 45 days, the suspension of obligations is terminated 15 days after either the date of the arbitration panel ruling or the expiry of the 45 days. The application of periodic penalty payments ceases on the day following the date of either the arbitration panel ruling or the expiry of the 45 days (Art. 179(2) of the Agreement). If an issue of EU law arises in the course of a dispute, the procedure for applying the CJEU (Art. 179(3) and (4) of the Agreement) applies *mutatis mutandis*.

Jurisdiction of the Court of Justice of the European Union

During the transition period (1.02.2020–31.12.2020), the UK was treated similarly to an EU Member State, i.e., it was subject to all EU law and the full jurisdiction of the CJEU. After the end of the transition period, as a non-member state of the EU, the UK is subject to neither EU law nor the jurisdiction of the CJEU. This general international legal status of the UK is broken by specific provisions in the Agreement which provide that the UK is further bound by EU law in specific areas. Although the arbitration panel remains the only body with binding authority to resolve disputes arising from the application of the Agreement, the Agreement states that, concerning the UK's continuing obligations as to certain acts of EU law, the Court of Justice will retain jurisdiction over the UK in strictly defined four cases. On each occasion, the basis of jurisdiction is Art. 272 TFEU which empowers the CJEU to rule under an arbitration clause contained in an EU international agreement. In all proceedings, the UK has powers to appear before the CJEU identical to those of the EU Member States (e.g. Articles 90, 91, 161(2) and (3) of the Agreement). Decisions of the CJEU are binding on the UK (e.g. Articles 89, 158(2), 160 of the Agreement).

Firstly, under Art. 174 of the Agreement, the CJEU decides issues arising during the proceedings before the arbitration panel relating to the interpretation of EU law to which the UK remains bound (indicated in the Agreement) or to the UK's enforcement of a CJEU judgement against it. The arbitration panel cannot rule on this matter and must seek a judgement from the CJEU. The power under Art. 174 of the Agreement is indefinite and attempts to ensure a consistent interpretation of EU law to which the Agreement refers. Although according to the literal wording of this provision that a judgement of the CJEU is binding only on the arbitration panel, the parties to the Agreement will equally be bound by it – the EU (and its Member States), because the CJEU is an organ of that organisation and, according to Art. 216(2) TFEU and the case law of the CJEU (Judgement of the CJEU 1974: summary par. 1; Judgement of the CJEU 1976: par. 16), the Agreement is an integral part of EU law – the UK, as this stems from the principle of good faith indicated in Art. 5 of the Agreement.

Secondly, the CJEU remains competent to give preliminary rulings on matters brought by UK courts made before the end of the transition period and in any proceedings brought by or against the UK before the end of the transition period. That jurisdiction is retained in respect of all stages of the proceedings, including appeals before the Court

of Justice and proceedings before the General Court if the case has been referred back to the General Court. The date on which proceedings are brought is deemed to be the date of entry in the register by the Registry of the Court of Justice or the General Court (Art. 86 of the Agreement).

Thirdly, the CJEU has the power to rule on complaints by the European Commission against the United Kingdom:

- for failure to fulfil its obligations under the Treaties or the fourth part of the Agreement (entitled *Transition*) during the transition period (Art. 87(1) of the Agreement). The Commission's action may be based on Art. 258 TFEU (failure of a Member State to fulfil its obligations under the Treaties) or on the second subparagraph of Art. 108(2) TFEU (concerning State aid). The period within which the Commission may exercise this power is four years after the end of the transition period, i.e., until 31 December 2024;
- for failure to enforce a decision addressed to a natural or legal person, taken during or after the transition period (Art.87(2) of the Agreement). The complaint may concern a decision adopted by EU authorities before the end of the transition period or in the course of administrative proceedings instituted before the end of the transition period (Art. 95(1) of the Agreement). As in the previous case, the Commission's action may be based only on Art. 258 TFEU or the second subparagraph of Art. 108(2) TFEU, and may be brought before the CJEU before the expiry of the four years following the end of the transition period;
- for failure to comply with accepted financial obligations (Art.160 of the Agreement). This action may be based on Art. 258 TFEU or Art. 260 TFEU (concerning the imposition of a lump sum or penalty payment by the CJEU for failure to comply with a previous judgement). This power is not subject to a time frame, so the Commission can bring actions before the CJEU against the UK without any time limit.

Finally, the CJEU has the power to deal with requests for preliminary rulings from UK courts concerning specific areas of EU law contained in the Agreement. The first category (Art. 158 of the Agreement) concerns the interpretation of acts of EU law that continue to bind the UK based on Part Two of the Agreement (entitled *Citizens' Rights*). The courts of the United Kingdom may make such a request, in principle, only in cases commenced at first instance within eight years of the end of the transition period. The second category (Art. 160 of the Agreement) comprises acts of EU law, comprising provisions applicable to the United Kingdom after the end of the transition period (after 31 December 2020) in respect of own resources of the EU as defined in the financial years until 2020 (Art. 136 of the Agreement) and the participation of the UK in the implementation of EU programmes and actions committed under the 2014–2020 Multiannual Financial Framework or the previous financial perspectives (Art. 138(1) and (2) of the Agreement). This right is not limited in time.

Noteworthy, the European Commission may submit written observations and, with the permission of the court in question, also orally, to the courts of the United Kingdom relating to cases pending there that concern the interpretation of the Agreement (Art. 162

of the Agreement). In addition, to facilitate a coherent interpretation of the Agreement, the CJEU and the UK Supreme Court should engage in constant dialogue, and similar to that held by the CJEU with the Supreme Courts of the Member States (Art. 163 of the Agreement) (see also: Claes, de Visser 2012: p. 100; Safjan 2014).

Implementation of the Agreement by the parties

Although the Agreement entered into force about two years ago (as of January 2022), the practice of its application can already be analysed. The Joint Committee has met several times to date, and some decisions have been taken during this time, such as:

- Decision No 7/2020 establishing the potential members of the arbitration panel, mentioned above;
- Decision No 1/2020 adjusting the Agreement, as a result of its later-than-expected entry into force, adding provisions concerning the Research Fund for Coal and Steel grants, and incorporating into one of the annexes the content of two new decisions of the Administrative Commission for the Coordination of Social Security Systems;
- Decision No 3/2020 deleting two acts of EU law on CO_2 emissions from Annex 2 to the Protocol on Ireland/Northern Ireland.

At the end of the transition period, 24 questions for a preliminary ruling from British courts awaited a reply from the CJEU. The answer to one of them is the judgment in *Tesco Stores* (Judgement of the CJEU 2021). It should be recalled that under Art. 86 Agreements, the judgments of the CJEU in such cases are fully binding on the United Kingdom.

To date, no dispute has been submitted to an arbitration panel. Nevertheless, the relationship between the EU and the UK regarding the application of the Agreement is genuinely tense, primarily concerning Northern Ireland. As an example, there was a proposal by the UK Government to amend the Internal Market Act, which, as the Secretary of State for Northern Ireland himself pointed out, was intended to "violate international law [Withdrawal Agreement – author's note] in a very specific and limited way" (*Northern Ireland Secretary* 2020; see Armstrong 2020). On the EU side, there was the unfortunate proposal to restrict the free movement of vaccines between Ireland and Northern Ireland (European Commission 2021a,b; see also: *Brexit Bulletin* 2021; Gapsa 2022).

Conclusions

The provisions governing the methods of monitoring the implementation of the Agreement and the mechanisms for resolving disputes arising from its application have been regulated in remarkable detail. The cooperation between the parties and consultations aimed at reaching a compromise represents the fundamental rule. To this end, the Joint Committee was established, which acts as a stable forum for contact between the EU and the UK and supervises the application of the Agreement. It is assisted by six Special Committees.

When disputes arise from the application of the Agreement, the parties may only adhere to the procedures provided for in the Agreement. The sole authority empowered to settle all disputes, except those involving EU law further binding on the United Kingdom, is a special arbitration panel, whose rulings are final and binding. In principle, the CJEU's exceptional jurisdiction is limited to EU law, which continues to bind the UK. It is based on the provisions of the Agreement which constitute the arbitration clauses referred to in Art. 272 TFEU. It is worth mentioning the modalities of monitoring the implementation and the dispute settlement mechanisms have undergone significant modifications concerning the three Protocols attached to the Agreement.

It can be presumed the European Union was aware future relations with the United Kingdom could be difficult and that the rules, by which any disagreements would be resolved, should be carefully established. Any case where the CJEU enjoys the right to decide on acts of EU law referred to in the Agreement relates solely to their interpretation and not to their validity. Equally, the measures to enforce the arbitration panel ruling in the form of penalties and suspension of the provisions of the Withdrawal Agreement (apart from Part Two on citizens' rights) or any other agreement between the parties are worth mentioning as significant backstops.

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References:

AGREEMENT (2020) on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (consolidated text), OJ L 029, 31.01.2020.

ANNEX VIII (2020), *Rules of Procedure of the Joint Committee and Specialised Committees*, attached to the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ L 029, 31.01.2020.

ANNEX IX (IXA) Part A (2020), *Rules of Procedure for Dispute Settlement*, attached to the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ L 029, 31.01.2020.

ANNEX IX (IXB) Part B (2020), *Code of Conduct for Members of Arbitration Panels*, attached to the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ L 029, 31.01.2020.

ARMSTRONG Kenneth (2020), *Governing With or Without Consent – The United Kingdom Internal Market Act 2020*, UK Constitutional Law Association, https://ukconstitutionallaw.org/2020/12/18/kenneth-armstrong-governing-with-or-without-consent-the-united-kingdom-internal-market-act-2020/ (18.12.2020).

AWARD OF THE PCA (2005) of 1 September 2005, *Land Reclamation by Singapore in and around the Straits of Johor (Malaysia v. Singapore)*, Case no. 2004-05.

BREXIT BULLETIN (2021), *EU backtracks on invoking Article 16 of the Northern Ireland Protocol as part of coronavirus (COVID-19) vaccine export authorisation scheme*, https://www.fiettalaw.com/wp-content/uploads/2021/02/Brexit-BulletinEU-backtracks-on-invoking-Article-16-of-the-Northern-Ireland-Protocol-as-part-of-coronavirus-COVID-19-vaccine-export-authorisation--scheme.pdf (01.02.2021).

COUNCIL DECISION (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (Text with EEA relevance), OJ L 029, 31.01.2020.

CLAES Monica, DE VISSER Maartje (2012), *Are You Networked Yet? On Dialogues in European Judicial Networks*, "Utrecht Law Review", vol. 8, no. 2.

EUROPEAN COMMISSION (2021a), *Commission puts in place transparency and authorisation mechanism for exports of COVID-19 vaccines*, https://ec.europa.eu/commission/presscorner/detail/en/ip_21_307 (29.01.2021).

EUROPEAN COMMISSION (2021b), *Commission statement on the vaccine export authorisation scheme*, https://ec.europa.eu/commission/presscorner/detail/en/statement_21_314 (29.01.2021).

CRAWFORD James (2019), *Brownlie's Principles of Public International Law (9th Edition)*, Oxford. DOI: 10.1093/he/9780198737445.001.0001

CZAPLIŃSKI Władysław, WYROZUMSKA Anna (2004), *Prawo międzynarodowe publiczne. Zagadnienia systemowe*, Warszawa.

DASHWOOD Alan (2020), *The Withdrawal Agreement: Common Provisions, Governance and Dispute Settlement*, "European Law Review", vol. 45, no. 2.

DECISION No 1/2020 of the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 12 June 2020 amending the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ L 225, 14.07.2020.

DECISION No 3/2020 of the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 17 December 2020 amending the Protocol on Ireland and Northern Ireland to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ L 443, 30.12.2020.

DECISION No 7/2020 of the Joint Committee established by the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 22 December 2020 establishing a list of 25 persons who are willing and able to serve as members of an arbitration panel under the Agreement, OJ L 443, 30.12.2020.

GAPSA Miłosz (2022), *Renegocjacja albo jednostronne środki ochronne, czyli brytyjskie stanowisko wobec protokołu irlandzkiego*, "Europejski Przegląd Sądowy", no. 3/2022.

HAGUE CONVENTION (1907) for the Pacific Settlement of International Disputes of 1907, done in the Hague on 18.10.1907, entered into force on 26.01.1910.

IRAN—UNITED STATES CLAIMS TRIBUNAL (1983), *Tribunal Rules of Procedure*, 3 May 1983.

JUDGMENT OF THE CJEU (1974) of 30 April 1974, *R. & V. Haegeman v Belgian State*, Case 181-73.

JUDGMENT OF THE CJEU (1976) of 5 February 1976, *Conceria Daniele Bresciani v Amministrazione Italiana delle Finanze*, Case 87-75.

JUDGMENT OF THE CJEU (1981) of 16 June 1981, *Maria Salonia v Giorgio Poidomani and Franca Baglieri, née Giglio*, Case 126/80.

JUDGMENT OF THE CJEU (1982) of 6 October 1982, *Srl CILFIT and Lanificio di Gavardo SpA v Ministry of Health*, Case 283/81.

JUDGMENT OF THE CJEU (2006) of 30 May 2006, *Commission of the European Communities v Ireland*, Case C-459/03.

JUDGMENT OF THE CJEU (2021) of 2 March 2021, *A.B. and Others v Krajowa Rada Sądownictwa and Others*, Case C-824/18.

JUDGMENT OF THE CJEU (2021) of 3 June 2021, *K and Others v Tesco Stores Ltd*, Case C-624/19.

LAUTERPACHT Hersch (1946), *The Grotian Tradition in International Law*, "British Yearbook of International Law", vol. 23(1).

NORTHERN IRELAND SECRETARY admits new bill will 'break international law' (2020), BBC, https://www.bbc.com/news/uk-politics-54073836 (08.09.2020).

ROSENNE Shabtai (ed.) (2001), *The Hague Peace Conferences of 1899 and 1907 and International Arbitration: Reports and Documents*, The Hague.

SAFJAN Marek (2014), *Dlaczego dialog pomiędzy sądami bywa trudny? O barierach pytań prejudycjalnych*, „Prawo w działaniu", vol. 20/2014.

TEU, Treaty on European Union, OJ C 326, 26.10.2012.

TFEU, Treaty on the Functioning of the European Union, OJ C 326, 26.10.2012.

VAN DEN HOUT Tjaco T. (2008), *Resolution of International Disputes: The Role of the Permanent Court of Arbitration — Reflections on the Centenary of the 1907 Convention for the Pacific Settlement of International Disputes*, "Leiden Journal of International Law", vol. 21, issue 3. DOI: 10.1017/S0922156508005220

VAN NUFFEL Pieter (2021), *The Withdrawal Agreement, Part Six: Institutional and Final Provisions*, in: M. Kellerbauer, E. Dumitriu-Segnana, T. Liefländer (eds), *The UK-EU Withdrawal Agreement: A Commentary*, Oxford 2021.

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Artificial intelligence *versus* human – a threat or a necessity of evolution?[1]

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Abstract
Currently, technologies are actively shaping and intensifying the time of implementation of artificial intelligence (AI) systems, while at the same time the so-called soft skills that employers are looking for in future employees are becoming increasingly important. Thus, in today's situation, we have the possibility to use automatons and robots that successfully replace humans in many tasks, while at the same time there is a need to create teams based on such qualities as empathy, communication, ingenuity, intelligence and, above all, humanism, whose importance in creating a business perspective cannot be overestimated. The aim of this article is to analyse the research problem in case of social robots and the probable legal status of artificial intelligence in the future. The article will discuss the differences between artificial intelligence *versus* artificial consciousness. AI poses societal challenges, it is currently undergoing a number of important developments, and the law must be rapidly changed. Firstly, the difference between artificial intelligence and artificial consciousness is attempted to be demystified. Subsequently, the analysis of current legal status of Artificial Intelligence in EU will be conducted. Cyberspace and the Internet revolutionised human life. It brings benefits, but also hitherto unknown risks. However, this is an inherent problem of human development. Every new technology, every new invention has its advantages, but also disadvantages. It would seem that autonomous systems, using artificial intelligence, are a panacea for such problems. Perhaps so, but the security of cyberspace depends on a variety of factors that are sometimes beyond our control or, from another perspective, we ourselves create the threat, inspire it intentionally or through inadequacies, ignorance, and negligence.
Keywords: artificial intelligence, human, threat, European Union, development

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Sztuczna inteligencja kontra człowiek – zagrożenie czy konieczność ewolucji?

Streszczenie

Obecnie technologie aktywnie kształtują i intensyfikują czas wdrażania systemów sztucznej inteligencji (AI), jednocześnie coraz większego znaczenia nabierają tzw. umiejętności miękkie, których pracodawcy poszukują u przyszłych pracowników. Tak więc w dzisiejszej sytuacji mamy możliwość wykorzystania automatów i robotów, które z powodzeniem zastępują człowieka w wielu zadaniach. Jednocześnie istnieje potrzeba tworzenia zespołów opartych na takich cechach jak empatia, komunikatywność, pomysłowość, inteligencja, a przede wszystkim humanizm, którego znaczenie w tworzeniu perspektywy biznesowej jest nie do przecenienia. W związku z powyższym, niniejszy artykuł ma na celu analizę problemu badawczego w przypadku robotów społecznych oraz prawdopodobnego statusu prawnego sztucznej inteligencji w przyszłości. W artykule zostaną pokazane różnice między sztuczną inteligencją a sztuczną świadomością, ponieważ AI stawia wyzwania społeczne, więc obecnie przechodzi szereg ważnych zmian i prawo musi być szybko zmienione. Po pierwsze, podjęto próbę demistyfikacji różnic między sztuczną inteligencją a sztuczną świadomością. Następnie analizie zostanie poddany aktualny stan prawny dotyczący sztucznej inteligencji w UE. Cyberprzestrzeń (w tym Internet) zrewolucjonizowała życie człowieka. Niesie korzyści, ale również nieznane dotąd zagrożenia. Jest to jednak nieodłączny problem rozwoju człowieka. Każda nowa technologia, każdy nowy wynalazek ma swoje zalety, ale i wady. Wydawać by się mogło, że autonomiczne systemy, wykorzystujące sztuczną inteligencję, są panaceum na takie problemy. Być może tak, ale bezpieczeństwo cyberprzestrzeni zależy od wielu czynników, na które czasem nie mamy wpływu, albo z innej perspektywy to my sami stwarzamy zagrożenie, inspirujemy je celowo lub przez niedociągnięcia, ignorancję i zaniedbanie.

Słowa kluczowe: sztuczna inteligencja, człowiek, zagrożenie, Unia Europejska, rozwój

Artificial intelligence (AI) commonly replaces advanced algorithm technology today. Thanks to AI, repetitive and relatively simple tasks that previously took a lot of time for skilled workers can be completed much faster. However, the standardisation of input data is a problem, if only because it has to be processed by programmes, whose syntax is predetermined, even if the algorithms have many possibilities for self-modification depending on changing processing rules and results. Only the creation of universal artificial general intelligence (AGI) will in any way reflect the capabilities of the human brain to perceive and process data. It will allow digital systems to be guided by the results of successive iterations of data processing, and it will also sometimes allow them to go against the results obtained, i.e. to take actions that are seemingly illogical from the point of view of previous experience (Iwankiewicz 2017: p. 36).

However, advanced algorithms capable of automation are increasingly entering various areas of our lives (e.g. see: Sitek et al. 2021), especially in business, including human resource management. The disadvantage of AI is, above all, its inability to study soft skills related to a human's personality, attitude, commitment and behaviour. Indeed, various attempts have been made in research institutes and technology company laboratories to digitally analyse the "body language" and facial expressions from recorded videos, but many mistakes can be made in extracting rules from unrelated material (Iwankiewicz 2018: p. 98).

The aim of this article is to analyse the legal status of artificial intelligence in EU and try to show its advantages and disadvantages. Firstly, it can be assumed that due to the continuous evolution of technology the speed, at which humans can process complex data, in addition to the fact that it comes from a variety of sources, will greatly speed up our decision-making process. On the other hand, the errors that can arise, cause raise the fear that decisions based on the results of such systems can lead us in unpredictable and even undesirable directions. An attempt will be made to answer the fundamental question of how far should the legal framework related to artificial intelligence be regulated, and is it moving in the right legal direction in the EU?

The evolution of artificial intelligence in the EU is developing in various areas of life. However, the development of AI raises a number of social and ethical issues, e.g. the relationship "between users and socially interactive robots may lead to psychological dependencies which are likely to be exploited by the companies creating these robots" (Oleksiewicz, Civelek 2019: s. 261). Research is therefore needed on the ethics and rights of robots in different environments, as similar issues arising in different cultures may have different results (Mamak 2017: p. 156; Scheutz 2012; Malle et al. 2015: s. 117–120). For example, Nick Bostrom points out that the level of artificial intelligence is steadily increasing and moving in a direction that goes even beyond the human level (Bostrom 2014: p. 76).

The evolution of artificial intelligence in the EU

The plan of building the information society, including AI, in the European Union was initiated in 1993[2] in the document *Growth, Competitiveness and Employment – The Challenges and Ways Forward into the 21st Century,* COM(93)700 final (see: European Commission 1993). This *White Paper* was focused mainly on economic issues, with priority given to the competitiveness of the European Community's economy and the achievement of IT standards developed by the United States. However, the publication in 1994 of the document *Europe and Global Information Society: Recommendations to the European Council* can be considered as the beginning of the development of the policy of creating the information society. This act was called the *Bangemann Report* – after Martin Bangemann, Commissioner for Industry, Information Technology and Telecommunications, and the demands it contained set out the European Union's policy in the field of information society.

On 24 July 1996, the Commission published the *Green Paper: Living and Working in Information Society,* COM(96)389 final (see: European Commission 1996). This document was focused on the consequences for citizens of the transformation towards the information society and the impact of ICT on their lives. Another initiative of the European Union aimed at building a modern and strong economy of the Member States was the *eEurope*

[2] The history of AI is much longer and dates back to the 1950s, and the current state of development of this technology is the third wave of interest in solutions of this nature. Only now – due to various factors – AI has become a widely used technology, which translates not only into the axiology of regulations, but also into the life of each of us.

– *An Information Society for All,* COM(1999)687 final (see: European Commission 1999a). In 1999, the *Green Paper of Public Sector Information: a Key Resource for Europe* was published (COM(1998)585 final, see: European Commission 1999b). This document described the benefits for both citizens and the entire economy that resulted from the use of telecommunications and information technologies in the area of public services.

During the European summit in Feira in 2000, another plan was adopted – *eEurope 2002 – An Information Society for All,* COM(2000)330 final (see: European Commission 2000). This document indicated the need to develop fast, cheap, universal Internet, invest in human potential and popularise the use of the virtual network. The next plan for the development of the information society, understood as a strategic element of building a knowledge-based economy, was presented in Gothenburg in 2001. In the document *eEurope 2003: A Co-operative Effort to Implement the Information Society in Europe – Action Plan*, it was assumed to accelerate reforms and stimulate the modernisation of the economies of candidate countries through the use of information society tools and technologies. One of the main goals was also to improve competitiveness and social cohesion. This initiative was also supported by the candidate countries to the European Union at that time.

On 21–22 June 2002, the European Union summit was held in Seville, during which a plan for the development of the information society till 2005 was adopted. In the document *eEurope 2005: An Information Society for All – An Action Plan,* COM(2002)263 final (see: European Commission 2002), the EU Member States undertook the following tasks:

- development of electronic services: e-learning, e-government, e-health;
- creating a dynamic environment for the development of the electronic economy; ensuring universal access to broadband Internet;
- building an information infrastructure security system.

The future of technology and the use of artificial intelligence and robotics seem to be a major threat, both in terms of people, work and social relationships. However, the future belongs not only to technology companies, but also to HR managers, who should:

- value the employee-company relationship so as to help employees feel respected and valued, which in turn strengthens their relationship with the company and develops their competencies, making them more engaged and productive;
- work on the company's image and brand, which is closely linked to the organisation's culture and strategy, and also involves the company's reputation, which is threatened by an unlimited amount of fake news about internal problems online and among current and future employees;
- improve operational efficiency, especially in responding to market crises, customer needs and working with all stakeholders, so that problems are resolved many times faster than before (Torczyńska 2019: p. 112; Leszkowska 2019: Szałkowska 2020).

Placing certain areas of activity in the hands of AI is undoubtedly a serious problem and will dehumanise cognitive processes and hinder human relationships. It may also

limit creativity in finding out-of-the-box solutions to different types of problems. Ultimately, algorithms, even those that can be automated, have one thing in common: they rely on the same raw data, process it in a certain way and ultimately produce repeatable results. In nature, the evolution of species and genetic errors often lead to anomalies that in some cases result in increased adaptation to the environment and in others in the degradation of entire populations.

The advantage of technology is that it is independent of its environment. It doesn't act under the influence of emotions, it doesn't have bad or worse days, it simply acts as it was built and programmed to act. Therefore, although I am personally sceptical about the introduction of AI-based solutions, I see many benefits. On the one hand, it can significantly speed up the decision-making process, as the speed of human processing is unattainable in the face of complex data from different sources, not understood by humans. On the other hand, errors that can occur for trivial reasons (also occurring at a technical level, e.g. processor structure, algorithm structure, device wear and tear, data sets fed into the system, etc.) (Garrison, Hamilton 2019: p. 99–114) can lead us in unpredictable and even undesirable directions when decisions based on the results obtained from these systems.

Human *versus* robot

Human rights are conceptualised as real relationships, which are understood in a variety of ways in different fields of human activities, including state law (Oleksiewicz 2021: p. 343–348). Sometimes, in constitutional terminology, the same individual rights are considered as rights at one time and as freedoms at another time, which is not without significance and legal consequences for the persons exercising them. An individual's freedom does not, in fact, derive from legal acts, i.e. a subjective right (Bógdał-Brzezińska 2020: p.135).

The law does not confer them, but only defines the limits of their application. It is the task of the state to protect and guarantee human freedom. The characteristic feature of freedom is that the state and its organs are obliged to refrain from acting in the spheres of life covered by a particular freedom.

Most commonly, individual freedom is understood as a category of the individual's entitlements, which is intended to secure the individual's sphere of privacy. In the sphere defined as freedom, the individual is entitled to make decisions, behaviour and actions motivated by his or her own will and, most importantly, it is a zone free from state interference, thus it is an asset protected by law. Moreover, it is not without foundation that freedoms are considered to be the guarantee of the other entitlements, since only a free person can enjoy the fullness of his or her rights (Pagallo 2013: p. 47–66).

Today, the value system that permeates the consciousness of almost all inhabitants of the globe is human rights and freedoms. The process of the universalisation of human rights, for which the milestones were such events as the French Revolution and the achievements of the American Revolution, accelerated in the 20th century

with the adoption of the *United Nations Charter* (see: United Nations WWW) and the creation of the UN.[3]

One of the main objectives set for the new organisation besides the preservation of international security and peace – was the protection of human rights. This was not possible under the conditions of a bipolar world, when one pole of this arrangement massively violated the rights of individuals and whole peoples, treating them as an invention of Western imperialism (Dela 2020: p. 98). The erosion of such a position came with the development of the CSCE process, in which the West, in exchange for political and economic concessions, forced the USSR and the socialist countries to respect human rights more and to have greater freedom in terms of travel, flow of ideas and information. The breakthrough, however, came only after the collapse of the USSR and the fall of communism. Human rights grew to become a universal value, the basis for the functioning of democratic societies, and their protection framed by the international regime in global, regional and national dimensions.

Restrictions on privacy and individual freedom are a permanent feature of contemporary politics and economics. This problem is nowadays primarily associated with the widespread practice of *General Data Protection Regulation* (see: Regulation (EU) 2016/679). However, it should be borne in mind that "the accumulation of personal data in the hands of companies and government institutions and agencies poses a threat to our freedom, not only online, but also to civil liberty more broadly" (Mróz 2017: p. 147), without which there can be no real implementation of the ideals of freedom and social equality. Very often, these are joined by doubts of an emotional nature. They have their deep "roots" stemming from a sense of uncertainty and perhaps even from fear or emotions associated with the novelty and puzzling nature of a new situation for the ordinary person. Reasons of an emotional nature are generally linked to the fact that people generally react strongly negatively to the possibility of losing their specific monopoly on intelligence, which determined their unique position in the hitherto organisation of the world (Mirski 2000: p. 93–97). As A. Mirski argues, man as a rational being does not want to be deprived of *ratio* or *cognito* (Mirski 2000: p. 97). The most pessimistic attitudes are linked to a deep-seated fear of the results of the decisions and actions of, out of human control, intelligent machines (e. g. see: Schellekens 2021). The spectre of the irreversible consequences of the actions of "autonomous" intelligent machines (exploited, for example, by the film industry in countless variations on the theme of the "robot revolt") cannot be ignored. In such context, extreme negative emotions about artificial intelligence are often formed.

The danger will arise when the systems themselves start modifying the goals of their actions, which would not have been possible even when they became self-aware. For a long time, only one message from AI experts has reached the public, according to which computers cannot set themselves tasks without first finding a justification for them. Artificial intelligence as a new technology can also pose risks to the person using it

[3] The UN came into being on 24 October 1945 as a result of the entry into force of the *Charter of the United Nations* signed in San Francisco on 26 June 1945. The UN is the successor to the League of Nations.

and to bystanders; autonomous cars can be particularly dangerous for the environment and the AI user, if the autonomous vehicle's sensors fail to identify an object in its path or the AI misinterprets the environment or the situation and causes an accident. The risk of an accident, can occur due to a faulty AI system, with the quality of the information collected by the AI, or other problems arising from the functioning of the AI system in a given facility. The lack of appropriate regulations and the lack of competences and adequate resources for the market surveillance authorities may result in a lower overall level of safety and an uncertain situation for the companies putting IS into operation in the EU. All the aspects presented in the emergence of an accident make it difficult to detect and trace decisions made by AI affecting the course of an incident, which may translate into complications for the victim in obtaining compensation (COM(2020)65 final, see: European Commission 2020b: p. 14–15).

Another threat posed by the development of artificial intelligence, raised by Bill Gates, Elon Musk and Stephen Hawking, among others, is the emergence of super-intelligence, or AI, which will be able to continuously and autonomously improve itself. In this way, it will not only surpass the level of humans, but will reach a level of uncontrollable development, with its motives remaining unguessed (Fehler 2017: p. 73). Warning against the irresponsible development of AI systems, Stephen Hawking stated in October 2016 that "we spend a lot of time studying history, which is mainly the history of stupidity, rather than thinking about the future of intelligence".[4] In their concerns, Hawking or Musk emphasise that thinking machines could be used to create dangerous weapons and to increase the level of exploitation of some people by others. In the opinion of the aforementioned researcher, the emergence of full artificial intelligence could spell the end of the human race, although today the achievements of human brains augmented with AI systems cannot be predicted. They point out that it is in fact difficult to imagine the extent, to which AI can contribute to the well-being of society, but it is equally difficult to predict the extent of the dangers should someone want to build AI systems or use them inappropriately.

Legal basis for AI in the European Union

Artificial intelligence, as a technological solution, does not have legal capacity for the time being and cannot be held liable for damages caused by its functioning in the current state of the law. An important issue in this area has always been the legal status of artificial intelligence in the European Union. For this purpose, it was assumed that the evolution of artificial intelligence in the EU is developing in various areas of life. Nevertheless the improvement of AI can result in many social and moral issues, e.g. the relationship among customers and socially interactive robots might also additionally cause mental dependencies that probably can be exploited by corporations developing such robots. Nick Bostrom suggests that the extent of synthetic intelligence

[4] About future possibilities – e.g. see: Oleksiewicz, Civelek 2019: p. 260–261.

is systematically growing and is moving in a course that is going beyond the human level (Bostrom 2014: p. 76).

On 16 February 2017 the European Parliament issued a resolution with recommendations to the Commission on civil law, entitled: *Rules on Robotics* (O.J. C 252/239, 18.07.2018). The resolution was drafted with a view to making full use of the provisions regarding the field of ethics and security policy, in particular artificial intelligence. Among the solutions, there was also a proposal to establish the legal status of AI. The resolution proposed to give robots a special status – known as electronic person status or simply granting them the personality of legal persons. Electronic person status can be described as the basis for another form of personhood in law, with the proviso of establishing a new form of legal personhood in the long term. This legal status would apply to the most developed AI systems. The objective of granting electronic person status to entities such as AI has been the subject of scientific and legal discussion for years, and is based on the basis for the independent liability for damages of robots (Report from the Expert Group on Liability and New Technologies – New Technologies Formation, see: European Commission 2019).

The result of this joint work was the publication on 25 April 2018 by the Commission the communication *Artificial Intelligence for Europe* COM(2018)237 final (see: European Commission 2018a) outlining an *EU Initiative on AI* (or the *Artificial Intelligence Strategy*). It was then endorsed by the European Council in June 2018. Its purposes were:

1) Boosting the EU's technological and industrial capacity and AI uptake across the economy;
2) Preparing for socio-economic changes brought about by AI;
3) Ensuring an appropriate ethical and legal framework, based on the Union's values and in line with the Charter of Fundamental Rights of the European Union (European Commission 2018a: p. 3).

The next step was the adoption by the European Commission on 7 December 2018 of the *Coordinated Plan on Artificial Intelligence,* COM(2018)795 final (see: European Commission 2018b).

The individual actions started in 2019–2020. A further confirmation of the actions was the adoption of the *White Paper on Artificial Intelligence – A European approach to excellence and trust,* COM(2020)65 final, on 19 February 2020 (see: European Commission 2020b). Artificial intelligence, connecting diverse technological fields, has had to be modified and adapted by many sectors of global industries and economies, and in doing so is seen as a front for innovation and enabling technology (Campbell 1986: p. 5–7). Artificial intelligence consists of a comprehensive set of computational techniques for extracting "insights from a variety of data sources, including so-called 'small data' generated by the algorithm itself, that assist in decision-making" (Teece 2018: p. 1370–1372; qtd. in: Xu et al. 2019) and produce useful information. Artificial intelligence is considered as "a general-purpose technology that can have significant technological, social, economic and political implications" (Xu et al. 2019).

Growing cyber threats and perceptions of cyber insecurity were causing increased distrust among citizens, potentially holding back the European economy as it becomes

digitalised. The *Digital Single Market Strategy for Europe* (COM(2015)192 final, 6 May 2015) reiterated the *Cybersecurity Strategy of the European Union: An Open, Safe and Secure Cyberspace* (JOIN(2013)1 final, 7 February 2013). The aim of the *EU Cybersecurity Strategy* was to establish common minimum requirements for network and information security between Member States.

The European Commission recognised the cybersecurity as a key element of the market strategy. The reform was to be based on the actions envisaged in the cyber security strategy and the main pillar of the strategy – the Directive (EU) 2016/1148 (also known as *Network and Information Systems Directive*, or *NIS Directive*). This directive created an EU-wide cyber-security regime, which aim is, among other things, to ensure the uninterrupted provision of key services and incident handling by achieving an adequate level of security of the information systems used to provide these services. The *NIS Directive* obliged all EU Member States to guarantee a minimum level of national capabilities in the field of cyber security by establishing competent authorities and a single point of contact for cyber security, the establishment of teams of Computer Security Incident Response Teams (CSIRTs) and the adoption of national cyber-security strategies (see also: Dąbrowski 2022: p. 105–106; Directive (EU) 2022/2555).[5]

In April 2019, The Council adopted a regulation known as the *Cybersecurity Act* (see: Regulation (EU) 2019/881), which established an EU-level certification scheme and a modernised EU cyber-security agency ENISA. It also established legislation to impose EU targeted mitigation and sanctions measures to prevent and respond to cyber-attacks that pose an external threat to the Union or its Member States. As a part of the same reform, the EU also introduced legislation to establish a *European Cyber Security Research and Competence Centre* supported by a network of national coordination centres. These structures will help secure the Digital Single Market and increase EU autonomy in the field of cyber security. In addition, the EU can impose sanctions against EU persons or entities, as well as against non-EU countries or international organisations, if it deems it necessary to achieve the objectives of the *Common Foreign and Security Policy* (see: Regulation (EU) 2019/881). An important move in cyber-security policy was the release of the *2020 White Paper on Artificial Intelligence*, which is expected to be key to combating cyber-terrorism and achieving climate governance by improving AI. This is a necessary element to maintain the EU single market through research, innovation and the implementation of a coordinated roadmap under the programmes *Digital Europe* and *Horizon Europe* for 2021–2027 from December 2020. The latest step under the aforementioned programme is the establishment of the Joint Cyber Unit on 4 August 2021. Its role was to develop till 31 December 2021 the *EU Cybersecurity Incident and Crisis Response Plan*, based on national plans. It was intended that the *EU Cybersecurity Incident and Crisis Response Plan* will set out the procedure and information sharing, as well as the criteria for triggering the mutual assistance mechanism based

[5] On 14 December 2022 the new Directive (EU) 2022/2555 of the European Parliament and of the Council was adopted, co-called *NIS 2 Directive*, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148.

on an agreed classification of incidents and a list of available EU capabilities (Council of the European Union 2021).

On 21 April 2021, a draft Regulation of the European Parliament and of the Council of the EU was published, concerning the creation and adoption of harmonised legal standards for artificial intelligence systems in the European Union. From the content of the draft, we can learn that AI, as a rapidly developing technology that can bring a number of economic and social benefits, can also give rise to risks for humans or society. At the same time, the EU wants to ensure that new technologies are developed and used in accordance with the core values of human rights and the fundamental principles of the organisation. It is these elements that have guided the Commission's work in drafting the Regulation. It is also a continuation of the Union's work in previous years, such as the publication of the *2018 European Strategy on Artificial Intelligence* and the *2020 White Paper on Artificial Intelligence*.

In light of the existing regulations, also an invention must have an inventor, who is a specific individual. This is, as recognised in legal doctrine, a person who has contributed to the invention by making an intellectual contribution that goes beyond routine technical or organisational assistance. In the past, there were concepts of the fiction of invention without an inventor, the so-called company invention or enterprise invention (Danish, USSR, Romanian concept). However, this idea has disappeared and is now incompatible with the provisions of the Paris Convention for the Protection of Industrial Property (Abbott 2016: p. 1085; Konieczna 2019: p. 109–112).

Some experts point out that in the US, for example, the law requires less of a human factor to grant protection for IP rights, which may harm the competitiveness of European companies.

It is important to remember that the process of managing research and development projects takes into account not only the possibility of implementing a solution and generating revenue from specific products or services. Sometimes an equally important asset is intellectual property rights, which can be licensed or sold alone or in packages, or simply protected by exclusive rights against competition. If the subject matter of the intellectual property (this is especially true for computer programmes and inventions) is not a human creation, it will not be protected under the current state of the law and will not fit into the traditional Research & Development strategy model. A law allowing the protection of inventions or works created autonomously by machines seems desirable from the point of view of current technological development.

Conclusions

The aim of this article was the analysis of the legal status of artificial intelligence in the EU, as well as showing its advantages and disadvantage. The question that has been bothering science for years, where is the legal borderline of regulation between AI and human, has primarily two dimensions: ethical and legal, where the inadequacy of current legal regulations in relation to civil and criminal liability, legal subjectivity, copyright is raised,

and the operation of AI is considered in the context of personal data protection, which the author tried to demonstrate in the aspect of the revolution represented by cyberspace.

First of all, artificial intelligence can provide many benefits to citizens, businesses and society as a whole, on condition that it is human-centred, sustainable, and it respects fundamental values. We must remember that the damage it can cause can be both tangible and intangible and can include many different risks.

Secondly, that is why the main EU regulatory framework should be focused on how to minimise the various risks associated with the potential harms, especially the most serious ones. The main risks associated with AI are related to the application of regulations to protect fundamental rights such as data protection and privacy law, non-discrimination, security and liability issues (Bose 2017: p. 2268–2270).

Thirdly, AI offers important efficiency and productivity benefits that can strengthen the competitiveness of European industry. It can also contribute to finding solutions to some of the most pressing societal challenges, including those related to combating climate change and environmental degradation, challenges related to sustainable development and demographic change, and the protection of democracy, as well as contributing to the fight against crime, if necessary, and in a proportionate manner.

Fourthly, Europe should take full advantage of the opportunities offered by AI, but it needs to develop and strengthen the necessary industrial and technological capabilities. As set out in the *European Strategy for Data* (COM(2020)66 final, 19 February 2020, see: European Commission 2020a) accompanying the *White Paper on Artificial Intelligence – A European approach to excellence and trust* (COM(2020)65 final, 19 February 2020, see: European Commission 2020b), this also requires measures to enable the EU to become a global data centre.

Fifth, AI can perform many functions that previously only humans could perform. As a result, citizens and legal entities are increasingly subject of the actions and decisions made by AI or with the help of artificial intelligence systems, which can sometimes be difficult to understand and change when necessary (European Commission 2020b: p. 11). AI also enhances the ability to monitor and analyse everyday human behaviour. Artificial intelligence also enhances the ability for monitoring and analysing everyday human behaviour at different levels of the EU airport screening system. Algorithms that autonomously recognise behaviour that betray stress, affective states and emotional arousal could revolutionise not only security checks carried out against possible threats to public safety (e.g. countering terrorist attacks), but also improve the detection of customs crime, such as that related to the smuggling of prohibited goods (e.g. drugs, weapons, foreign currency, counterfeit goods, items prohibited under CITES) and illegal migration of persons. These types of solutions not only have the potential to significantly increase the level of European security in passenger air transport, but also have a human side: they improve the comfort of air travelling, increase passenger satisfaction, minimise time loss and stress associated with activities involving uniformed, armed and often not very polite security officers, and reduce the workload of staff and liability for possible errors and omissions (Biscop 2019).

Sixth, AI can be used by government agencies, other mass surveillance agencies and employers who monitor the behaviour of their employees in breach of EU data protection and other laws. The data being processed and the potential for human intervention may affect rights to privacy, freedom of expression, data protection, and political freedoms.

The ability of artificial intelligence to think and make decisions on its own raises concerns for people. Doubts and fears are being raised that humans will be unfit for most jobs, that they will exploit human bodies, or that they will ignore the value of human life. These fears seem unfounded, as there is no indication that humans will be able to create not only intelligent machines, but also machines with consciousness and personality. Such problems always arise when dealing with completely new technologies.

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References:

ABBOTT Ryan (2016), *I Think, Therefore I Invent: Creative Computers and the Future of Patent Law*, „Boston College Law Review", vol. 57, issue 4.

BISCOP Sven (2019), *The EU Global Strategy 2020,* "Security Policy Brief", no.108, EGMONT – Royal Institute for International Relations, Brussels, https://www.egmontinstitute.be/app/uploads/2019/03/SPB108.pdf?type=pdf (31.03.2019).

BOSE Bimal K. (2017), *Artificial Intelligence Techniques in Smart Grid and Renewable Energy Systems – Some Example Applications*, „Proceedings of the IEEE", vol. 105. DOI: 10.1109/JPROC.2017.2756596

BOSTROM Nick (2014), *Superintelligence. Paths, Dangers, Strategies*, Oxford.

BÓGDAŁ-BRZEZIŃSKA Agnieszka (2020), *Cyberprzestrzeń i przestrzeń kosmiczna jako sfery bezpieczeństwa międzynarodowego – aspekty teoretyczne,* in: M. Jurgilewicz, M. Delong, K. Michalski, W. Krztoń (eds), *Wyzwania bezpieczeństwa w XXI w.*, Rzeszów.

CAMPBELL John A. (1986), *On artificial intelligence*, „Artificial Intelligence Review", vol. 1, no. 1.

COUNCIL OF THE EUROPEAN UNION (2021), Council Conclusions on exploring the potential of the Joint Cyber Unit initiative – complementing the EU Coordinated Response to Large-Scale Cybersecurity Incidents and Crises – Approval, 12534/21, Brussels, 08.10.2021.

DĄBROWSKI Hieronim (2022), *Dostarczanie usług cyfrowych i cyberbezpieczeństwo na gruncie Dyrektywy NIS i aktów ją wdrażających w Republice Malty oraz w Rzeczypospolitej Polskiej*, „Przegląd Europejski" no. 2/2022. DOI: 10.31338/1641-2478pe.2.22.6

DELA Piotr (2020), *Teoria walki w cyberprzestrzeni*, Warszawa.

DIRECTIVE (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union, OJ L 194, 19.07.2016.

DIRECTIVE (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive), PE/32/2022/REV/2, OJ L 333, 27.12.2022.

EUROPEAN COMMISSION (1993), *White Paper on growth, competitiveness, and employment – The challenges and ways forward into 21st century*, COM(93) 700 final, Brussels, 05.12.1993.

EUROPEAN COMMISSION (1996), Green Paper: *Living and Working in Information Society: People first,* COM(96) 389 final, Brussels, 24.07.1996.

EUROPEAN COMMISSION (1999a), *eEurope – An Information Society for All* – Communication on a Commission initiative for the special European Council of Lisbon, 23 and 24 March 2000, COM(1999) 687 final, Brussels, 08.12.1999.

EUROPEAN COMMISSION (1999b), *Public sector information: a key resource for Europe* – Green Paper on public sector information in the information society, COM(1998)585 final, Brussels, 20.01.1999.

EUROPEAN COMMISSION (2000), *eEurope 2002 – An Information Society for All* – Draft Action Plan prepared by the European Commission for the European Council in Feira – 19-20 June 2000, COM(2000) 330 final, Brussels, 24.05.2000.

EUROPEAN COMMISSION (2002), Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions – *eEurope 2005: An information society for all* – An Action Plan to be presented in view of the Sevilla European Council, 21/22 June 2002, COM(2002) 263 final, Brussels, 28.05.2002.

EUROPEAN COMMISSION (2013), Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: *Cybersecurity Stra-*

tegy of the European Union: An Open, Safe and Secure Cyberspace, JOIN (2013) 1 final, Brussels, 07.02.2013.

EUROPEAN COMMISSION (2015), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: *A Digital Single Market Strategy for Europe*, COM(2015) 192 final, Brussels, 06.05.2015.

EUROPEAN COMMISSION (2018a), Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: *Artificial Intelligence for Europe*, COM(2018) 237 final, Brussels, 25.04.2018.

EUROPEAN COMMISSION (2018b), Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: *Coordinated Plan on Artificial Intelligence,* COM(2018) 795 final, Brussels, 07.12.2018.

EUROPEAN COMMISSION (2019), *Liability for Artificial Intelligence and Other Emerging Digital Technologies*, Report from the Expert Group on Liability and New Technologies – New Technologies Formation, DOI: 10.2838/573689

EUROPEAN COMMISSION (2020a), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: *A European strategy for data,* COM(2020) 66 final, Brussels, 19.02.2020.

EUROPEAN COMMISSION (2020b), *White Paper on Artificial Intelligence – A European approach to excellence and trust,* COM(2020) 65 final, Brussels, 19.02.2020.

EUROPEAN PARLIAMENT (2018), European Parliament resolution of 16 February 2017 with recommendations to the Commission on Civil Law *Rules on Robotics* (2015/2103(INL)), OJ C 252, 18.07.2018.

FEHLER Włodzimierz (2017), *Sztuczna inteligencja – szansa czy zagrożenie*?, „Studia Bobolanum", vol. 28, no. 3.

GARRISON Chlotia, HAMILTON Clovia (2019), *A comparative analysis of the EU GDPR to the US's breach notifications*, „Information & Communications Technology Law", vol. 28, issue 1. DOI: 10.1080 /13600834.2019.1571473

IWANKIEWICZ Maciej (2017), *Robot też człowiek*, „Personel Plus", no. 8 (117).

IWANKIEWICZ Maciej (2018), *Robot, czyli ten lepszy*, „Personel Plus", no. 2 (123).

KONIECZNA Agata (2019), *Problematyka sztucznej inteligencji w świetle prawa autorskiego*, „Zeszyty Naukowe Uniwersytetu Jagiellońskiego. Prace z Prawa Własności Intelektualnej", no. 4.

LESZKOWSKA Anna (2019), *Sztuczna inteligencja a prawo*, „Sprawy Nauki", no. 6-7.

MALLE Bertram F., SCHEUTZ Matthias, ARNOLD Thomas, VOIKLIS John, CUSIMANO Corey (2015), *Sacrifice One for the Good of Many? People Apply Different Moral Norms to Human and Robot Agents*, "HRI'15: Proceedings of the Tenth Annual ACM (IEEE International Conference on Human-Robot Interaction". DOI: 10.1145/2696454.2696458

MAMAK Kamil (2017), *Prawo karne przyszłości*, Warszawa.

MIRSKI Andrzej (2000), *Inteligencja naturalna a sztuczna, czyli inteligencja podmiotu i przedmiotu* [in:] E. Szumakowicz (ed.), *Granice sztucznej inteligencji. Eseje i studia*, Kraków.

MRÓZ Bogdan (2017), *Konsument a wyzwania technologiczne XXI wieku*, „Studia Ekonomiczne. Zeszyty Naukowe Uniwersytetu Ekonomicznego w Katowicach", no. 330.

OLEKSIEWICZ Izabela, CIVELEK Mustafa Emre (2019), *From Artificial Intelligence to Artificial Consciousness: possible legal bases for the human-robot relationships in the future,* „International Journal of Advanced Research", no. 7(3). DOI: 10.21474/IJAR01/8629

OLEKSIEWICZ Izabela (2021), *Ochrona cyberprzestrzeni Unii Europejskiej. Polityka – Strategia – Prawo,* Warszawa.

PAGALLO Ugo (2013), *The Laws of Robots: Crimes, Contracts, and Torts*, Springer.

REGULATION 2016/679 of the European Parliament and of the EU Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 04.05.2016.

REGULATION (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification and repealing Regulation (EU) No 526/2013 (Cybersecurity Act), OJ L 151, 07.06.2019.

SCHELLEKENS Jasper (2021), *Release the bots of war: social media and Artificial Intelligence as international cyber attack*, "Przegląd Europejski", no. 4/2021. DOI: 10.31338/1641-2478pe.4.21.10

SCHEUTZ Matthias (2012), *The Inherent Dangers of Unidirectional Emotional Bonds between Humans and Social Robots*, in: Patrick Lin, Keith Abney, George A. Bekey (Eds.), *Robot ethics: the ethical and social implications of robotics*, Cambridge.

SITEK Anna, GRESER Jarosław, KNIEĆ Wojciech, WAGSTAFF Anthony, KAUTSCH Marcin, MARTINEZ-PEREZ Jonatan (2021), *The effect of the pandemics on e-health services in Poland*, "Zdrowie Publiczne i Zarządzanie", vol. 19, no. 2. DOI: 10.4467/20842627OZ.21.006.15760

SZAŁKOWSKA Joanna (2020), *7 grzechów głównych AI, czyli dlaczego potrzebujemy etycznej sztucznej inteligencji,* „Homo Digital", https://homodigital.pl/sztuczna-inteligencja-7-grzechow-glownych-ai/ (24.11.2020).

TEECE David J. (2018), *Profiting from innovation in the digital economy: Enabling technologies, standards, and licensing models in the wireless world*, „Research Policy", vol. 47, issue 8. DOI: 10.1016/j.respol.2017.01.015

TORCZYŃSKA Monika (2019), *Sztuczna inteligencja i jej społeczno-kulturowe implikacje w codziennym* życiu, „Historia i Kultura", no. 2.

TFEU, Treaty on the Functioning of the European Union (consolidated version), OJ C 202, 07.06.2016.

TREATY OF LISBON (2007) amending the *Treaty* on European Union and the Treaty establishing the European Community, signed at *Lisbon*, 13 December 2007, OJ C 306, 17.12.2007.

UNITED NATIONS (WWW), *United Nations Charter*, https://www.un.org/en/about-us/un-charter (03.09.2022).

XU Yueqiang, AHOKANGAS Petri, LOUIS Jean-Nicolas, PONGRÁCZ Eva (2019), *Electricity Market Empowered by Artificial Intelligence: A Platform Approach*, "Energies", vol. 12, issue 21. DOI: 10.3390/en12214128

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The cross-border crime and security of the movement of goods in the European Union – the role of the Border Guard of the Republic of Poland[1]

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Abstract
Issues related to broadly understood border security are discussed by the EU institutions and Member States, as well as attracting interest from various academic communities. The discussion has multiple dimensions. Regarding the cross-border movement of goods, the role of the security guardian is most frequently attributed to customs authorities, often without acknowledging the importance of another border service, i.e. the border guard. Therefore, the article's aim is to analyse the role of the Border Guard of the Republic of Poland in the process of ensuring the security of the cross-border movement of goods in the European Union and actions to combat cross-border economic crime in the context of movement of people. This article is divided in introduction, two parts presenting the research results, and conclusions. The first part describes the essence of security and threats in the cross-border movement of goods in the context of cross-border movement of people, the second one refers to the role of the Border Guard of the Republic of Poland as the guardian of the security of the European Union's external border. The conclusion presents recommendations for maintaining a high level of protection and border surveillance in the cross-border movement of goods. This article is theoretical, with elements of comparative analysis.
Keywords: security, cross-border movement of goods, border guard, external border, cross-border crime, European Union

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Przestępczość transgraniczna i bezpieczeństwo ruchu towarowego w Unii Europejskiej – rola Straży Granicznej RP

Streszczenie

Kwestie szeroko pojętego bezpieczeństwa granic są przedmiotem dyskusji na forum instytucji unijnych oraz państw członkowskich, są również obszarem zainteresowania różnych środowisk naukowych. Tematyka ta dyskutowana jest wielowymiarowo. Najczęściej w odniesieniu do transgranicznego ruchu towarów rolę strażnika bezpieczeństwa przypisuje się organom celnym, pomijając niejednokrotnie znaczenie działań innej służby, tj. straży granicznej. Stąd też celem artykułu jest analiza roli Straży Granicznej RP w procesie zapewniania bezpieczeństwa w transgranicznym przepływie towarów w Unii Europejskiej oraz w działaniu na rzecz walki z przestępczością gospodarczą, w kontekście transgranicznego przepływu osób. Struktura artykułu obejmuje wstęp, dwie części przedstawiające wyniki badania oraz podsumowanie. W pierwszej części omówiono istotę bezpieczeństwa i zagrożeń w transgranicznym przepływie towarów, druga odnosi się do roli Straży Granicznej RP jako strażnika bezpieczeństwa zewnętrznej granicy Unii Europejskiej. W konkluzjach przedstawiono rekomendacje dla zachowania wysokiego poziomu ochrony w transgranicznym przepływie towarów. Niniejszy artykuł ma charakter teoretyczny, częściowo analityczno-porównawczy.

Słowa kluczowe: bezpieczeństwo, transgraniczny ruch towarowy, straż graniczna, zewnętrzna granica, przestępczość transgraniczna, Unia Europejska

The term *external borders* of the European Union "means the Member States' land borders, including river and lake borders, sea borders, airports, river ports, sea ports and lake ports, provided that they are not internal borders", i.e. the common borders of the EU (Regulation (EU) 2016/1624: art. 2, point (1); Regulation (EU) 2016/399: art. 2, point 2). The rules governing the crossing of borders are laid down in the provisions of the Schengen *acquis*, constituting the integral part of the EU's *acquis*. The total length of the external border of the EU is 44,752 km, including the land border of 12,033 km. There are 1,863 authorised border crossing points (BCPs), broken down into: 451 BCPs at the external land border, 782 BCPs at the external sea border and 630 BCPs at the external air borders (Frontex 2019: p. 17). Since 1 May 2004, the Polish national border has been an important section of the EU's external border. As a result of Poland's accession to the European Union, the Polish southern and western borders became internal borders, and a major part of the eastern border turned into the external border of the EU (see, for example: Suduł 2018). At present, the EU's external border in Poland comprises the borders with the Russian Federation – 232.04 km, with the Republic of Belarus – 418.24 km, with Ukraine – 535.18 km, and the sea border – 500.94 km. Border traffic is very dynamic, regarding the movement of passengers and goods. Therefore, ensuring security in the cross-border movement of goods is a crucial task of border authorities, performed within the border surveillance function. The performance of the border surveillance function is particularly important fiscally (illicit trade in goods entails losses for national budgets and the EU budget due to unpaid customs duties and taxes), socially (the placing on the market of dangerous products gives rise to threats to health or, in many cases, poses a life-threatening risk to potential consumers) and economically (the protection of legally registered traders pursuing lawful economic activities against unfair competition).

In Poland, the key forces combating cross-border threats include the Tax and Customs Service (pl. *Służba Celno-Skarbowa*), a part of the National Revenue Administration (pl. *Krajowa Administracja Skarbowa*), and the Border Guard (pl. *Straż Graniczna*), under the authority of the Minister of the Interior and Administration. The attribution to customs authorities of the function of a guardian in the cross-border movement of goods is widespread and results from the fact that customs has a complete overview and control responsibility for all the goods passing through the customs borders. However, the role of the Polish Border Guard (PBG) tends to be undervalued, whereas this front-line service is responsible for the detection, law enforcement, investigation and prevention of border crimes and petty offences, including those related to the cross-border movement of goods.

The aim, hypothesis and research methods

The aim of the article is to analyse the role of the PBG in the process of ensuring the security of the cross-border movement of goods in the European Union and actions to combat cross-border economic crime in the context of movement of people. The research hypothesis has been formulated as follows: the Border Guard, having regard to the significance of the protective function for security, undertakes effective measures for the fighting cross-border economic crime, thus playing a significant role of the guardian of the economic and external border security of the EU. To achieve the article's aim, the author reviews various literature sources regarding security and acts of secondary legislation and analyses statistical data published by the Border Guard of the Republic of Poland. The approach adopted includes the application of the following research methods: analysis, synthesis, comparison, deductive reasoning.

The subject is an important problem from the perspective of the EU's development, due to the existing conditions, broadly understood border security of the EU has become more important than ever before. The state of research on the significance of the PBG activities for the process of ensuring the security of the cross-border movement of goods is not common knowledge, because the service tends to be perceived through the prism of border checks on persons, combating illegal immigration or international terrorism. It must be noted that the article is not aimed at preparing an exhaustive description or explaining all the research dimensions of the phenomenon under examination. The presented considerations should be treated as the starting point for further in-depth analysis of the indicated problem. The conclusions are primarily of scientific and cognitive quality.

The security and threats in the cross-border movement of goods, and border management

One of the main objectives pursued by all the EU Member States is the single European market (internal market) that, despite the lack of internal border controls, guarantees security. The term *security*, albeit widely used, has no uniform determination of its substance. It is a concept with a wide range of meanings, varying definitions and ways of understanding

it, considered from various perspectives. Etymologically, the word *security* tends to be derived from the Latin *sine cura* (*securitas*) (Zięba 2004: p. 27), or "without care", without sufficient protection, which means a worry-free state giving one the feeling of confidence (Zięba 1997: p. 33). Security is a state giving a person the feeling of confidence and guarantee of maintaining it as well as a chance for improvement (Bączek 2006: p. 11–14). Security is a multifaceted concept, one of the facets being the economic dimension. Such approach to security could concern a wide range of economic activities on micro- or macroeconomic scale. Undoubtedly, issues related to the international movement of goods, thus, to security at the EU's external borders, are of special importance here. The broadly understood border surveillance and protection includes areas such as economic protection, i.e. combating all phenomena hindering economic development. The EU treats security as its policy foundation, and economic security is one of its pillars. In 2004, the Council of the EU adopted the *Hague Programme*, with a major role of fighting crime in international trade in goods. Abuse, e.g. actual or intended avoidance of the payment of customs duties on imported goods, is extremely dangerous from the point of view of protecting the economic interests of individual Member States as well as of the EU as a whole (see: Council of the European Union 2005). *Cross-border security* is a state (process) resulting from all activities and measures aimed at ensuring security in the crossing of borders by persons, all goods and vehicles (including aircraft, vessels and land vehicles) between at least two state actors (Serdakowski 2015: p. 29). With reference to the above-mentioned definition, the cross-border security of the European Union should be understood as a process resulting from all measures taken by border authorities with a view to providing (physical, technical, social, health, economic, environmental) security in the crossing of the EU's external border. One effect of the security of the cross-border movement of goods is ensuring equal opportunities for all exporters or importers operating in accordance with the applicable law. It must be borne in mind that such entities include not only companies adapting their business methods and willing to pay the costs necessary to lawfully engage in import or export, but also traders deliberately neglecting applicable regulations in order to quickly make a profit or gain a competitive advantage (Świerczyńska 2016: p. 212).

Effective protection of legal imports contributes to the level of security, e.g. in its economic dimension. The European Union has a system, named as *European integrated border management* (EU IBM). The European Commission defines the EU IBM as "national and international coordination and cooperation among all relevant authorities and agencies involved in border security and trade facilitation to establish effective, efficient and coordinated border management at the external EU borders, in order to reach the objective of open, but well controlled and secure borders" (European Commission WWW). The EU IBM consists of components such as: border control (border checks and border surveillance); the detection of cross-border crime and conducting investigations in cooperation with all authorities competent for maintaining law and order; cooperation between various services involved in border management (e.g. border guards, customs authorities, the police); international cooperation, the coordination and coherence of activities carried out by the Member States and the Union institutions and other bodies (Regulation (EU) 2016/1624: art. 4).

The European external border management is executed at the EU and national levels. At the EU level, border management and countering cross-border crime is the responsibility of the *European Border and Coast Guard Agency*, commonly known as *Frontex*. The Agency's mission is ensuring, together with the Member States, effective external border control and security (Frontex WWW). The main legal basis for the operations of its officers is the *Schengen Borders Code*, laying down detailed rules governing border controls and the requirements to be fulfilled by third-country nationals subject to border checks (Regulation (EU) 2016/399). At the level of individual Member States, border surveillance is the responsibility of the border guard or the border police. *Frontex* and the "national authorities of the Member States responsible for border management, including coast guards to the extent that they carry out border control tasks, and the national authorities responsible for return […] constitute the European Border and Coast Guard" (Regulation (EU) 2016/1624: art. 3; Regulation (EU) 2019/1896: art. 4). The Guard ensures "national and international coordination and cooperation among all relevant authorities and agencies involved in border management" (European Commission WWW; Frontex 2019: p. 20). For the Member States, the functioning of *Frontex* guarantees support in the border surveillance tasks carried out by them: joint and well-coordinated actions, consisting in an appropriate division of roles based on the expertise and experience of relevant human resources and equipment, are always more likely to be successful (Tracz 2015: p. 255; see also: Szymańska 2018). The *European Border and Coast Guard Agency FRONTEX* and the Member States' border authorities can be collectively referred to as the EU border administration.

"The effective management of the EU's external borders is of strategic importance to the Union and, in particular, to the functioning of the Schengen area. Of key value to EU's internal and external policies, well-functioning external borders enable the EU to prosper through trade with the wider world while protecting our safe and secure European area of free movement from existing and emerging challenging situations at the external borders" (Frontex 2019: p. 16). The security of external borders is affected by geopolitics (e.g. "the Russian invasion in Ukraine, sovereignty disputes, conflicts over energy, scarce resources and spheres of influence"), migration, cross-border crime (e.g. the smuggling of drugs, tobacco, weapons, natural resources), terrorism and hybrid threats, fluid and multidimensional in nature, which requires a flexible approach to their understanding, analysis and management (Frontex 2022: p. 6). A security threat is a potential or existing phenomenon or event adversely affecting the value system and interests, jeopardising the living and health standards, private property, public assets and the environment (Jakubczak, Flis 2006: p. 98; see also: Jurczak, Kibysh 2021). Cross-border threats are determined nationally, internationally and globally, with various external and/or internal sources. They are strictly related to border traffic, socio-political and economic factors.

In the cross-border movement of goods, threats may stem from:

- price differentials between national markets in specific goods, encouraging illegal activities;

- inappropriate border management – insufficient or inappropriate control of the movement of goods by the border authorities responsible for such tasks;
- no control of the transport of goods;
- false, insufficient knowledge or the lack of knowledge of trading partners;
- possible marketing of goods representing unfair competition, goods infringing intellectual property rights, goods inconsistent with the EU standards, posing risks to life or health;
- the geographical location facilitating the commitment of cross-border crimes;
- increased smuggling risks due to migration processes;
- low sanctions for crimes related to the smuggling and distribution of illegally imported goods;
- the lack of social condemnation of illegal marketing of goods.

In the cross-border movement of goods, the most significant threat to economic security is economic crime, i.e. smuggling. In legal terms, smuggling primarily includes various forms of customs and border wrongs (tax offences and petty offences). From the point of view of finance, due to budgetary revenue foregone, smuggling affects the level of economic security (Księżopolski 2011: p. 42–43). Smuggling becomes economically profitable to those engaged in such activities as it generates much higher gains than lawfully earned profits (Ruszczyk 2016: p. 27). As regards the range of smuggled goods by type, smuggling concerns trafficking in spirits, tobacco products, motor vehicles, narcotic drugs and intoxicants, fuel, medicines and psychotropic substances, environmentally hazardous waste and chemicals, radioactive materials, weapons, ammunition and explosives, textiles and clothing, antiques and works of art, animals and endangered species of wildlife, counterfeit goods infringing intellectual property rights, jewellery, gold and articles of precious metal, means of payment and foreign exchange (Wysocki 2003: p. 100–101). From the point of view of the legality of marketing, smuggling is broken down into trafficking in illicit goods, regarding products legally banned from trade *in extenso* (e.g. drugs, counterfeit goods), and trafficking in licit goods, concerning products legally traded in international commercial transactions (e.g. cigarettes, alcohol, vehicles) (Oczkowski 2010: p. 117–118). In terms of method, there is large-scale smuggling, most frequently organised and incorporated into structures of organised crime, and unorganised (small-scale) smuggling, mainly "ant smuggling" (so-called "rucksack smuggling"), concerning individuals repeatedly carrying relatively small quantities, usually of a regional (local) nature (Bednarski 2011: p. 17–18). The main tool used for combating economic crime in the cross-border movement of goods is border control carried out by competent border authorities.

The Border Guard of the Republic of Poland as the guardian of the economic security of the EU's external border

The EU legislation defines *border guard* as "any public official assigned, in accordance with national law, to a border crossing point or along the border or the immediate

vicinity of that border who carries out [...] border control tasks" (Regulation (EU) 2016/399: art. 2, point 14). Pursuant to the *Polish Border Guard Act* (Ustawa 2022/1061: art. 1): it is a uniform, uniformed and armed force, responsible for national border surveillance, border traffic control, countering crime (the investigation, prevention and detection of crimes and petty offences and law enforcement towards perpetrators thereof, in areas such as goods and excise products, items specified in provisions concerning weapons and ammunition, explosives, the protection of cultural goods, combating drug abuse) and the prevention of and fight against illegal migration. After Poland's accession to the EU and commencement of full implementation of the *Schengen Agreement*, the role and the manner of performing tasks by the PBG in Poland fundamentally changed. Poland's eastern border – with Ukraine, Belarus and the Russian Federation – also became the external border of the EU, which involved responsibility not only for the national security of Poland, but also for the security of the whole united Europe (Socha et al. 2012: p. 43). Upon accession, Poland became a vital element of the system protecting the EU economy and European societies. The integrality of particular sections of the national borders of the Republic of Poland with the EU's external borders implies the necessity of effective surveillance of national borders, as elements of key importance for ensuring broadly understood security, also in its economic dimension, of the whole territory of the EU. Effective control of the movement of goods at the external borders remains a vital measure for protecting the area without internal border control and significantly contributes to the economic security of the EU. National border surveillance, especially the surveillance of sections representing the external border of the EU as well, is a task whose performance requires the application of various forms, methods, organisational measures, as well as effective and coordinated cooperation with other services. The level of cross-border security is proportional to the quality of cooperation between the PBG and other services and the efficiency of fulfilling its responsibilities (Serdakowski 2015: p. 33). The PBG collaborates with the competent authorities and institutions of the European Union and with border surveillance authorities from other Member States (Zdyb et al. 2015: p. 135). The organisational structure of the PBG was adapted to the performance of the functions assigned. The relevant regional units and the territorial scope of surveillance responsibilities are listed in *Table 1*.

Table 1: Territorial scope of border surveillance by the Polish Border Guard

Regional unit	Territorial scope of border surveillance
Warmińsko-Mazurski Border Guard Regional Unit	surveillance of the section of the national border with the Kaliningrad Oblast of the Russian Federation, 198 km 769 m long (the external border of the EU). Officers present at 8 border crossing points.
Podlaski Border Guard Regional Unit	surveillance of the national border between Poland and Lithuania (the internal border of the EU) and of part of the section of the national border with the Republic of Belarus (the external border of the EU). Officers present at 9 border crossing points.

Nadbużański Border Guard Regional Unit	surveillance of the national border with the Republic of Belarus, 171 km 310 m long, and with Ukraine, 296 km 260 m long (the external border of the EU). Officers present at 12 border crossing points.
Bieszczadzki Border Guard Regional Unit	surveillance of the national border with Ukraine, 239 km long (the external border of the EU), and with Slovakia, 134 km long (the internal border of the EU). Officers present at 9 border crossing points.
Karpacki Border Guard Regional Unit	surveillance of the section of the national border between Poland and Slovakia (the internal border of the EU). Only the Border Guard Unit operating at Kraków Airport (John Paul II International Airport, Kraków-Balice) performs tasks at the external border of the EU. Officers present at 2 border crossing points.
Śląski Border Guard Regional Unit	surveillance of the border with the Czech Republic (the internal border of the EU). The Border Guard Unit operating at Katowice Airport (Katowice Wojciech Korfanty Airport, Katowice-Pyrzowice) is the only unit performing tasks at the external border of the EU. Officers present at 1 border crossing point.
Nadwiślański Border Guard Regional Unit	surveillance of air border crossing points: Warszawa – Okęcie, Warszawa – Modlin, Radom-Sadków; Łódź, Bydgoszcz-Szwederowo. Officers present at 5 border crossing points.
Nadodrzański Border Guard Regional Unit	surveillance of the national border with the Federal Republic of Germany, 278 km long, and with the Czech Republic, 438 km long (the internal border of the EU). Officers present at 3 border crossing points.
Sea Border Guard Regional Unit	Surveillance of the national border section 701.07 km long: the sea border – 456.51 km, the section of the sea border between the respective territorial waters: with Germany – 22.22 km, with Russia – 22.21 km; the section of the internal sea border on the Vistula Lagoon – 10.21 km, the section of the internal sea border on Lake Nowowarpieńskie (the Neuwarper See) and on the Szczecin Lagoon – 20.16 km, the section of the land border with Russia – 0.85 km, the section of the land border with Germany – 168.91 km. Officers present at 20 border crossing points.

Source: prepared by the author on the basis of thy website: Komenda Główna Straży Granicznej (WWW).

The PBG has three types of border crossing points at the external border of the Union: land, sea and air border crossing points. At the external land border of the EU, 1,163.25 km long, Polish border guards serve at 18 border crossing points for road traffic, 8 of which are only intended for passenger traffic (4 – the national border with the Russian Federation, 6 – with the Republic of Belarus, 8 – with Ukraine), 14 border crossing points for rail traffic (3 – the border with the Russian Federation, 5 – with the Republic of Belarus, 6 – with Ukraine), one border crossing point for river traffic (the border with the Republic of Belarus). At the sea border, Polish border guards serve at 18 sea border crossing points (6 of which are only intended for passenger traffic). There are 12 permanent airport border crossing points and 8 other airport border crossing points (5 of which only intended for passenger traffic) (Obwieszczenie 2015/636). As the internal borders can be crossed at any point, it is necessary to provide effective control of the external border of the EU, to ensure the maximum possible level of surveillance and security. The border section

under the surveillance of the PBG is characterised by heavy traffic (see: *Tables 2, 3*). Therefore, it is extremely important to combine fluid traffic flow with a high level of control effectiveness. It is the only way of minimising threats and ensuring a high level of security, especially that Poland's geopolitical location is a factor conducive to cross-border crime.

Table 2: Passenger traffic at border crossing points in 2018-2021

Border section	2018		2019		2020		2021	
	total traffic	% of total traffic	total traffic	% of total traffic	total traffic	% of total traffic	total traffic	% of total traffic
Russia	3,534,899	6.8	3,466,814	6.4	743,525	4.2	234,287	1.2
Belarus	8,955,437	17.1	8,814,753	16.2	3,024,134	16.8	2,180,133	11.2
Ukraine	21,586,753	41.3	21,737,666	40.0	7,819,324	43.4	8,730,051	44.9
sea border	209,628	0.4	168,684	0.3	114,898	0.6	117,549	0.6
air border	18,004,411	34.4	20,204,025	37.1	6,298,666	35.0	8,179,533	42.1
At the external border of the EU	52,291,128		54,391,942		18,000,547		19,441,553	

Source: authors own elaboration based on the Border Guard Headquarters data (see: Komenda Główna Straży Granicznej 2019, 2020, 2021, 2022a: p. 1).

Table 3: Vehicle traffic at border crossing points in 2018-2021

Border section	2018		2019		2020		2021	
	total traffic	% of total traffic	total traffic	% of total traffic	total traffic	% of total traffic	total traffic	% of total traffic
Russia	2,030,561	16.3	1,921,795	17.2	417,383	8.8	135,062	2.6
Belarus	4,256,828	34.3	4,080,523	36.4	1,811,151	38.1	1,574,371	30.9
Ukraine	6,005,765	48.3	5,059,375	45.1	2,463,647	51.2	3,309,101	64.9
sea border	18,078	0.1	14,025	0.1	10,853	0.2	10,151	0.2
air border	124,113	1.0	136,453	1.2	54,815	1.2	72,499	1.4
At the external border of the EU	12,435,345		11,212,171		4,757,849		5,101,184	

Source: author's own elaboration based on the Border Guard Headquarters data (see: Komenda Główna Straży Granicznej 2019, 2020, 2021, 2022a: p. 4).

There was a downward trend in border traffic in 2020-2021, which should not come as a surprise taking into account the travel restrictions imposed due to the COVID-19 pandemic. In the first half of 2022, the Polish section of the external border of the EU was crossed by 16,353,648 persons (up by 156% in comparison with the corresponding period of 2021). The heaviest passenger traffic was noted at border crossing points at the border with Ukraine – 8,370,465 persons (an increase by 136%) (see: Komenda Główna Straży Granicznej 2022b: p. 1). The upward trend was primarily due to the situation in Ukraine and the mass influx of refugees. With regard to vehicle traffic, in the first half of 2022 it grew by 14% (2,605,637 vehicles). In the case of lorries, the number of crossings dropped by 32%, with the most significant decreases noted at the borders with Belarus and Russia, by 47% and 39% respectively (see: Komenda Główna Straży Granicznej 2022b: p. 4). As demonstrated by the data analysis, the land border crossing points account for the dominant share of border traffic, constituting the pivotal element of the system of border crossing points at the section of the external border of the European Union. Combating economic crime in freight traffic across borders primarily involves controls of persons, vehicles, goods. Owing to control and investigation operations, Polish Border Guard manages to intercept significant quantities of illicit and illegal goods. The intensity and scope of such activities are adjusted to updated threat assessments. Border guards have the right to carry out checks on persons, luggage, freight – for the purpose of precluding any possibility of the commitment of crimes or petty offences (MSWiA WWW). Successful surveillance of the external border of the EU depends on the involvement of every border guard. Tables 4 and 5 present the value of goods intercepted and revealed by the PBG.

Table 4: Value of goods intercepted and revealed by the Polish Border Guard (and in cooperation with other services) at the EU's external border section by type of item in 2018–2021 (estimated data, PLN)

Specification	2018	2019	change 2019/2018	2020	2021	change 2021/2020
vehicles	18,884,550	20,106,347	(+) 6%	10,667,340	14,598,547	(+) 37%
alcohol	271,662	49,319	(-) 82%	192,289	54,503	(-) 72%
cigarettes	21,224,622	16,501,559	(-) 22%	33,849,835	41,458,590	(+) 22%
tobacco	607,836	539,442	(-) 11%	1,081,542	1,104,962	(+) 2%
other goods	34,217,801	37,952,544	(+) 11%	6,335,528	18,533,004	(+) 193%
TOTAL	**75,206,471**	**75,149,210**	**(-) 0.1%**	**52,126,534**	**75,749,607**	**(+) 45%**

Source: author's own elaboration based on the Border Guard Headquarters data (see: Komenda Główna Straży Granicznej: 2019, 2020, 2021, 2022a: p. 33).

Table 5: Value of goods intercepted and revealed by the Polish Border Guard by place of interception in 2018–2021 (estimated data, PLN)

Border section	2018	2019	change 2019/2018	2020	2021	change 2021/2020
Russia	2,677,596	3,189,219	(+) 19%	1,521,670	1,652,090	(+) 9%
Belarus	35,282,688	32,477,601	(-) 8%	30,872,418	54,054,530	(+) 75%
Ukraine	32,980,736	34,437,707	(+) 4%	19,339,082	18,050,525	(-) 7%
sea border	1,331,811	2,494,403	(+) 87%	230,435	1,092,575	(+) 374%
air border	2,933,640	2,550,279	(-) 13%	162,930	899,887	(+) 452%

Source: author's own elaboration based on the Border Guard Headquarters data (see: Komenda Główna Straży Granicznej, 2019, 2020, 2021, 2022a: p. 33).

In the first half of 2022, at the EU's external border section, the PBG intercepted goods worth PLN 10,997,161, which meant a fall by 75% as compared to the first half of 2021 (at the border with Russia – by 68%, with Belarus – by 93%, with Ukraine – by 18%, at the sea border – by 40%; in contrast – at the air border there was a rise by 190%). The analysis of interceptions by type of item demonstrates that there was an increase in the case of vehicles and alcohol – by 11% and 46% respectively (at the same time, the value of intercepted cigarettes plunged by 94%) (see: Komenda Główna Straży Granicznej 2022b: p. 35). The situation in Ukraine and tightened surveillance of the border with Belarus (e.g. the construction of a wall) have considerably suppressed smuggling activities from the East, but it is hardly possible to assume that such trend should persist in the future.

Conclusions

Every unit involved in the process of ensuring security performs specific functions. The Border Guard is primarily responsible for prevention, coordination and control, providing information and support. Guarding Poland's national border, partly constituting the EU's external border as well, the PBG actively participates in the non-military system of ensuring security not only to the Republic of Poland but also to the whole Union. If the Polish border should be inappropriately protected, such insufficient surveillance would adversely affect the functioning of the single European market and, consequently, entail losses to the EU budget as well as to Poland, whose revenue comes from customs, taxes and from the EU budgetary revenues, as various forms of support for particular sectors of the economy. The uncertain situation at the EU's eastern borders with Ukraine and Belarus will continue to be challenging to the PBG and

will involve rising pressure towards effective actions of the force with regard to both national and Union security – the PBG should not only combat but also predict and anticipate criminal activities posing security threats to the EU market. The aim of the article (i.e. analysis of the role of the PBG in the process of ensuring the security of the cross-border movement of goods in the European Union and actions to combat cross-border economic crime in the context of movement of people) has been achieved, and the adopted hypothesis – confirmed.

Cross-border crime will not disappear, it will continue to evolve and influence the EU as an attractive market for illicit and illegal goods. Criminals will take all opportunities, whether domestically or beyond national borders, using modern technologies and new *modi operandi* to pursue their goals and avoid detection. The diversity of cross-border criminal activities is based on a low-risk and high-profit business model. "Criminals on both sides of the border work together to increase their activities in the EU criminal market by exploiting opportunities in third countries as well as in EU Member States and on external borders" (Frontex 2022: p. 23).

Cross-border crimes can be committed anywhere and at any time, in various forms and circumstances. Therefore, the border must always be under surveillance, regardless of the conditions, time of day or season. Defining recommendations for effective border management is not easy, but in the author's opinion, with a view to maintaining the high level of surveillance in the cross-border movement of goods, the PBG should orientate its activities towards:

- increasing the throughput capacity of the existing border crossing points and continuously improving border infrastructure in order to ensure effective control of the movement of goods;
- further digitisation of border control and the development of systems for the acquisition, analysis and distribution of information on suspicious phenomena;
- risk profiling in border control, supported by ongoing investigative and intelligence activities;
- striving to eliminate the overlapping of control activities with those carried out by other services;
- pursuing real-time access to information based on a single search query to all (operating, analytical and ancillary) databases;
- intensifying cooperation with other national control services and border authorities of the neighbouring countries in order to effectively protect the created system of the resilience of the external border;
- optimal number and quality of officers in service, for the pace of carrying out border checks to be adequate to traffic intensity – it is advisable to monitor the utilisation of human resources at border crossing points;
- introducing uniform procedures and quality standards for handling traffic at all border crossing points, as well as ensuring comprehensible and easily accessible information on the applicable rules to be followed at a border crossing point by persons who cross the border.

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References:

BĄCZEK Piotr (2006), *Zagrożenia informacyjne a bezpieczeństwo Państwa Polskiego*, Toruń.

BEDNARSKI Bogdan (2011), *Wyroby tytoniowe – szara strefa*, Raport sporządzony na zlecenie Światowej Organizacji Zdrowia w Polsce, Ministerstwo Finansów, Warszawa, https://www.gov.pl/attachment/0a3895bf-b731-49b4-84b4-69e3903d7af3 (30.09.2011).

COUNCIL OF THE EUROPEAN UNION (2005), *The Hague Programme: Strengthening freedom, security and justice in the European Union*, OJ C 53, 03.03.2005.

EUROPEAN COMMISSION (WWW), *European integrated border management*, https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/european-integrated-border-management_en (16.08.2022)

FRONTEX (2019), *Technical and Operational Strategy for European Integrated Border Management*, Warsaw, DOI: 10.2819/76516

FRONTEX (2022), *Strategic Risk Analysis 2022*, Warsaw, DOI: 10.2819/618977

FRONTEX (WWW), *Who we are,* https://frontex.europa.eu/about-frontex/who-we-are/tasks-mission/ (15.08.2022)

JAKUBCZAK Ryszard, FLIS Józef (2006), *Bezpieczeństwo narodowe Polski w XXI wieku. Wyzwania i strategie*, Warszawa.

JURCZAK Dariusz, KIBYSH Anatolii (2021), *Administracja publiczna a bezpieczeństwo migrującej społeczności lokalnej pogranicza polsko-rosyjskiego*, „Przegląd Europejski", no. 1/2021. DOI: 10.31338/1641-2478pe.1.21.13

KOMENDA GŁÓWNA STRAŻY GRANICZNEJ (WWW), *Struktura SG*, https://www.strazgraniczna.pl/pl/straz-graniczna/struktura-sg (20.08.2022).

KOMENDA GŁÓWNA STRAŻY GRANICZNEJ (2019), *Straż Graniczna – Informacja statystyczna za 2018 rok*, styczeń 2019, Warszawa, https://strazgraniczna.pl/download/1/21257/Biuletynza-2018rok.pdf (31.01.2019).

KOMENDA GŁÓWNA STRAŻY GRANICZNEJ (2020*), Straż Graniczna – Informacja statystyczna za 2019 rok*, styczeń 2020, Warszawa, https://strazgraniczna.pl/download/1/22770/BIULETYN2019r1.pdf (31.01.2020).

KOMENDA GŁÓWNA STRAŻY GRANICZNEJ (2021), *Straż Graniczna – Informacja statystyczna za 2020 rok*, styczeń 2021, Warszawa, https://strazgraniczna.pl/download/1/29904/Informacja-statystycznaza2020r.pdf (31.01.2021).

KOMENDA GŁÓWNA STRAŻY GRANICZNEJ (2022a), *Straż Graniczna – Informacja statystyczna za 2021 rok*, styczeń 2022, Warszawa, https://strazgraniczna.pl/download/1/27269/Informacjastatystycznaza2021r.pdf (31.01.2022).

KOMENDA GŁÓWNA STRAŻY GRANICZNEJ (2022b), *Straż Graniczna – Informacja statystyczna za I półrocze 2022*, lipiec 2022, Warszawa, https://strazgraniczna.pl/download/1/29897/Informacja_statystyczna_za_I_polrocze_2022_r_.pdf (31.07.2022).

KSIĘŻOPOLSKI Krzysztof Michał (2011), *Bezpieczeństwo ekonomiczne*, Warszawa.

MSWiA (WWW), *Straż graniczna,* https://www.gov.pl/web/mswia/straz-graniczna (20.08.2022).

OBWIESZCZENIE (2015/636) Ministra Spraw Wewnętrznych z dnia 3 lipca 2015 r. w sprawie ogłoszenia przejść granicznych, rodzaju ruchu dozwolonego przez te przejścia oraz czasu ich otwarcia, „Monitor Polski" 2015, poz. 636.

OCZKOWSKI Tomasz (2010), *Karnoprawna ocena przemytu papierosów*, „Prokuratura i Prawo", no. 9.

REGULATION (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC, OJ L 251, 16.09.2016.

REGULATION (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (codification), OJ L 77, 23.03.2016.

REGULATION (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624, OJ L 295, 14.11.2019.

RUSZCZYK Anna (2016), *Przemyt celny jako przestępstwo skarbowe w Polsce i na terenie UE,* in: R. Dziembowski, M. Pieńkowska, A. Opalska (eds), *Prawo karne skarbowe – wybrane zagadnienia teorii i praktyki*, Olsztyn.

SERDAKOWSKI Jarosław (2015), *Perspektywy rozwoju bezpieczeństwa transgranicznego RP*, „Rozprawy Społeczne", no. 2 (IX).

SOCHA Robert, KACZMARCZYK Barbara, PIEKARSKI Piotr, KARPIUK Walenty (2012), *Zasadnicze problemy współdziałania policji i straży granicznej*, Legionowo.

SUDUŁ Ryszard (2018), *Droga Polski do Schengen – osiągnięcia i wyzwania w zakresie zmiany systemu ochrony granicy zewnętrznej UE*, "Przegląd Europejski", no. 3, DOI: 10.5604/01.3001.0013.1958

SZYMAŃSKA Jolanta (2018), *Europejska Agencja Straży Granicznej i Przybrzeżnej – unijna agencja z siedzibą w Polsce*, „Przegląd Europejski", no. 3. DOI: 10.5604/01.3001.0013.1960

ŚWIERCZYŃSKA Jowita (2016), *The reduction of barriers in customs as one of the measures taken by the customs service in the process of ensuring security and safety of trade*, "Studia Ekonomiczne. Zeszyty Naukowe Uniwersytetu Ekonomicznego w Katowicach", no. 266.

TRACZ Dominik (2015), Współpraca Straży Granicznej i FRONTEX-u, in: Artur Kuś, Anna Kosińska, Anna Szachoń-Pszenny (eds), *Agencja Frontex w strefie Schengen. 10 lat doświadczeń*, Lublin.

USTAWA (2022/1061) z dnia 12 października 1990 r. o Straży Granicznej, Załącznik do obwieszczenia Marszałka Sejmu Rzeczypospolitej Polskiej z dnia 7 kwietnia 2022 r. w sprawie ogłoszenia jednolitego tekstu ustawy o Straży Granicznej, Dz. U. 2022 poz. 1061.

WYSOCKI Włodzimierz (2003), *Przemyt a bezpieczeństwo ekonomiczne Polski*, Pruszków.

ZDYB Marian, STELMASIAK Jerzy, SIKORA Kamil (2015), *Systemy bezpieczeństwa i porządku publicznego. Organy i inne podmioty administracji*, Warszawa.

ZIĘBA Ryszard (1997), *Kategoria bezpieczeństwa w nauce o stosunkach międzynarodowych*, in: Davis B. Bobrow, Edward Haliżak, Ryszard Zięba (eds), *Bezpieczeństwo narodowe i międzynarodowe u schyłku XX wieku*, Warszawa.

ZIĘBA Ryszard (2004), *Instytucjonalizacja bezpieczeństwa europejskiego – koncepcje – struktury – funkcjonowanie*, Warszawa.

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The rise of Euroscepticism on the political scene in Poland – the case of the party *Law and Justice*

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Abstract
The aim of this article is to analyse the growing phenomenon of Euroscepticism on the political scene in Poland, taking into account the power of the ruling coalition headed by the party *Law and Justice*. For this purpose, after a brief discussion on the theoretical framework of Euroscepticism, in order to find the reasons for the rise of this phenomenon in Poland in recent years, the current context of the government's relationship with the European Union (EU) is analysed. Consequently, by analysing the political programmes of the party *Law and Justice* and statements of political actors associated with the main ruling party in Poland, the author verifies the upward trend in unfavourable attitudes towards the EU by current government, as well as consistently appearing considerations of leaving the EU ("Polexit").
Keywords: Euroscepticism, European Union, Poland, political scene, *Law and Justice*, ruling coalition

Wzrost eurosceptycyzmu na scenie politycznej w Polsce – studium przypadku partii *Prawo i Sprawiedliwość*

Streszczenie
Przedmiotem artykułu jest analiza rosnącego zjawiska eurosceptycyzmu na scenie politycznej w Polsce, z uwzględnieniem władzy sprawowanej przez koalicję rządzącą z *Prawem i Sprawiedliwością* (PiS) na czele. W tym celu, po krótkim omówieniu założeń teoretycznych eurosceptycyzmu, chcąc znaleźć przyczyny wzrostu tego zjawiska w Polsce w ostatnich latach, przeanalizowano aktualny kontekst relacji rządu z Unią Europejską (UE). Wykorzystując analizę programów politycznych PiSu oraz stanowisk i wypowiedzi pochodzących od aktorów politycznych związanych z główną partią rządzącą w Polsce, zweryfikowano także tendencję wzrostową nieprzychylnego

nastawienia wobec UE obecnej władzy, jak również pojawiające się rozważania na temat wyjścia z UE („Polexitu").
Słowa kluczowe: eurosceptycyzm, Unia Europejska, Polska, scena polityczna, *Prawo i Sprawiedliwość*, koalicja rządząca

Euroscepticism is a phenomenon found in practically all European Union (EU) Member States. The crises in the EU and multiple reforms or policies implemented over the years do not contribute to its reduction, on the contrary, had an opposite effect. It often takes the form of increased support for populist groups, both on the right and on the left of the political scene. These groups often seek a simple message, blaming the EU, or "Brussels", for all sorts of problems in their countries. Poland might be an example of the state in which such attitudes have become more noticeable in recent years. Since the winning in the parliamentary elections of a conservative coalition consisting of three parties: *Law and Justice* (pl. *Prawo i Sprawiedliwość*), *Solidarity Poland* (pl. *Solidarna Polska*) and Jarosław Gowin's party *Agreement* (pl. *Porozumienie*) in 2015, the political discourse has changed, as prominent politicians have been expressing the opposition towards the European Union and European integration. From the very beginning, and on different occasions (such as relocation of immigrants, reforms of the judiciary, media freedoms or LGBT+ rights), there have been disputes between the new authorities in Warsaw and the EU institutions (like the European Commission, the European Parliament and the Court of Justice of the European Union). Although Eurosceptic attitudes have not yet taken on radical forms and members of the ruling parties have been denying that the politics of the current government could lead to "Polexit" (Poland leaving the EU), at the same time, they continued to build their position on the political scene based on the intensive narratives critical of EU institutions and indirectly undermining the rationale of further membership.

The aim of this article is to find the scale of Eurosceptic significance on Polish political scene in recent years (from 2015 to ongoing), during which the governing conservative coalition, specifically the party *Law and Justice*, has been exploiting the Eurosceptic narration on the Polish political scene. Thus, firstly the author will review the literature on Euroscepticism and how it was defined over the years, pointing out its various dimensions. Constituting the thesis, the author assumes that, mainly due to the ongoing disputes between the Polish government and the institutions of the EU, Euroscepticism has been significantly rising amongst actors associated with the party *Law and Justice*, as well as in the party itself. The Polish political scene has therefore become distinctly more Eurosceptic, although at the same time society remains strongly in favour of the membership in the EU. Thus, it might be worrying that as a result, by using this clash with European Union for the purpose of achieving short-term goals and supporting the ongoing Eurosceptic narrative, politicians may eventually lose control over it and initiate actions that would lead to "Polexit".

Consequently, the research questions are: in which way the rise of Euroscepticism is displayed in the *Law and Justice*'s political programmes and politicians' statements, and whether this upsurge of Eurosceptic narrative in the largest party of the ruling coali-

tion is factually correlated with many disagreements between the Polish government and the EU institutions that have arisen in the recent years. The evidence will be shortly presented, as stated above, narrowing the case to only party *Law and Justice*, being the major force in the right-wing ruling coalition. Because the focus is put on the criticism of the EU made in election programmes, as well as the statements of the prominent figures from the party *Law and Justice*, the qualitative analysis of political strategies and declarations will be used to provide answers to these questions.

Euroscepticism – the literature review

Euroscepticism, like many phenomena and attitudes in the field of social sciences, is not defined in a uniform way, thus we don't find one, generally accepted definition in the scientific literature. We can distinguish definitions that take into account the level of opposition to the process of integration of Europe or reasons for questioning this process. It is assumed that the term *Euroscepticism* was adopted in the mid-1980s for attitudes averse to European integration. The accepted view in the literature is that the term was first devised by British press in 1986, more specifically in *The Times* to describe British Prime Minister Margaret Thatcher, who was "seen in most of the EEC as a Eurosceptic at best" (Szczerbiak, Taggart 2008: p. 7).

However, Euroscepticism did not usually mean negating the entire process, but its individual aspects. With time, an attempt was made to systematise this phenomenon. In publications from the late 1990s by Paul Taggart, who was one of the first to conduct research on Euroscepticism, one can find a definition that reduces it to conditional and firm, total opposition to the process of European integration. In this attempt at description, the author's broad approach to the issue, which does not clarify the boundary between conditionality and firmness, is evident. With time, especially when the eastern enlargement of the EU was decided, more research was undertaken on the party systems not only of the western but also of the central part of the continent. Consequently, a division into hard and soft Euroscepticism was proposed by Taggart and Szczerbiak (2001). The former group included parties opposing both the integration of Europe and the EU as such, which could be manifested, for example, by opting for withdrawal from the organisation. Representatives of the soft type, on the other hand, were not opposed to integration, but expressed reservations about various aspects of it. Certainly, this was not a division applicable in every situation and to every political entity, but it did make for a clear division of an otherwise heterogeneous phenomenon. An even more far-reaching fragmentation of attitudes was proposed by Petr Kopecký and Cas Mudde (2002), who listed two dimensions – along the support for EU with EU-optimists and EU-pessimists, and support for European integration with Europhiles and Europhobes – and then, on that basis, also Euro-enthusiastic, Euro-sceptical, Euro-pragmatic and Euro-rejecting behaviour of the political parties. Similarly, a detailed six-level typology was proposed by Christopher Flood (2002), starting with Euro-oppositionists, followed by revisionists, minimalists, gradualists, reformists and maximalists.

Finally, it is also worth noting the division into public Euroscepticism, expressed during referendums, elections or polls, and party Euroscepticism, manifested by including such slogans in the programmes of individual political groups (Styczyńska 2018: p. 24). Both are noticeable in the analysis of the political scene in the Poland. However, this juxtaposition of different motives and manifestation of Euroscepticism shows that anti-EU or Eurosceptic arguments have diverse axiological bases. The analysis of political parties' attitudes towards European issues shows that parties may also modify their attitudes towards the European Union for strategic or tactical reasons. The calculation that leads to the disclosure of Eurosceptic or (more rarely) Euro-enthusiastic themes in party rhetoric may result from an assessment of their importance at the electoral and governmental level or from an analysis of current public support for the EU. The significance of Euroscepticism in Poland, as being crucial in the electoral narrative, will be later well visible, regarding the analysis of the election programmes of the party *Law and Justice*.

The rising Euroscepticism in Poland

Eurosceptic movements most often include radical parties on both sides of the right-left scale. This relationship was described by Nick Sitter already at the beginning of the century (Sitter 2002). Importantly, it was associated with being an opposition grouping, often anti-systemic. Such tendencies among peripheral parties were also analysed by Liesbet Hooghe, Gary Marks and Carole J. Wilson (2004). Euroscepticism was not always central to the programmes of these movements, most often it was one of the arguments invoked. The Polish case differs somewhat from this pattern. It is true that here, too, fringe groups were formed that denied the need for European integration or Polish membership in the EU, but they never had much influence on the political scene. However, since 2015, the Eurosceptic slogans have been predominantly proclaimed by the ruling coalition.

The predicament between the Polish government and the institutions of the European Union, concerning, above all the changes implemented since 2015 in the functioning of the judiciary in Poland, but also other issues such as the rulings of the Polish Constitutional Court, has been crucial regarding the perception of the EU itself in Poland amongst political elites. These changes, according to the European Commission, which in December 2017 launched the so-called infringement procedure under the Article 7 of the Treaty on European Union (TEU), were contrary to EU law and the values listed in Article 2 TEU, in particular, they violated the rule of law. The crisis in relations with the EU accelerated even more in December 2020, when Poland and Hungary threatened to veto the EU budget for 2021–2027 and the Next Generation EU Fund, due to the adoption of the so-called rule of law mechanism. Thus, with all of those controversies happening between Poland and the EU since 2015, we might assume that the right-wing political scene has been growing to be more Eurosceptic.

The case of Euroscepticism in Poland

Law and Justice (pl. *Prawo i Sprawiedliwość*) is a party labelled Eurosceptic on the Polish political scene by a number of researchers (e.g. Vasilopoulou 2018), while it describes itself as Euro-realist. Since its inception, it has presented an ambivalent attitude towards the European Union. In its first programme document, the *Political Manifesto* of June 2001, which contained seven points – the slogans constituting the party *Law and Justice* – the last one was entitled *Our place in Europe*. In the *Manifesto*, the party *Law and Justice* wrote about the struggle to ensure a worthy place for Poland in Europe and in the world, and took the view that the final decision to join the European Union must be preceded by a thorough analysis of the immediate and foreseeable long-term effects of integration, and of the costs of opting out of EU membership (PIS 2001). Thus, we may say that the party regarded accession to the Union as an important issue, however preserving national identity in a united Europe was more important. In fact, presently it did not change its position in this regard. The party over the years has just grown to be more Eurosceptic, although at the same time, more attention was given to the EU in their next election programmes and manifestos.

Criticism of the EU in the *Law and Justice* party's election programmes

In the *Law and Justice's* election programme from 2014 for elections in 2015, the European Union is firstly mentioned in the chapter 'Poland in Europe and World', in which it is stated that membership in international organisations such as the European Union, should be treated "as a tool for the realisation of Polish national interests and not as an end in itself and the end of Polish subjectivity" (PIS 2014: p. 149–150). Later, in the section *Legislative changes*, there is a proposal for the *Act on the Exercise of State Sovereignty*, which aim is to ensure the independence of the state, by not allowing the EU the possible route of building the structures of a federal state. The proposed act would however go even further, as it was supposed to concern also the confirmation of supremacy of the Constitution of the Republic of Poland over the EU law and rulings of the CJEU (Court of Justice of the European Union). As we now know, although this act actually was not implemented, the scenario proposed earlier came partially true in October 2021, when the Polish Constitutional Court ruled against the supremacy of the EU law, since "parts of EU treaties are incompatible with the Polish constitution" (Euractiv 2021a).

The programme enumerates a number of challenges that the European Union is now facing, such as overregulation, internal imbalance, political inequality, a democratic deficit or the loss of values, and points out the recipe currently being promoted for a post-crisis Union is "completely wrong". The party strongly opposes the abuse of the broadening interpretation of the EU treaty law, in particular, the practice of using implementing acts to take over competences by the central EU bureaucracy. Effectively, there are more objections towards the European Union across the whole document, despite claiming that all they do is simply rejecting political correctness, as restrictions imposed today through cultural aggression and administrative actions are increasingly

painful for many Europeans. In that way, although the view is explained as simply Euro-realistic, we are dealing with evident criticism of the EU, combined with willingness to "defend freedoms in Poland from any practices threatening its sovereignty" (PIS 2014: p. 13–14). Thus, the party and its political programme, by visibly underlining the urgency of Polish national interest, can be typified as soft Eurosceptic, accordingly to Taggart and Szczerbiak (2001).

In the next election programme for following parliamentary elections in 2019, the party *Law and Justice* continues the so-called Euro-realistic, but actually Eurosceptic narrative. The section "Our Euro-realism" demonstrates it clearly, by underlining the need to stand for a "Europe of the homelands" and to respect the treaties and the principle of subsidiarity (PIS 2019: p. 20). Moreover, because the European Union is presented here as the organisation that allows and leads to the progressive erosion of the sovereignty of European states, there should be "appropriate steps taken to protect Polish values primarily". The document refers to the EU and criticises it many times, while the party boasts itself also with blocking several initiatives such as withdrawing the consent to relocate migrants to Poland despite various pressures, or obstructing the EU agreement to achieve climate neutrality by 2050. Ruling coalition therefore, with the major party *Law and Justice* inside, needs to "consistently counteract solutions that are unfavourable to Poland and Poles, including in migration, agricultural, energy, raw materials and social policies" (PIS 2019), meaning all policies in which the European Union can perform certain measures. As a result, we may conclude that *Law and Justice's* political programme, and party itself, is in its essence strongly Eurosceptic, drifting towards being Euro-rejecting, according to Kopecký and Mudde's categorisation (2002). Although the party commonly supports the general idea of European integration, as seen above, they also emphasise certain concerns about the EU's current as well as future projects – being evidently EU-pessimists – especially regarding numerous disagreements between Polish government and the EU.

Criticism of the EU in the politicians' statements

The opposing view towards the European Union is even more noticeable in the statements of the individuals associated with the ruling coalition government, in particular, the party *Law and Justice*. Despite formal declarations of support for Poland's membership in the European Union, the party *Law and Justice* in power since autumn 2015 has been regularly attacking EU institutions and framing them as Poland's greatest enemies, which served to strengthen Eurosceptic attitudes (Noch 2017). However, the Poles weren't persuaded by this narrative – membership in the EU is considered a good thing by a strong majority of Polish citizens.

Nevertheless, Eurosceptic declarations are made by many prominent politicians associated with party *Law and Justice*. President Andrzej Duda was one of them on many occasions, e.g. once in September 2018, two years before the presidential elections, he stated that the European Union is "an imaginary community from which little results for us" (*Duda: Europa nas zostawiła…* 2018). During the particular meeting in one of the Polish

towns, the president commented on the ongoing disputes between Poland and the EU, saying that Poles 'have the right to govern themselves and decide what shape Poland should take, and decide how we are going to repair the rotten institutions in Poland', concluding also later that "Europe left us in 1945, thus let them leave us alone now" (*Duda: Europa nas zostawiła...* 2018). Although, in fact, they never expressed their will for Poland to leave the European Union immediately, a number of Eurosceptic characters were part of the anti-EU narrative with statements suggesting the need to rethink the membership in the EU in the future. The case was for instance with the Polish MEP, Ryszard Czarnecki, who once stated that although now the postulate of Polexit would be "non-political and inappropriate, giving only the ammunition to the total opposition", there definitely should be more considerations on that matter, if there are more Eurosceptics in Poland and more voices of dissatisfaction with the EU (Niezależna 2018). The former Minister of Foreign Affairs, Witold Waszczykowski, while Brexit negotiations were coming to an end, declared as well that government in Poland must pursue Polish interests, not the "fetish of Union unity" (*Witold Waszczykowski: problem backstop...* 2019), which again shows Eurosceptic attitudes, leaning towards hard Euroscepticism in its foundations (Taggart, Szczerbiak 2001).

Although, as noted before several times, the Eurosceptic narrative has been notable amongst the party *Law and Justice*, in 2021 we could say that there was an increase in intensity of this message – it began to intensify after the Court of Justice of the European Union fined the Polish government for breaching the ruling on Turów mine (Euractiv 2021b). And although the narration has temporarily quietened down towards the end of 2021, as the ruling coalition was focusing on the wave of fear about migrants on the Polish border with Belarus, and then, in early 2022, with Ukraine, the political discourse is still filled with criticism of "an evil EU pushing out poor Poland" (Dryjańska 2021). The perfect example is the speech of Marek Suski, Polish MP, who called the EU "an occupier, with which we need to fight" and compared its actions to Hitler's policies (Nowiński 2021). Similarly, the statement of the Deputy Marshal of the Sejm, Ryszard Terlecki, who spoke with appreciation about the withdrawal of Great Britain from the EU and the possibility of taking such drastic solutions in Poland, raised public concern, including even *Law and Justice* party's voters (Badowski 2021). As a result, the party adopted a resolution in which it ruled out the prospect of Polexit, emphasising unambiguously the future belonging of Poland to the EU (Wasylów 2021). On the other hand, according to party spokeswoman, this does not mean that Polish government has to accept "the gradual, non-treaty-based process of limiting the sovereignty of the Member States" (Wasylów 2021).

The attitude of the Polish society towards membership in the European Union

Despite the growing conflict between the government in Warsaw and the EU institutions and the rising Euroscepticism on the political scene in Poland, in particular amongst *Law and Justice* party's figures, public support for EU membership remains at very high level – 82% in 2021 (Kucharczyk 2021: p. 9). Opposition to membership was

declared by only 5% of respondents, including 3% who strongly oppose it. On the other hand, as many as 69% of respondents declared their strong support for the participation in this organisation. This distribution of opinions is in line with the results of earlier surveys from CBOS (Centre for Public Opinion Research), which show that the dispute and rising Euroscepticism, which has been in the political discourse for over 6 years now, has not yet resulted in a change in the high level of support for EU membership. Most supporters of all political forces support EU membership, but the support is significantly higher amongst supporters of opposition parties.

The vast majority of respondents (73%) believe that EU membership has brought Poland more benefits than losses. However, the evaluations of the EU membership balance differ depending on the political sympathies of the respondents. Although both government and opposition supporters consider the balance of benefits in various areas as positive (73% recognised the membership as beneficial), when it comes to the impact of membership on the state of democracy or the protection of civil rights and freedoms, supporters of the party *Law and Justice* remain sceptical, as they do with regard to combating climate change (Kucharczyk 2021: p. 11–12).

Conclusions

The provided data proves that Polish society strongly supports Poland's presence in the European Union. Therefore, in this scenario, the government that does not want to lose support cannot directly support "Polexit". However, as it was seen above, the party *Law and Justice* blames the EU for numerous failures in Polish matters and criticises the Union in almost every aspect. Thus, regarding the above evidence, it is notable that phenomenon of Euroscepticism is meaningful in Poland, although mainly not leading towards the idea of leaving the EU. As the result, the point of Polish authorities is to simply convince the public opinion that Poland is doing everything right, and actually it is "bad Union that has been picking on it" on many different occasions, which was noted several times whether in party's agendas or speeches of prominent party's figures. The intensification of Eurosceptic narrative in *Law and Justice*'s political programmes, and among its significant politicians' declarations, therefore can undoubtedly be corelated with the rise of disagreements between Polish government and the EU institutions in recent years.

While the Eurosceptic narrative on the political scene was not created to put Poland out of the European Union, Prime Minister David Cameron in 2016 didn't seek Brexit either. The continuing anti-EU position can be dangerous and eventually have consequences, given the time and more Eurosceptic messages introduced into the public sphere. As a result of such significance of Euroscepticism on the political scene, we may anticipate that, ultimately, support for Poland's presence in the European Union will start to decline. Thus, the process of rising Eurosceptic attitudes and discouraging the Polish people from the EU, should definitely be examined closely in future research.

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References:

BADOWSKI Rafał (2021), *Po tych słowach Terleckiego zawrzało. Szef klubu PiS zasugerował... polexit*, https://natemat.pl/372875,terlecki-o-polexicie-musimy-szukac-drastycznych-rozwiazan (09.09.2021).

DRYJAŃSKA Anna (2021), *Przestawienie wajchy. PiS ma nowy sposób na to, by doprowadzić do polexitu?,* https://natemat.pl/376929,pis-kontra-unia-europejska-tak-partia-kaczynskiego-zniecheca-do-ue (06.10.2021).

DUDA: Europa nas zostawiła w 1945. Niech zostawią nas w spokoju (2018), „Rzeczpospolita", https://www.rp.pl/polityka/art1752411-duda-europa-nas-zostawila-w-1945-niech-zostawia-nas-w-spokoju (11.09.2018).

EURACTIV (2021a), *Polish court rules against supremacy of EU law, deepening row with Brussels,* https://www.euractiv.com/section/justice-home-affairs/news/polish-court-says-some-eu-treaty-articles-unconstitutional-deepening-row-with-brussels (07.10.2021).

EURACTIV (2021b), *Poland will not comply with EU top court ruling on Turow, PM says*, https://www.euractiv.com/section/energy/news/poland-will-not-comply-with-eu-top-court-ruling-on-turow-pm-says (25.05.2021).

FLOOD Christopher (2002), *Euroscepticism: A Problematic Concept,* paper presented at the UACES 32nd Annual Conference, Belfast.

HOOGHE Liesbet, MARKS Gary, WILSON Carole J. (2004), *Does Left/Right Structure Party Positions on European Integration?,* "Comparative Political Studies", vol. 35, no. 8.

KOPECKÝ Petr, MUDDE Cas (2002), *Two Sides of Euroscepticism. Party Positions on European Integration in East Central Europe*, "European Union Politics", vol. 3, no. 3.

KUCHARCZYK Jacek (2021), *Widmo polexitu? Społeczne postawy wobec członkostwa Polski w Unii Europejskiej*, Heinrich Böll Stiftung, Warsaw.

NIEZALEŻNA (2018), *Im więcej w Polsce eurosceptyków, tym lepiej. Dlaczego? Te argumenty dają do myślenia!,* https://niezalezna.pl/231438-im-wiecej-w-polsce-eurosceptykow-tym-lepiej-dlaczego-te-argumenty-daja-do-myslenia (23.07.2018).

NOCH Jakub (2017), *PiS robi z Unii Europejskiej wroga, ale Polacy nie dali się nabrać. Znaczący wzrost pozytywnych ocen członkostwa!,* https://natemat.pl/207025,pis-robi-z-unii-europejskiej-wroga-ale-polacy-nie-dali-sie-nabrac-znaczacy-wzrost-pozytywnych-ocen-czlonkostwa (28.04.2017).

NOWIŃSKI Adam (2021), *Najpierw Terlecki, teraz Suski. Poseł miał mówić w Radomiu o walce z 'brukselskim okupantem',* https://natemat.pl/373007,posel-marek-suski-w-radomiu-mial-mowic-o-walce-z-brukselskim-okupantem (09.09.2021).

PIS (2001), *Manifest polityczny „Prawo i sprawiedliwość",* Warszawa.

PIS (2014), *Program Prawa i Sprawiedliwości 2014. Zdrowie, Praca, Rodzina,* http://www.michalstopka.pl/wp-content/uploads/2015/10/program_pis_2014.pdf (31.10.2015).

PIS (2019), *Program Prawa i Sprawiedliwości 2019. Polski model państwa dobrobytu*, http://pis.org.pl/files/Program_PIS_2019.pdf (14.09.2019).

RIISHØJ Søren (2004), *Europeanisation and Euro-scepticism. Experience from Poland and Czech Republic,* "Central European Political Studies Review", vol. 6, no. 4.

SITTER Nick (2002), *Opposing Europe. Euro-scepticism, Opposition and Party Competition*, "Sussex European Institute Working Paper" no. 56, https://www.sussex.ac.uk/webteam/gateway/file.php?name=sei-working-paper-no-56.pdf&site=266 (31.10.2002)

STYCZYŃSKA Natasza (2018), *Więcej czy mniej Europy? UE i integracja europejska w dyskursie polskich partii politycznych*, Kraków.

SZCZERBIAK Aleks, TAGGART Paul (eds) (2008*), Opposing Europe? The Comparative Party Politics of Euroscepticism*, Oxford University Press.

TAGGART Paul, SZCZERBIAK Aleks (2001), *Parties, Positions and Europe: Euroscepticism in the EU Candidate States of Central and Eastern Europe*, "Sussex European Institute Working Paper" no. 46. https://www.sussex.ac.uk/webteam/gateway/file.php?name=sei-working-paper-no-46.pdf&site=266 (31.05.2001).

TEU, Treaty on European Union (consolidated version), OJ C 202, 07.06.2016.

VASILOPOULOU Sofia (2018), *The Radical Right and Euroskepticism*. in: Jens Rydgren (ed.), *The Oxford Handbook of the Radical Right*, Oxford University Press. DOI: 10.1093/oxfordhb/9780190274559.013.7

WASYLÓW Wioleta (2021), *'PiS nie planuje Polexitu'. Kierownictwo partii przyjęło uchwałę ws. przynależności do UE,* https://natemat.pl/373857,pis-nie-chce-polexitu-przyjal-uchwale-ws-przynaleznosci-do-ue (15.09.2021).

WITOLD WASZCZYKOWSKI: problem backstop [OPINIA] (2019), „Onet wiadomości", https://wiadomosci.onet.pl/tylko-w-onecie/witold-waszczykowski-o-brexicie-problem-backstop-opinia/4nexq8c (25.01.2019).

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Assessment of legal solutions to facilitate work-life balance in the public services sector

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Abstract
The aim of this study is to present chosen aspects of assessing legal solutions facilitating reconciliation of work and private life for employees of the public services sector, based on empirical research conducted in five European countries. The research purpose was to indicate the role of labour law regulations in shaping the work-life balance and to determine the ways of their implementation, their usefulness and the needs that emerge in the changing socio-economic reality, as evidenced by the effects of the COVID-19 pandemic. The need to isolate people quickly popularised remote (online) work and the possibility of staying at home, which possibly had a positive impact on private matters. However, the general situation is different. Hence, the hypothesis was adopted that despite the variety of solutions, they are insufficiently used in the public services sector. Although there are noticeable facilitations in combining professional and family duties, they still have too little impact on the attractiveness of work and are not of an innovative nature. The specificity of the public sector makes it difficult to freely choose solutions that increase the flexibility of employment and thus the activity of working parents, especially women on the labour market.
Keywords: labour law, professional and private life, work-life balance concept, employee, employer, public services sector

Ocena rozwiązań prawnych ułatwiających godzenie życia zawodowego z prywatnym pracowników sektora usług publicznych

Streszczenie
Celem artykułu jest przedstawienie wybranych aspektów oceny rozwiązań prawnych, ułatwiających godzenie życia zawodowego z prywatnym pracownikom sektora usług publicznych, na podstawie badań empirycznych przeprowadzonych w pięciu krajach europejskich. Celem jest wskazanie roli przepisów prawa pracy w kształtowaniu równowagi między tymi sferami (tzw. *work-life balance*)

i określenie sposobów ich realizacji, przydatności oraz potrzeb, jakie pojawiają się w zmieniającej się rzeczywistości społeczno-gospodarczej, czego dowodem są skutki pandemii COVID-19. Konieczność izolacji ludzi szybko spopularyzowała pracę zdalną i możliwość pozostania w domu, co pozytywnie miało wpłynąć na sprawy prywatne. Jednak ogólna sytuacja jest inna. Stąd przyjęto hipotezę, że mimo różnorodności rozwiązań, są one niedostatecznie wykorzystywane w sektorze usług publicznych. Choć zauważalne są ułatwienia w łączeniu obowiązków zawodowych z rodzinnymi, to nadal mają one zbyt mały wpływ na atrakcyjność pracy i nie mają charakteru innowacyjnego. Specyfika sektora publicznego utrudnia swobodny wybór rozwiązań zwiększających elastyczność zatrudnienia, a tym samym aktywność pracujących rodziców, zwłaszcza kobiet na rynku pracy.
Słowa kluczowe: prawo pracy, życie zawodowe i prywatne, koncepcja work-life balance, pracownik, pracodawca, sektor usług publicznych

Striving to maintain a balance between work and private life is a topic that is gaining more and more popularity. There are many reasons for interest in the model *Work-Life Balance* (hereinafter: WLB concept), i.e. combining both these spheres into one whole, in accordance with the expectations and values of employees, but also the interests of employers. In particular, it is about maintaining gender equality and supporting the participation of women in the labour market, for whom the problem is the double burden resulting from employment and having a family. In addition, there is a need to intensify care without compromising professional activity in the face of declining fertility rates and an aging population. It is also necessary to take greater care of psychophysical health as a result of extended and irregular working hours, increasing the efficiency and availability of employees as elements of the competitiveness of companies (Borkowska 2010; Sadowska-Snarska 2008; Joshi et al. 2002; Kinman, McDowall 2009; Lockwood 2003).

The WLB concept is based on the fact that professional and personal life are fundamentally complementary to each other, they give a sense of comfort both at work and in fulfilling family obligations. On the other hand, they can be seen as competing or even conflicting goals (Crompton, Lyonette 2005). In the face of new risks, more and more solutions are being developed to alleviate the workload (Fagan 2004). However, they may not always be fully applicable, as is the case in the public services sector. Hence, the **hypothesis** of insufficient use of WLB instruments despite their systematic improvement and extension. The specificity of some services, the hierarchy and limitations in the freedom to manage organisational units, the multitude of regulatory provisions and the restrictive use of state budget funds are some of the barriers to extending the rights of employees in combining professional sphere with family life.

The attractiveness of employment in the national economy is not the same as the conditions that can be created by the commercial market. Although there are noticeable facilitations in reconciling work and family duties, they still meet the expectations of the interested parties and increase the quality of employment to an insufficient extent.

Research methodology

In order to verify the hypothesis, international empirical research was carried out. Its implementation took place in 2021 in five countries: Greece, Spain, Poland, Portugal, and Serbia (hereinafter abbreviations: GR, ES, PL, PT, RS) – participating in the project on employment conditions[1]. The main research objective was to identify and evaluate solutions to facilitate employees' work-life balance within the WLB concept in the public services sector (McPherson 2006). The research questions were used to check the knowledge of legal solutions and the practice of their application in terms of usefulness and adequacy, to show the opportunities and threats of this idea for both sides of the employment relationship, development prospects and better use in departments marginalising the role of WLB.

The research was cognitive and exploratory, based on a bottom-up inductive method of observing specific phenomena in the impact of employment law solutions on work-life balance, followed by analytical development of theoretical positions. The behavioural methodological approach was used to confirm the interdisciplinary and multithreaded nature of the research topic, which was based on a quantitative method through the use of a survey questionnaire distributed electronically (CAWI) and a qualitative method through the use of individual in-depth interview techniques and focus groups to obtain broader knowledge and opinions of the interviewees on existing solutions, as well as missing WLB measures, barriers and opportunities for their development identified in the public services sector (more: Stiglitz 2010). The sample selection was purposive. The project partners were responsible for carrying out the research in individual countries, using a uniform methodology developed by a team of experts. After the research results were collected and coded for the purpose of creating national reports, a collective final document was finally prepared, which compares the respondents' approach to combining work with private duties.

Perception of work-life balance solutions

At the beginning, it is important to emphasise the consistency of the understanding of the WLB concept by a total of 216 respondents completing the questionnaire, despite the social and economic differences and legal systems present in the countries under study (Stoleroff 2013; Pešić 2017; Pangsy-Kania, Szczodrowski 2009; Kołodko 2017; Stacewicz 2017). While perceiving the mutual relationship between work and private life, the vast majority considered that the two areas are mutually permeating, forming

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[1] The empirical research was a component of the international project titled "The role of collective bargaining in shaping work-life balance in public service sector – challenges and perspectives" (VS/2020/0118) carried out in the period 1.04.2020-31.03.2022, whose grantor was the European Commission, Directorate-General for Employment, Social Affairs and Inclusion. Project leader – Coalición Sindical Independiente de Trabajadores de Madrid (CSIT Union Profesional). Project partners: University of Warsaw, Ogólnopolskie Porozumienie Związków Zawodowych, Univerzitet u Beogradu – Filozofski fakultet, University of Thessaly, Universidad Nova de Lisboa.

a coherent whole to satisfy basic everyday needs, the model of functioning adopted by each person. Few people emphasised the singularity (separation) of work from other activities and the complementary position of personal and family matters or, conversely, the clear domination of non-work life and treatment of work only as a necessary source of income. Both of these areas are important and valuable, and therefore ensuring balance is crucial without prejudice to either of them. The family plays the most important role, and respondents mainly devote their free time to it (RS – 79%, PT – 77%, GR – 73%). Different positions are: job qualifications improvement, leisure, entertainment and sport, interests (hobbies), and health care.

The employer's main reason for introducing WLB measures was to identify employees with the requirements related to parenthood and the introduction of facilities (increasing assistance) for parents in response to the changing approach to social roles and the material situation. Employees' expectations need to be understood and realised. Otherwise, work in the public sector will not be an incentive for young, educated people with good professional background. Another important issue was gender equality, which consists of non-discrimination against women by equalising salaries, working conditions and increasing chances for promotion. Exceptionally, Polish respondents raised the issue of making work more attractive, as the public sector does not offer high salaries. On the other hand, taking care of mental and physical health of employees was mentioned mostly by Serbian respondents. Among other reasons for employers' facilitation, there were voices about the need to encourage women to remain employed, increase productivity, make better use of labour resources, respect the general policies of the employer and for the employer to create the right image.

When asked about their ability to maintain a balance in the WLB area, the vast majority of respondents from the five countries answered that they manage to maintain a balance, but it is quite difficult. Only a small percentage was able to combine work and privacy perfectly. For almost a third of Polish respondents, it is impossible to manage, in contrast to all Spanish representatives who stated that they reconcile both areas of life, of which 74% do so to some or quite a large extent. Analysing the workplace WLB solutions introduced for all employees, 57% of Spanish respondents admitted that they have a medium impact on their overall job satisfaction. However, a total of 65% spoke positively against a quarter with an antinomian attitude. Portuguese respondents rated WLB solutions more variably as satisfactory (36%), insufficient (29%), sufficient (19%) and very bad (7%). A slightly different distribution of responses was presented by respondents from Greece. Almost half of them said that they were sufficient, while a quarter held the opposite view. According to 48% of Serbian respondents, the WLB solutions adopted in the workplace are good or satisfactory, while 40% found them insufficient or bad. In Poland, a vast majority confirmed their unsatisfactory (46%), bad or even worse state (15%). For a small group, WLB solutions were sufficient (14%) and satisfactory (12%). In no country was there any indication in the very good evaluation category, which allows us to conclude that the issue of combining professional and personal responsibilities is still topical and requires further improvement.

Types of work-life balance solutions

Overall, when generalising the types of WLB support, different approaches should be noted. All Greek respondents affirmed the role of legal-institutional and psychological forms of influence on work-life balance. A significant proportion also favoured monetary and in-kind forms. On the other hand, Spanish respondents found organisational issues to be the best way to support WLB (67%) and in-kind (30%). A slightly different view was held in Poland, as the highest expectations were for monetary (64%) and organisational (46%) measures, indicating the need to improve the social situation of employees, which did not play a special role for Portuguese respondents emphasising organisational, psychological (39% each) and institutional (32%) forms. In Serbia, a wide range of measures to influence WLB were given high importance, mainly organisational (88%), legal-institutional (75%), psychological (69%) and financial (64%), which leads to the conclusion that there is a wide spectrum of needs of employees in their national public sector.

As far as the knowledge of work-life balance facilities which are commonly used in the public services sector is concerned, the respondents most often mentioned: flexible working time organisation; additional exemptions, days off for care; longer parental and medical leaves; additional financial benefits such as vouchers, passes; creation of a friendly working environment (integration); facilitation in improving professional qualifications. Less well-known were: atypical forms of employment; additional insurance; greater protection against the arduousness of work (limiting overtime, business trips, the monotony of work) and company nurseries, kindergartens, and children's clubs.

Based on their knowledge, observations and experience in the area of the most frequently applied WLB solutions in the company, the respondents believed that the following facilities are applied, although not always sufficiently, sometimes only in individual cases:

- varied working time, allowing tasks to be performed at home, in a remote or hybrid formula, in a non-standard system, more flexible, individually tailored to the employee's situation, based on tasks, movable working hours or days, allowing exits from work and the possibility of later working off;
- lower working time standards, such as extra breaks, reduced working hours;
- atypical forms of employment, especially part-time work;
- additional days off, mainly for children (when there are difficulties in providing care during breaks in school and kindergarten), and exemptions from work in extraordinary, random, family-related situations (care of the elderly or sick);
- the organisation of work to improve and adapt it to the individual needs of employees, effective allocation of tasks, rationalisation of overtime and business trips;
- social benefits, bonuses, the operation of a company fund providing support in kind and in cash;
- health care leaves (availability, unpaid leave), freedom to use holiday leave, including decisions on the date of its use, freedom (guarantees) to use parental and caring leaves;

- improvement of professional qualifications, continuing education;
- additional social insurance, pension schemes;
- institutional care for a child or other family member;
- pro-health offer (medical packages, sanatoria, rehabilitation, biological regeneration);
- shaping a friendly atmosphere and understanding in the workplace, principles of social coexistence, staff integration (family days at work, family picnics, sport and recreation events).

Respondents stressed that they are familiar with various labour law solutions. However, they are not commonly used in the public services sector. They are more often found in the offer of commercial enterprises. In practice, there is a deficit of various attractive work-life balance facilities. There is a lack of flexible working hours for the benefit of employees. Some professional groups have to work in shifts continuously, including Sundays and holidays, which disrupts family life. There is insufficient protection against arduous work that requires excessive effort, extra activities, and blurring the boundary between free time and work, with no right to be offline in the case of remote working, being available and willing to work overtime. Part-time employment can be used to a limited extent. There is an abuse of outsourced tasks concerning part-time work. The catalogue of material (financial) privileges, such as vouchers, cards, bonuses and incentive awards, medical packages, cash allowance, in-kind prizes, Christmas parcels, company equipment, interest-free loans, and subsidies for commuting to work, is too small. Institutional care for employees' family members (nurseries, kindergartens, daycare centres, various support facilities) is organised it a small scale in order to relieve them from everyday household duties. The lack of such assistance translates into lower quality of work due to fatigue, stress, and emotional disorders. Staff integration should be increased by organising family outings and special events, stimulating proper relations and creating a friendly atmosphere at work, motivating (supervision, mentoring, psychological support), equal treatment (mainly remuneration), and caring for professional development. Transfers to another workplace (department) do not consider the proximity of the place of residence, which implies separation. There are no assured health and safety conditions or health care (prevention, availability of specialists).

Guaranteed employment is important for many respondents, which ceases to be a feature identified with the public sector. In this context, Serbian respondents asked for respecting the existing guidelines and the rules previously set by the parties and using appropriate personnel management methods, including transparent procedures and improving interpersonal relations in the workplace (*team-building*). On the other hand, Spanish respondents expected faster procedures for granting leaves, more remote work and other forms of employment flexibility, ensuring the flow of information and transparency of activities with the involvement of trade union organisations in the consultation process. Due to the incomplete recognition of some facilities, they reported that they should be regulated in national legislation, regardless of their validity in collective agreements concluded by the social partners. For the Polish and Greek respondents, the key issue is the type of institution and the nature of the work, which

determines the choice of appropriate WLB measures. The specificity of certain professions may preclude the use of solutions that employees who want to maintain work-life balance depend on. However, it must not be an overused argument for an employer to refuse to establish them in internal regulations. Therefore, measures should be implemented at the company (branch) level, adequate to the workforce's needs, after careful consideration of the capabilities of the public sector, so that they do not remain in the formula of ineffective provisions included in the category of recommendations for the future. The Portuguese interviewees presented a similar line of thinking. According to them, working conditions in the central administration are less favourable due to the strictness and conservatism of the law, bureaucracy and hierarchy than at the municipal (local) level allowing more freedom in shaping family-oriented working conditions. Although the public sector is not oriented toward competition, pressure to work more efficiently and build one's own career to the same extent as in private entities, the focus on work is often at the expense of the family, which women mainly experience. It is impossible to negotiate flexible working hours, longer holidays or additional days off. Despite the identified problems in achieving a balance between the professional and private spheres in the face of circumvention of regulations and abuse of instructions by superiors, there is still a lack of initiatives to improve the situation of employees in terms of normalisation of working time, stabilisation of employment conditions, restriction of their mobility and accessibility.

Problematic situations arise when responsibilities and staying longer at work clash with personal life activities. Conflicting roles have a negative impact on family and social relations and constitute a serious threat to personal property, mainly health.

Benefits of implementing work-life balance solutions

The WLB concept is perceived only positively, because it is supposed to mitigate or avoid the contradictions between the requirements a person encounters in both basic spheres of life, i.e. activities performed professionally for gainful purposes and obligations undertaken in leisure time due to having a family, contacts with the environment, activities serving education, self-improvement, regeneration of psychophysical forces. It is difficult to find any disadvantages in its nature. Let's suppose that employers do not perceive any obstacles related to their activity (organisational, production, economic). In that case, they can freely apply various solutions, as they are not imposed, except for certain protective provisions concerning the permanence of employment, regulation of working time and leaves for maternity and parenthood. On the other hand, any beneficial change to employees, confirming their privileged position, may at most be insufficient. Thus, the idea itself is right, doubts may concern its practical aspects, depending on the will of the parties negotiating the content of individual or collective agreements or the approach of the legislator guided by its national policy or by international, European guidelines, which may obligatorily introduce provisions that do not necessarily satisfy employers. An example is Directive 2019/1158 of 20 June 2019 on work-life balance for

parents and carers (O.J. EU L 188/79), which the Member States should implement by 2 August 2022. It establishes minimum requirements to ensure equality between women and men regarding labour market opportunities and facilitates the reconciliation of work and family roles. Regulations related to the extension of paternity, parental and caring leave entitlements, exemption from work due to force majeure, increased flexibility of work organisation, stronger protection against unfavourable treatment, information on and easier access to training, guarantee of parallel employment, entitlement to request a form of work provision with more predictable or safer conditions are expected to contribute to the achievement of this objective**.**

Referring to the WLB concept, almost all respondents from the five countries of research agreed that work-life balance facilities are beneficial for both sides of employment, regardless of the legal basis of the cooperation and whether they belong to the public or private sector. As specific advantages for the employer, they mentioned the first place greater productivity at work (GR – 78%, ES – 80%, PL – 70%, PT – 34%, RS – 85%). They then cited fewer disputes and claimant attitudes among the workforce (GR – 35%, ES – 62%, PL – 52%, PT – 20%, RS – 67%). A significant benefit was motivation, discipline and commitment to work, reduced turnover and greater employee loyalty, and a better employer image. The respondents associated several positives with the employee side, primarily higher productivity (GR – 78%, ES – 75%, PL – 36%, PT – 14%, RS – 45%). It was also noticed that there was an increase in satisfaction from work, better health, stress reduction, sufficient rest deprived of negative emotions that accompany work, greater freedom in planning a day and stopping neglecting daily duties, limiting stimulants, lower risk of psychophysical exhaustion or professional burnout, personal and intellectual development, elimination of many problems or domestic conflicts, establishing or strengthening relationships with relatives.

WLB solutions were not sufficiently used, despite their indisputable benefits. When asked about the reasons for omitting the facilitation of reconciling the professional and private areas, the respondents explained the nature of the public services sector as a place of work performing servant functions towards the society to satisfy its needs, burdened with a wide range of responsibilities and having at its disposal the means of coercion, characterised by a high discipline of public finance and quality of operation based on the legal regime, hierarchical organisation and a system of control. Its characteristics differ from the rules governing private entities operating in the commercial market, which translates into employment matters. On the one hand, a public employer performs its duties towards employees and determines working conditions, not excluding WLB issues. At the same time, it acts as a state apparatus equipped with universal sovereign skills to conduct social and economic policy for the benefit of society. In the face of formal and legal barriers, centralisation, bureaucracy, strict dependence on procedures (decision-making process), rationalisation of budget management as well as subjectively perceived lack of goodwill of the management, the concept of combining professional and private life was not justified in some sectors (e.g. law enforcement, judiciary, administration).

The gender aspect of public sector anti-discrimination policies was perceived positively. In the countries surveyed, respondents highlighted initiatives to find effective and adequate WLB solutions that would satisfy women, given their dominance in many job groups and, at the same time, their disadvantaged position in the labour market. Referring to the diversity of employment structures and the inherent differentiation of legal regulations, they acknowledged that given the rapidly changing reality and growing expectations of the society, the topic of reconciling work with the private sphere cannot be limited only to family or women's issues, but must be broadly perceived by taking into account many characteristics (age, marital status, health, nationality, religion), which influence employees' behaviour and at the same time generate new management methods by employers. Hence, it must be assumed that pursuing life harmony within WLB is not a one-dimensional phenomenon.

Remote (online) working, widely adopted during the spreading COVID-19 pandemic, owes many of its benefits to employees. As a flexible form of employment in terms of time, place and manner of providing work, it proved to be a good link between the fulfilment of professional aspirations and the requirements (will) of the employee to satisfy his/her personal and family needs. At the same time, it has been criticised for interfering with home life and causing difficulties in separating work from non-work duties. As a result of the poor organisation of tasks and the lack of certain predispositions (determination, responsibility, regularity), private matters often prevented tasks from being carried out properly (delays, lower quality) or had the side effect of aggravating workaholic tendencies (being constantly online). In both cases, the imbalance is detrimental, and the parties feel more frustrated by the various omissions. That is why it is so important to have a rational approach to the definition of mutual rights and obligations in the common law, which has not worked so far, as it was emphasised by the Polish respondents, as well as to understand the necessity of their standardisation in the Serbian legislation, because there is a lack of many regulations favouring decent work in the still ongoing process of political transformation in the country.

Rationality can also be fostered by collective bargaining, which is highly recognised in the Spanish system. They are conducted by social partners interested in arranging labour relations as they see fit to improve and develop WLB measures to make them more useful. Examples are the telework agreements adopted by the central administration and the autonomous communities. In Portugal, public sector legislation governs flexible work organisation, and teleworking was already included in the first collective agreement. However, it has not become a good practice due to trade unions' management resistance and disparaging treatment. The less enthusiastic attitude towards teleworking was explained by the need to ensure direct contact with citizens in many industries. Teleworking may lead to the dismantling of the professionalisation of public services, the passing of costs on to employees, isolation and the distortion of the idea of disconnection. In the opinion of all respondents from the five countries, abandoning this form of work and squandering its achievements does not seem to be a good solution, because, although it will not solve all the problems, it contributes to a consensus in making labour

relations more flexible and achieving a work-life balance. A rather attractive and more relevant solution could be a hybrid (two or three times a week) or occasional (a designated pool of days per year) teleworking.

Special attention was paid to flexible working hours. The respondents were favourably disposed towards the task-based system, which does not require a constant presence in the workplace, but only accounts for the performed activities; flexible working time, which determines any hours of taking up work; shortened working week, which provides for less than five days of being at the employer's disposal with a simultaneous extension of daily working hours; the possibility of leaving work during the day and working off the outstanding work later. At the same time, they were aware of the limitations resulting from the way the workplace operates (health care, municipal services, cleaning services, cultural institutions), which require availability (shift work, night work, Sundays and holidays). The nature of the tasks performed excludes atypical work organisation to ensure the comfort of private life.

Some respondents expressed their dissatisfaction with the rigid hours of performing tasks and strict dependence on the office of public institutions, mainly central ones, or the inconvenience of working time when there is a need to continuously meet the needs of the people and perform activities on a 24-hour basis or be on standby for work (on-call, in delegation), as well as criticised the management for not taking initiatives to change management methods. Sometimes a different approach to applying rules, speeding up procedures, and introducing technological innovations is enough. It is certainly helpful, although expensive, to increase the number of employees in workplaces. Staff shortages are an important factor hampering simpler and more flexible working time management. For the Serbian respondents, interpersonal relations are understood as informal solutions within the company. In case of urgent problems, solutions (such as giving extra days off or substituting each other during the work) are accepted on *ad hoc* basis with the approval of co-workers.

The challenge is to maintain a balance and respect the division of the day into three parts: work, private activities and rest, to see holidays as a right and not a privilege, to use weekend days for personal or family purposes and not for overtime work, which, if it happens, should be fairly remunerated. Therefore, the right thing for employers to comply with standards and not abuse their advantage in employment relationships. There is still a certain discrepancy between regulations and practice, which is confirmed by the persistent fears of employees to keep their jobs, who consciously give up their rights to win the employer's favour, because the most important thing for them is a guarantee of employment and securing material existence as essential determinants of the WLB concept.

Conclusions

Respondents from the surveyed countries confirmed that the WLB concept has a multidimensional character, influenced by the transformations of the contemporary

world, including the growing demands of society, competition, globalisation, and changes in employment relations. By harmonising employers' (business) interests with working people who simultaneously play various non-working roles, WLB becomes a basic tool for human resources management and, at the same time, a source of social responsibility due to equal opportunities for men and women in employment. It contributes to strengthening employees' potential, because creating a friendly working environment facilitates the performance of private duties. As a result, it reduces psychological discomfort (stress, depression) and increases satisfaction from the possibility of reconciling both spheres of life, which motivates greater involvement in work. Ultimately, the WLB concept is profitable for employers, because it ensures them loyal and responsible employees.

The interviewees unanimously emphasised the attractiveness of employment in the public services sector and, at the same time, problems with the possibility of making it more flexible due to the specific character of work provided based on serving the society. According to them, the limitation of measures allowing to maintain the balance between the professional and private sphere makes it difficult to retain or recruit employees, especially young people, for whom the organisational freedom in the workplace plays an increasingly important role. A change in attitude towards the way some industries operate is needed to address the barriers that undermine the value of work, which include: the rigidity of legal standards, bureaucracy, unattractive salaries, overloading due to staff shortages, insufficient physical resources (equipment), hierarchy and conservative management attitudes, as well as emerging job insecurity due to increasing public debt caused by the negative effects of COVID-19 pandemic that has disrupted economic stability in Europe.

A problem that emerged with varying degrees of intensity in the countries of research was a lack of mutual understanding between the partners, looking through the prism of vested interests, accusing each other of passivity, inconsistency, and hiding behind legislation as the most important tool for steering the public sector, as well as the narrowing of discussions to wage issues as a priority for the trade union side as a representative of the workforce, whose positions were not always free of politics, as was particularly pointed out in Portugal. Incentive systems based on fair and transparent employee appraisals, modern management strategies incorporating the WLB concept, equality policies and decent pay are needed, as requested by Greek respondents dissatisfied with anachronistic regulations and the hermetic nature of certain industries.

Economic issues and the undervaluing of feminised professions were issues highlighted by Polish respondents, who felt that pay systems should be changed to reflect market levels of remuneration and to raise the profile and quality of public services offered. Subjection to the state budget gives a certain guarantee of payment and social stability. Still, it is also discredited, because it does not allow the partners to adopt freely the level of salaries, which is important. After all, managing monetary benefits and setting effective salaries must achieve a competitive advantage to attract competent employees. The well-developed bargaining system in Spain, which has had a positive impact on regulating all terms and conditions of employment in collective agreements,

has been significant in this respect but needs to be further improved and involve all categories of workers in balancing their interests. Several differences were shown by Serbian respondents, for whom the challenge in the context of the WLB concept is to adapt national legislation to the requirements of the European Union in the face of integration aspirations.

In conclusion, the value of the research is an attempt to demonstrate similarities and differences created by the situation in the analysed countries, which may serve to popularise the topic of work-life balance and provide a basis for further empirical work. Although the obtained results do not have statistical power, they outline a certain fragment of reality that seems to coincide with the conclusions found more broadly in the literature on the subject.

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References:

BORKOWSKA Stanisława (2010), *Równowaga między pracą a życiem pozazawodowym*, „Acta Universitatis Lodziensis. Folia Oeconomica", vol. 240.

CROMPTON Rosemary, LYONETTE Clare (2005), *Work-life "balance" in Europe*, "Acta Sociologica", vol. 49, issue 4. DOI: 10.1177/0001699306071680

DIRECTIVE (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU, OJ L 188, 12.07.2019.

FAGAN Colette (2004), *Gender and working time in industrialized countries*, in: Messenger Jon C. (ed.), *Working time and workers' preferences in industrialized countries: finding the balance*, Routledge, London.

JOSHI Sunil, LEICHNE John, MELANSON Keith, PRUNA Cristina, SAGER Nicolai, STORY Cathi Jo, WILLIAMS Kevin (2002), *Work-life balance: A case of social responsibility or competitive advantage?*, Human Resources Department, Georgia Institute of Technology, Atlanta.

KINMAN Gail, McDOWALL Almuth (2009), *Does work-life balance depended on where and how you work?*, "European Work and Organizational Psychology in Practice", issue 3/2009.

KOŁODKO Grzegorz W. (2017), *Jak zniszczyć kraj. Ekonomia i polityka greckiego kryzysu*, „Ekonomista", no. 2.

LOCKWOOD Nancy R. (2003), *Work/Life Balance: Challenges and Solution*, "Research Quarterly", no 2.

McPHERSON Mervyl (2006), *The role of managers in work-life balance implementation*, "Labour, Employment and Work in New Zealand", vol. 2006, DOI: 10.26686/lew.v0i0.1312

PANGSY-KANIA Sylwia, SZCZODROWSKI Grzegorz (eds) (2009), *Gospodarka polska po 20 latach transformacji. Osiągnięcia, problemy i wyzwania*, Warszawa.

PEŠIĆ Jelena (2017), *Promena vrednosnih orijentacija u postsocijalističkim društvima Srbije i Hrvatske: politički i ekonomski liberalizam*, Beograd.

SADOWSKA-SNARSKA Cecylia (2008), *Rozwiązania wspierające równowagę między życiem zawodowym i osobistym*, Białystok.

STACEWICZ Janusz (ed.) (2017), *Perspektywy polityki gospodarczej*, Warszawa.

STIGLITZ Joseph E. (2010), *Ekonomia sektora publicznego*, Warszawa.

STOLEROFF Alan (2013), *Employment relations and unions in public administration in Portugal and Spain: From reform to austerity*, "European Journal of Industrial Relations", vol. 19, issue 4. DOI: 10.1177/0959680113505033

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Early warning mechanisms for global crises in non-governmental organisations

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Abstract
The aim of this article is to analyse the use of the early warning mechanism in non-governmental organisations on the example of the *International Crisis Group*, which is a leading entity in respect of that matter. For the purposes of the study, the author verifies the hypothesis that the mechanisms developed in the *International Crisis Group* are effective, and the forecasts are useful for the needs of decision-makers. It is supported by the fact that non-governmental organisations shape desired attitudes and decisions taken by the international community regarding the prevention and resolution of conflicts. Several questions were posed in this research: (1) what is the nature of early warning mechanisms? (2) what distinguishes early warning systems in international organizations? (3) what is the effectiveness of early warning mechanisms? (4) how is the *International Crisis Group*'s early warning mechanism used? The *case study* method was used to verify the research hypothesis, while the main technique is the analysis of the state of the scholar literature and the content of appropriate documents.
Keywords: early warning, conflicts, crisis, international non-governmental organisations, the International Crisis Group, forecasting in international relations

Mechanizmy wczesnego ostrzegania przed kryzysami globalnymi w organizacjach pozarządowych

Streszczenie
Celem artykułu jest analiza wykorzystywania mechanizmu wczesnego ostrzegania w organizacjach pozarządowych na przykładzie *International Crisis Group*, która jest podmiotem wiodącym w tym zakresie. W trakcie analizy autorka weryfikuje hipotezę o efektywności mechanizmów wypracowanych w *International Crisis Group* i przydatności tworzonych prognoz dla ośrodków decyzyjnych. Prze-

mawia za tym fakt, że organizacje pozarządowe wpływają na kształtowanie pożądanych postaw i decyzji podejmowanych przez społeczność międzynarodową w zakresie zapobiegania i rozwiązywania konfliktów. W niniejszym badaniu postawiono kilka pytań: (1) jaka jest natura mechanizmów wczesnego ostrzegania? (2) co wyróżnia systemy wczesnego ostrzegania w organizacjach międzynarodowych? (3) jaka jest efektywność mechanizmów wczesnego ostrzegania? (4) w jaki sposób jest wykorzystywany mechanizm wczesnego ostrzegania w *International Crisis Group*? W celu weryfikacji hipotezy badawczej zastosowano metodę analizy przypadku, natomiast główna techniką badawczą jest analiza stanu literatury przedmiotu oraz zawartości odpowiednich dokumentów.
Słowa kluczowe: wczesne ostrzeganie, konflikty, kryzysy, międzynarodowe organizacje pozarządowe, the International Crisis Group, prognozowanie międzynarodowe

The concept, application and, above all, the utility of early warning mechanisms make them an extremely important tool for ensuring the security of societies, states, regions, and, consequently, the entire world. Contemporary mechanisms of crisis prevention have been developed on the basis of a number of instruments already used in management sciences, economics, as well as security and political sciences. Since they take into account the conditions and dynamics of changes that occur in the sphere of international relations, these mechanisms include political, social and economic factors. To a different extent, the analysed mechanisms are in the sphere of interest of decision-makers and organisations – both regional and international, governmental and non-governmental. A growing body of literature has examined the early warning systems established and developed at the level of international governmental organisations (including the European Union, the United Nations, NATO, and the African Union). Against this background, the issue that proves particularly interesting is early warning mechanisms in the context of the functioning of non-governmental organisations. The aim of this article is to analyse the use of the early warning mechanism in non-governmental organisations on the example of the *International Crisis Group*, which is a leading entity in respect of that matter. For the purposes of the study, the author attempts to test the **hypothesis** that the mechanisms developed in the *International Crisis Group* are effective, and the forecasts are useful for the needs of decision-makers. It is supported by the fact that non-governmental organisations shape desired attitudes and decisions taken by the international community regarding the prevention and resolution of conflicts. Furthermore, as B. Bliesemann de Guevara rightly stated, neither the *International Crisis Group* nor other non-governmental organisations, which conduct research on peace and conflicts, have received much scientific attention despite their prominent role in the security-building processes (Bliesemann de Guevara 2014).

Several research questions were posed in this research. Firstly: what is the nature of early warning mechanisms? Secondly: what distinguishes early warning systems in international organisations? Next: what is the effectiveness of early warning mechanisms? Finally: how is the *International Crisis Group*'s early warning mechanism used? The *case study* method was used to verify the research hypothesis, while the main research technique is the analysis of the state of the scholarly literature and the content of appropriate documents.

It is worth emphasising that preparing security forecasts is not new, yet it is not used as a matter of routine. Decision-makers treat forecasts with great caution and are reluctant to rely on them in taking preventive actions or engaging in solving existing crises. This is due to the very nature of such forecasts, which do not provide any detailed information about specific time or scope of the anticipated crisis, but merely serve as a warning against a potential threat to the security of the country, region and the world. Too vague and uncertain, forecasting has not developed a proper cause and effect chain, which would facilitate the transition from early warning to early action in international relations. This is a complex process ongoing since the beginning of 2000, demonstrating a visible intensification of activities aimed at establishing extensive early warning systems. It is, therefore, necessary to distinguish between the early warning mechanism and the system, as the first one relates to the method of generating a forecast using early warning, whereas the latter refers to a system of elements of specific, logical and coherent structure. Early warning mechanisms should thus be considered as primary, while early warning systems – as secondary instruments, much as the latter are more advanced and more extensive than the first ones.

From a practical perspective, this differentiation gives rise to distinct consequences resulting from the use of the indicated terms to denote these two categories. While the first refers to the method of preparing a forecast, the second contains an extensive formula, which should entail expanding such subsystems as counteraction, early warning and early action subsystem, as well as connect them into one efficient global security system. This requires a platform for international cooperation. In respect of involving international organisations of a governmental nature in any stage of the conflict, however, this cooperation is not an obvious one. Actions undertaken both by organisations and by specific states depend on many political and economic conditions. They result from interdependencies and potential profits and losses that the involvement in a specific crisis might bring. Moreover, in building global security based on early warning mechanisms, one should address areas with a conflict-generating potential, i.e. regions often affected by local low-intensity conflicts as well as creeping conflicts and regions fraught with social and economic problems, usually located in distant countries, or failing states. The list of potential global crisis locations is thus unidentifiable and unpredictable.

Early warning mechanisms have been adopted both by state decision-makers and international organisations, but to a different extent. While the methodology itself is not controversial or problematic, the use of the resulting forecast is debatable and it requires persuading the international community to take decisive preventive actions as well as make active efforts to solve a specific crisis. What gives rise to this approach is not only the aforementioned profit and loss account but also the lack of understanding of the impact local conflicts exert on global security as well as the conviction that these conflicts are stable and will soon dissipate. However necessary, the forecasts prepared in this way do not, therefore, guarantee that extensive action plans for crisis prevention are created at the international level. For some decision-makers, however, early warnings are of great importance. Bearing in mind that globalisation processes lead to growing

interdependencies in every area and level of functioning of states and societies, it can be assumed that crises of a local nature may produce the effects experienced by the international community, whereas the indicated tendency will only intensify in the future. Nowadays, it is the internal social crises related to, *inter alia*, national, ethnic and racial issues that pose a challenge to global security as they have a high conflict-generating potential, along with political and economic issues.

Early warning mechanisms in non-governmental organisations

The genocides in Rwanda, Bosnia and Somalia in the 1990s were the experiences that prompted the initiatives to seek cooperation, exchange information, avert crises and respond to them. In various places around the world, qualitatively new conflicts escalated, mainly of a national, ethnic and religious nature. These sparked conflicts of varying intensity, influenced on regional and global security. The structures responsible for continuous monitoring and forecasting which operated in international organisations and particular countries, proved inefficient. This resulted from the lack of effective mechanisms of action and protocols, as well as actual active measures, which would be based on the forecasts provided. It is worth noting that the first-generation systems (Nyheim 2014) functioning at the beginning of the 1990s were characterised by narrow, centralised structure, focused on providing specific decision-makers with information regarding potential crises, but above all on justifying and corroborating the decisions and actions already taken in specific locations. The forecasts were prepared based on information from various sources that had been collected and processed by the information management team and analysts. At that time, the analytical infrastructure was being developed. The forecasts were created only for the needs of specific recipients and were poorly integrated with decision-making processes in responding to potential crisis.

Furthermore, the above-mentioned situations had been predicted based on early warning mechanisms, yet they were ignored by the international community. It is worth noting that the forecasts were prepared primarily by international governmental organisations, including the United Nations. The lack of reaction from the international community revealed a certain kind of niche to be filled by organisations not burdened by the political interests of their members, but willing to act to avert a crisis. This situation created an area for the development of non-governmental organisations whose objective is to promote security.

It should be stressed that every governmental and non-governmental organisation uses its own, specifically designed and developed instruments for its own needs, despite the existing general methodological assumptions that underlie early warning mechanisms. Nevertheless, early warning mechanisms participate in the forecasting, simulation and risk analysis process as well as the assessment of the probability of future events. Both qualitative and quantitative models are used to analyse data pertaining to current and potential conflicts, along with the assessment of their evolution. Their comprehensive and detailed description can be found in the literature on the subject (Joseph, Carment 2000; Austin 2003).

Organisations researching the issue of security and conflicts which influence global politics include the following: the *Stockholm International Peace Research Institute* (SIPRI), the *International Institute for Strategic Studies*, the *International Crisis Group* (ICG), the *Carnegie Endowment for International Peace*, or the *German Institute for International and Security Affairs, Swiss Peace Foundation, Heidelberg Institute of International Conflict Research*. What distinguishes international non-governmental organisations operating internationally in the area of global security, is their agency in international relations and their impact on the decision-makers in particular countries. Similarly to transnational corporations, they have the ability to operate continuously and consciously above and across national borders. In principle, the activities of non-governmental organisations aimed at research on security, peace and conflicts imply that they pursue their own goals and tasks for their own account and for the benefit of the entire community. Given that objective, it is possible to claim that the intention of the international NGO's founders is to act for the benefit of the entire international community. This, in turn, would imply that these organisations are of an impartial nature, they act and engage in activities in an objective manner, while the primary goal of their functioning is to establish peace in the world. Thus, they do not and should not play a service role to individual states, groups of states or interest groups.

"The ICG aims to exert influence on the agenda setting, policy making and policy implementation in post-conflict areas. It does so not only by providing policy makers with information in the form of detailed analyses and early warning alerts and by publishing widely through traditional and electronic media" (Bliesemann de Guevara 2014: p. 546). It can be, therefore, stated that non-governmental organisations are organisations that will be involved in building security in the world with equal commitment.

Regardless of the nature of the threats for which it was developed, a properly established early warning mechanism must perform several functions. First of all, it is supposed to inform about threats and weak links in a given security system. It does so through constant monitoring and consequently compiling an ordered list of threats that takes into account their degree of risk. The second function is to exchange information between the institutions which prepare the forecast and the decision-makers in particular states. Thirdly, the mechanisms should have a real influence on the actions taken by decision-makers, to which the forecast is addressed.

Over the recent years, numerous international organisations have been developing and improving their early warning capabilities. The growing interest in early warning issues results from the trend towards crisis prevention. The use of early warning mechanisms creates area and possibilities for analysis and preparation of activities. In case of an intervention, it increases the probability of resolving a crisis or mitigating its negative effects.

The process constituting the early warning mechanism entails systematic collection and analysis of data from the region fraught with a crisis or armed conflict and, subsequently, the development of a crisis forecast based on these data. As a result, early warning is developed, and methods that can prevent crisis escalation are identified.

The entire early warning system is shaped over the subsequent stages, when the early warning mechanism is developed within a given organisation, it is used to avert and mitigate crises, whereas the warning forecast is followed by actual active measures taken.

Early warning mechanisms are an organised and logical process of collecting and processing data relevant to the forecast prepared. To capture the essence of a crisis it is necessary to use quantitative and qualitative methods to assess the crisis potential. However, the greatest effects are achieved if quantitative and qualitative methods are combined (Barton et al. 2008). Furthermore, it is becoming ever more common that a network structure of some sort is considered vital. In practice, the network structure translates into cooperation with experts from different parts of the world, who not only collect and analyse data but can detect early signals of a crisis. This is because they know the realities of a given country or region which cannot be expressed in terms of quantitative and qualitative data (Trubalska 2018). The fieldwork of experts not only helps NGOs obtain information in a more efficient and faster manner, but also influences the image of a given organisation. With its extensive structure, the ICG clearly stands out in this respect. Its offices and representative offices are located in 34 countries (in the following cities: Abuja, Bangkok, Beijing, Beirut, Bishkek, Bogotá, Bujumbura, Cairo, Dakar, Damascus, Dubai, Gaza, Guatemala City, Islamabad, Istanbul, Jakarta, Jerusalem, Johannesburg, Kabul, Kathmandu, London, Moscow, Nairobi, New York, Port-au-Prince, Pristina, Rabat, Sanaa, Sarajevo, Seoul, Tbilisi, Tripoli, Tunis, and Washington DC)[1]. Five advocacy offices also operate: in Brussels, New York, Washington, London, Moscow, and Beijing. The vast information network it established provides the ICG with access to the most up-to-date data from places of potential conflicts. The formula developed this way distinguishes the ICG from other non-governmental organisations and gives it a big advantage in acquiring primary data and analyses from experts operating in a given region. In respect of collecting data used to create early forecasts, the image success of the IGC has been spectacular. Access to reliable information is a powerful instrument for influencing and creating desired situations.

The operation of international non-governmental organisations in the field of security and conflicts is a multidimensional activity. There are numerous questions regarding the methodology used (Nyheim 2015; Matveeva 2006), the usefulness of the early warnings developed, as well as their impact on the international order. It seems that further research in this area is required in order to examine them and increase the awareness of the role played by international non-governmental organisations.

Early warning mechanism in the *International Crisis Group*

From the point of view of the subject matter, the early warning mechanisms developed by the *International Crisis Group* deserve particular attention. The ICG is a leading non-governmental organisation in the field of conflict prevention and resolution. Since 1995, when it started operating, early warning mechanisms have constituted a significant

[1] See more information on the official website of the ICG – https://www.crisisgroup.org

objective of its activity. Its primary goal is to issue early warnings against conflicts. Furthermore, this organisation intends to influence the international community and global leaders, who have the power to take active measures in order to perform preventive actions and early response actions (see more: International Crisis Group 2019: p. 9–14). Apart from collecting and analysing data pertaining to potential crises, the research conducted by the organisation also consists of arranging a sort of schedule in the area of conflict prevention and resolution.

The ICG's philosophy is conveyed by the official slogan: "Field Research. Sharp Analysis. High-level Advocacy." These three pillars constitute a systematic cycle of forecasting operations aimed at developing the early warning.[2] The manner of collecting relevant data is a point of reference as well as the element that distinguishes the ICG from other organisations of this type. Specifically, it uses primary information collected during field research and using the network of contacts created and developed. According to the assumptions of the organisation, they constitute the basis for global monitoring of actual and potential conflicts. Data collection is the basis for formulating forecasts and recommendations created within the analysed organisation. The data is processed using precise analysis by means of qualitative and quantitative methods. At the same time, as it was indicated above, data processing does not only consist of the analysis of quantitative and qualitative data. The knowledge of the local realities exhibited by employees working in field offices plays a key role as well. The work of the ICG has resulted in numerous reports, briefings, commentaries, opinions, notes for governments, as well as films and newsletters. High-level advocacy, on the other hand, is rooted in direct, personal relationships with political leaders and decision-makers.

In the context of the analysed organisation, there are many questions about the actual impact of the ICG, as well as questions about its objectivity in the created forecasts. The authors reflect on its intention to engage more only in selected conflicts, ascribing the selectivity of the enhanced presence of the ICG to the pursuit of interests of specific entities (Bliesemann de Guevara 2014; Grigat 2014). At this point, it is also justified to emphasise the fact that references have been made over the years to the lack of involvement of decision-makers and global political leaders in specific crises. However, in the context of the influence of international non-governmental organisations in the area of security and conflict, it is reasonable to conduct research that will answer the questions about the inactivity of non-governmental organisations towards certain conflicts, especially those organisations that promote their image as active entities involved in all global conflicts.

Conclusions

Early warning mechanisms introduced and developed in international governmental and non-governmental organisations bring many benefits to the design of potential development scenarios for potential future situations. The analysis of early warning mecha-

[2] See more in *Annual Report 2013* (International Crisis Group 2013: p. 5).

nisms presented above encourages the reader to reflect on the ICG in particular as well as other international NGOs from the discussed range. The design of future potential crises is desirable in terms of risk assessment, the preparation of resources, and emergency instructions. The use of early warning mechanisms among international organisations contributed to the trend of establishing extensive operational safety systems based on these mechanisms, encompassing both the early warning and early response subsystems. This allows us to claim that early warnings play an elementary role in ensuring the security of a specific entity, provided that they are delivered to the decision-maker in a timely manner. The utility of early warnings also seems to result from its essence and scope and is not related to any recommendations for action. Perhaps limiting the scope of the early warning to a mere piece of information regarding a potential conflict would not constitute grounds for undermining the intentions of a particular organisation, as is currently the case. While the forecasts prepared by governmental organisations do not raise any doubts, as they act in the interest of their members, the reports of non-governmental organisations are scrutinised for hidden intentions and pursuit of the interests of specific countries or interest groups in the broad term.

Dilemmas and limitations related to early warning also result from the activity of the entities to which they are addressed. As shown by numerous examples from over the last thirty years, the mere access to the early warning does not translate directly into steps taken by the international community. The indicated involvement, and especially its absence, among both specific countries and international organisations as a whole, depends both on the national interests of a given country and on the political and economic consequences of this involvement, both on a local, regional and global scale. Thus, it should not be regarded as a rule that early warning is the basis for further action. In many cases, it is the contrary – all activity has been abandoned whatsoever.

Summing up, the research results demonstrate that early warning mechanisms developed in international non-governmental organisations exhibit greater flexibility and influence on political decisions. At the same time, contemporary unlimited access to information often leads to informational chaos, which makes it difficult to find factors influencing the development of conflicts. This makes it even more reasonable to use field offices and to employ experts in conflict regions, who know the conditions of a specific region well and are able to verify potential conflict hotspots, often overlooked at the international level. It all leads to the prediction that the role of international non-governmental organisations in international relations and their influence on global security will increase over the coming years. Taking into account the combination of methods of data collection and analysis by the ICG, we can predict that its role in the discussed scope will increase.

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References:

AUSTIN Alexander (2003), *Early Warning and the Field and the Cargo Cult Science?,* Berlin.

BARTON Rick, Von HIPPEL Karin, SEQUIERA Sabina, IRVINE Mark (2008), *Early Warning? A Review of Conflict Prediction Models and Systems,* Washington.

BLIESEMANN DE GUEVARA Berit (2014), *Studying the International Crisis Group*, "Third World Quarterly", vol. 35, issue 4. DOI: 10.1080/01436597.2014.924060

GRIGAT Sonja (2014), *Educating into liberal peace: the International Crisis Group's contribution to an emerging global governmentality*, "Third World Quarterly", vol. 35, issue 4. DOI: 10.1080/01436597.2014.924061

INTERNATIONAL CRISIS GROUP (2013), *Annual Report 2013*, https://icg-prod.s3.amazonaws.com/annual-report-2013.pdf (10.10.2013).

INTERNATIONAL CRISIS GROUP (2019), *Strategic Framework 2019-2024*, https://icg-prod.s3.amazonaws.com/Strategic%20Framework%202019-2024-web%20(1).pdf (30.04.2019).

JOSEPH Troy, CARMENT David (2000), *Country Indicators for Foreign Policy. Early Warning Methods, Background Report and Methodological Notes,* Carleton University, Ottawa.

MATVEEVA Anna (2006), *Early Warning and Early Response: Conceptual and Empirical Dilemmas,* Amsterdam.

NYHEIM David (2014)*, Towards a global network of crisis rooms,* in: P. Pawlak, A. Ricci (eds), *Crisis rooms: towards a global network?*, Paris.

NYHEIM David (2015), *Early Warning and Response to Violent Conflict. Time for a Rethinking?,* London.

TRUBALSKA Justyna (2018), *Concepts and dilemmas of early warning,* in: H. Świeboda (ed.), *Forecasting in social sciences. The national and international dimension,* Warsaw.

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Vivisection of Britishness, or how Brexit happened

book review:

Łukasz Danel (2022), *Zrozumieć Brexit. Przyczyny wystąpienia Zjednoczonego Królestwa i Irlandii Północnej z Unii Europejskiej,* Warszawa: Wydawnictwo Naukowe Scholar, 197 pages

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Łukasz Danel took on the challenge of explaining why in 2016 the majority of the British voted in a referendum to leave the European Union and launched a process, the effects of which will be felt for many years to come. The author carries out his narrative in such a way as to prove that a scenario other than Brexit was not possible and it was an inevitable culmination of the complicated relations between the United Kingdom and integrated Europe. The question was not "if" but rather "when" it would happen. After all, it is difficult to disagree with Ł. Danel, especially because on each page he provides us with arguments that prove this thesis. We also know from the very beginning that the author's goal is to reconstruct the British point of view on Europe and the European Union, which is symbolically expressed by calling the strait separating the British Isles from continental Europe the English Channel, not the La Manche Channel, as it is usually called in Poland. The reader is also informed from the first pages of the book that, in the author's opinion, the decision of the United Kingdom to leave the European Union was a mistake. Focusing on the perspective of one side only and clearly articulating own position on the analysed subject of research did not stand in the way of achieving the set goal, i.e. explaining how Brexit happened.

The major advantage of the book *Zrozumieć Brexit...* is that when analysing the reasons for the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union, we receive a large dose of political observations and conclusions

about political leadership, the necessity to take into account intraparty determinants in decisions taken on the international arena, conflict management in a political party, or (in)predictability of social behaviour. However, the strongest side of the book is the vivisection of Britishness, which the author carries out with a scientific precision as well as with favour. He does not avoid humorous remarks, showing great understanding for the British point of view. No wonder, after all, it says on the cover of the book that he is "an outspoken anglophile and Britishness enthusiast".

The book is easy to follow, the storytelling style makes even difficult matters and a large dose of facts easy to absorb. The author is a political scientist, so he does not carry out complex economic analyses, focusing on recalling historical, sociological and political arguments. Keeping the reader's attention is all the more surprising and worth emphasising as everyone knows the end of the UK's rough relations with the European Communities. Despite this, many fragments of Danel's book in terms of emotions resemble a political thriller.

Accepting and understanding the perspective adopted by the author to place the British point of view in the center of attention and not counter it with the EU perspective or the optics of other Member States, I get the impression that ignoring this aspect can sometimes lead to debatable conclusions. Leaving aside the European policy of other Member States, the aim of which was and is to deepen political integration by delegating further competencies to the supranational level, i.e. something that in the book is called the drive towards the federalisation of the EU, led the author to the conclusion that if British politicians were more skillful diplomats, they would have convinced other EU Member States to their vision of European integration. In fact, Great Britain was for a long time alone in its efforts to dismantle political integration, which changed after the United Right won the parliamentary elections in Poland in 2015, when the Conservative Party gained a loyal ally in Beata Szydło's government, which, however, had no influence on the will to leave the EU expressed in the referendum in June 2016. The divergence of interests between the United Kingdom and continental Europe in relation to the EU, cherished by politicians, turned out to be too large to be compensated for by greater dexterity in the EU salons, which – according to the author – British politicians lacked.

Some parts of the book on the United Kingdom's relations with the European Union can be read as a warning or guide on how to leave the EU. For Polish supporters of the EU, this may be a warning, because it is difficult to resist the impression that since 2015 the United Right government, similarly to British Eurosceptics, has been consistently building a narrative critical of the EU, based on emotions, understatements, resentments, and distorted data. There are many politicians on the Polish political scene who, like Nigel Farage – the former leader of the United Kingdom Independence Party and the Brexit Party – are trying to prove that Poland is financially losing on EU membership. The fact is that the Polish perceive the European Union differently from the British. However, repeating the argument about the Euro-enthusiasm of Polish society, where the level of support for membership does not fall below 80%, should not be reassuring. The positive opinion about the EU in Poland is largely based on the belief that accession to the EU

has brought us measurable economic benefits. That is why Polish Eurosceptics want to challenge these arguments, for example by referring to the analyses of scientists who, in a once-famous report, argued that Western European countries benefit much more from our membership in the EU than Poland itself. A large part of the public opinion did not go into the details of scientific calculations, but assumed that our country has lost over 500 billion PLN since joining the EU. It is vividly similar to the arguments of Brexit supporters who argued that after leaving the EU, the money saved on the contributions paid could be redirected to the health system. Even the numbers were similar, albeit in a different currency. The UKIP leader said the UK has lost a staggering £ 500 bn since 1973.

The book can also be a perverse guide on how to wage a populist political campaign. Cynical use of the migration crisis to arouse a sense of fear and insecurity, repeating that the EU is taking away national sovereignty from its Member States, disqualifying reliable analyses and expert opinions, referring to emotions, drawing a vision of a bright future outside the EU by referring to the historical greatness of the United Kingdom are only part of British Eurosceptic arsenal used in 2016. At the same time, Łukasz Danel analyses the list of mistakes made by EU's supporters: remaining defensive and conducting a reactive campaign, mentoring tone, lack of positive message about the benefits of membership, scaring with the consequences of leaving the EU. Perhaps the author's criticism of the campaign in favour of the option "remain a member of the European Union" would be smaller if the referendum result was consistent with the predictions of the bookmakers. Just before the referendum, they set the chances of Great Britain remaining in the European Union at 90%. I do not know if Łukasz Danel was betting on the results, but it seems that with his knowledge of the mentality of the British, he had a chance to earn a lot. Ultimately, 51.89% of the British when asked: "Should the United Kingdom remain a member of the European Union or leave the European Union?" indicated the option "leave the European Union".

Łukasz Danel's book is a valuable source of information for European scientists, political scientists and political sociologists. This is evidenced not only by its substantive content, legible structure, but also by a storytelling style, which may not be too frequent in academic works, but in case of this book it seems to be tailor-made. Therefore, the book *Zrozumieć Brexit...* has a chance to reach a wider audience, which is also encouraged by the eye-catching cover of the book.

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