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Energy security in Europe

Need for changes
in the EU's legislation

4

2019



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Wydział Nauk Politycznych
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PRZEGLĄD EUROPEJSKI

Bezpieczeństwo energetyczne
w Europie

Potrzeba zmian
w prawodawstwie UE

4

2019

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THEORIES AND METHODS IN EUROPEAN STUDIES

The evolution of the German concepts of military cooperation in Europe

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Abstract

Germany's military cooperation with European partners is undertaken either within the European Union or outside its structures. The cooperation within the European Union takes place mainly on two levels: inter-governmental and supranational. The cooperation outside the EU is also focused on two levels: bilateral and multilateral. The author's intention is to identify the direction of the evolution of the German concepts of military cooperation in Europe during the reign of Angela Merkel using a multi-level approach.

Concepts co-created or co-implemented by Germany assume that strong and united Europe can counteract external threats by development of its own military component. It is clear, that there is conceptual asymmetry, that is why there are more intergovernmental concepts (military missions, PESCO, strengthened CSDP, E12) than transnational concepts, from which we distinguish the only one, e.g. the concept of the European army. The influence on the evolution of the German concepts can have an integral federalism, which this country adheres to, and which was implemented after the Second World War into the political and administrative system, i.e. system based on multilevelness and cooperation of authorities, that has proved effective, so it can also be effective in multi-level military cooperation in the EU.

Keywords: Germany, military cooperation, Common Security and Defense Policy (CSDP), European Union, the European army

Ewolucja niemieckich koncepcji współpracy wojskowej w Europie

Streszczenie

Współpraca wojskowa Niemiec z partnerami europejskimi podejmowana jest albo w ramach Unii Europejskiej, albo poza jej strukturami. Współpraca w ramach Unii Europejskiej odbywa się głównie na dwóch poziomach: międzyrządowym i ponadnarodowym. Z kolei współpraca poza UE skoncentrowana jest także na dwóch poziomach: bilateralnym i multilateralnym. Zamiarem Autora jest zidentyfikowanie kierunku ewolucji niemieckich koncepcji współpracy wojskowej w Europie w okresie rządów kanclerz Angeli Merkel z jednoczesnym wykorzystaniem wielopoziomowego podejścia. Koncepcje współtworzone bądź współrealizowane przez Niemcy zakładają, że silna i zjednoczona Europa może odeprzeć zagrożenia zewnętrzne, gdy będzie rozwijała własny komponent wojskowy.

Wyraźnie widać asymetrię koncepcyjną, dlatego jest więcej koncepcji międzyrządowych (misje wojskowe, PESCO, wzmocniona WPBIO, EI2) niż koncepcji ponadnarodowych, z których można mówić właściwie o jednej, czyli o koncepcji armii europejskiej. Wpływ na ewolucję koncepcji niemieckich może mieć integralny federalizm, jakiemu to państwo hotduje, i który implementował po drugiej wojnie światowej do ustroju politycznego i administracyjnego, czyli oparty o wielopoziomość i współdziałanie władz system, który się sprawdził, przynosi efekty, więc także może przynieść efekty w wielopoziomowej współpracy wojskowej w UE.

Słowa kluczowe: Niemcy, współpraca wojskowa, Wspólna Polityka Bezpieczeństwa i Obrony (WPBIO), Unia Europejska, armia europejska

Theoretical and methodological basis of the research

Germany's military cooperation with European partners is undertaken either within the European Union or outside its structures. On the one hand, cooperation within the European Union takes place primarily at two levels: intergovernmental and supranational. On the other hand, cooperation outside the EU is also focused on two levels: bilateral and multilateral. This multi-level stratification of military cooperation in Europe (two-tier within the EU and two-tier outside the EU) can also be referred to its conceptual approach, i.e. attempts to examine the direction of the evolution of German proposals regarding more or less institutionalised European military connections (Ruszkowski 2013).

The author hypothesises that German concepts of military cooperation have evolved in two ways: the first one was from the intergovernmental military cooperation to the supranational, and the second one – from the outside the institutional and legal system to the cooperation in the institutional and legal system of the EU.

The author also asks the following research questions: What does military cooperation look like as part of sectoral policies, can it bring defense benefits? How does the external environment influence the evolution of the concept of military cooperation? Why do Germany and France want closer military cooperation? Will the European army compete with NATO (North Atlantic Treaty Organization)? How will the development of the military component strengthen the EU's defense power?

First of all, the author's intention is to identify the direction of evolution using a multi-level approach, which will further emphasise the scope of the impact of these concepts and help organise them. The selection of the research sample was dependent on two criteria. The first one is chronological and it relates to the evolution of aforementioned concepts under Chancellorship of Angela Merkel, i.e. in the years 2005–2018. That is why the author does not discuss the concept of the *European Battle Groups* or the *European Rapid Reaction Force*, as they were created earlier, in the 1990s. The second criterion is related to the role played by the Federal Republic of Germany. The concepts that have been proposed only by Germany (in this case, this country is the sole author of the initiative) or by the other EU countries, but in cooperation with Germany (in this case Germany is a co-author of the initiative) will be analysed.

For the above mentioned reasons, the main approach in the research will be the *Multi-level Approach* (MLA), which consists of several varieties (e.g. *Multi-level Governance*, *Multi-level Membership*, *Multi-level Europeanisation*). The MLA concept was created from a critique of *intergovernmentalism*. The intergovernmentalism underlines the leading role of the nation-state in integration processes and argues that such a state is a major player in the European Union. The development of the intergovernmental approach is *liberal intergovernmentalism* (LI), which indicates the main role of states in the process of European integration (Moravscik 1993: p.480).

The intergovernmental approach does not fully reflect the dynamics of the integration process, especially after the Maastricht Treaty. Contemporary interactions within the EU take place simultaneously on and between many levels. Thus, the multi-level nature of the EU political system can be seen. At the beginning of the 1990s, in the framework of European studies were created the foundations of a multi-level approach, then in a variety of *Multi-level Governance* (MLG) (Marks 1993: p.391–410), which is a specialised analytical approach (Borkowski 2007: p.162–163; Ruskowski 2013: p.7). Liesbet Hooghe and Gary Marks, considered the main initiators of multi-level governance, described it as dispersion of power at many levels of political order (Hooghe, Marks 2001: p. 28). At the same time, they prove that in the last fifty years power and sovereignty in Europe have gone from national governments not only to the supranational level of the EU, but also to the level of lower regional unions or local authorities.

According to Luiza Wojnicz, the process of the European integration has resulted in a political configuration characterised by the decentralised policy structure, in which several entities are involved in various fields, and the area of foreign policy, security and defense is no exception to this rule. The evolution of the *Common Foreign Policy (CFP)* and the *Common Security and Defense Policy (CSDP)* demonstrates the growing synergy between the national, international and supranational levels, within which a wide range of entities cooperate (Wojnicz 2013: p. 220).

Gary Marx defines multi-level governance as a system of permanent negotiations between governments at several territorial levels, which is the result of a wider institution-building process and reallocation of decision-making, consisting in shifting previously centralised functions "up" to a supranational level, and others "down" – to the regional level (Marks 1993: p.407). It can be assumed that MLG is a multi-level management system, in which there is a combination of supranational, intergovernmental, national and subnational institutions and a certain degree of centralisation and decentralisation. The author distinguished five groups of MLG typologies: MLG development concept, MLG trajectory, sectoral MLG, participatory MLG, systemic MLG (Žurek 2013: p. 92). It seems that the participatory MLG type will be particularly useful for considering the German concepts of European military cooperation in Europe.

German concepts of military cooperation within the EU

In accordance with the adopted stratification of multi-level governance, the analysis of the evolution of the German concepts of military cooperation in Europe was based on

two levels: intergovernmental and supranational, with priority detailing the concepts that Germany was a co-author.

Intergovernmental concepts

a). The concept of the reinforced Common Security and Defense Policy

On September 26–27, 2016, before the meeting of the EU defense ministers in Bratislava, the heads of these ministries from Germany and France – Ursula von der Leyen and Jean-Yves Le Drian – presented a document entitled “*Revitalizing CSDP. Towards a comprehensive, realistic and credible defence in the EU*” (germ.: *Erneuerung der GSVP. Hin zu einer umfassenden, realistischen und glaubwürdigen Verteidigung in der EU*). These proposals from Germany were based on the *White Paper 2016 on the security policy and the future of the Bundeswehr* (germ.: *Weißbuch 2016 – zur Sicherheitspolitik und zur Zukunft der Bundeswehr*). It emphasised that the integration of the armed forces in Europe takes place within the EU and NATO and is very advanced in many areas, decades of practice and cooperation in many EU–NATO joint operations contribute to this. Germany has made as its long-term goal the pursuit of a common European security and defense union, which it wanted to achieve through the consistent implementation of the European Council’s mandates for the gradual, concrete further development of the CSDP; making use of all the possibilities offered by the Lisbon Treaty, such as permanent structured cooperation; compact and diverse bilateral and multilateral defense and military policy.

According to the aforementioned *White Paper 2016* (germ.: *Weißbuch 2016*), three main areas of CSDP development should be worked out, such as: further development of its structures, integration of civil and military capabilities and strengthening of the European defense industry (*Weißbuch 2016*: p.73)

The German–French initiative presented proposals for strengthening the CSDP, as well as increasing the operational efficiency of the CSDP, developing joint military capabilities, especially by revitalising the concept of the EU Battle Groups, conducting research and development in the European defense sector and within European Defense Agency (EDA). The Ministers drew attention to the development of multilateral organisational cooperation and the establishment of a permanent EU military staff with the possibility of operational planning in the short and medium term (*Erneuerung der GSVP.. 2016*)

It is a co-author concept of Germany and France of an intergovernmental nature, located in the sphere of the EU sectoral policies.

b). European Security Council concept

In response to the new strategy of Federica Mogherini, which was entitled “*Shared vision, common action: A stronger Europe. A global strategy for the European Union’s foreign and security policy*”, as well as the outcome of the referendum in Great Britain, the French and German foreign ministers Frank-Walter Steinmeier and Jean-Marc Ayrault presented a proposal to strengthen the CSDP: “*A strong Europe in a world of uncertainties 2016*”. In a nine-page document, they supported activities aimed at implementing the new European strategy and announced that they would promote an integrated EU

foreign and security policy, combining all EU policy instruments. To implement these efforts, France and Germany propose that the European Council meet once a year as the European Security Council to address EU internal and external security and defense issues. This council should be prepared at the meeting of ministers of three ministries: foreign affairs, defense and home affairs (*A strong Europe...* 2016: p. 5). Ministers pointed out that the EU must take more action to manage crises that directly affect its security, and therefore the EU needs stronger and more flexible tools for crisis prevention and management. The EU should be able to plan and conduct more effective civilian and military operations, with the support of a permanent civilian-military command structure. It should rely on high preparedness forces and ensure joint financing of its operations. If necessary, EU Member States should consider establishing a permanent naval force or acquiring combat capabilities within the EU in the other key areas (*A strong Europe...* 2016: p. 4). The establishment of the European Security Council was supported by the German Chancellor Angela Merkel during her speech to the European Parliament in Strasbourg in November 2018. The new Council would have a rotating presidency that would help to improve the European defense and security policy (Dempsey 2018). Whether it would look as initially presented by the Foreign Ministers of France and Germany in 2016, it is not yet known. Chancellor Merkel in the interview with *Frankfurter Allgemeine Zeitung (FAZ)* said that "she can imagine the European Security Council, which consists of some EU countries" (*Europa muss...* 2018). That means, not all the countries will participate in its work, but only those that express such a desire. The number of the Council members will be changed. The benefit of the establishment of the European Security Council will be faster action, close cooperation with the High Representative for Foreign Affairs and European members of the UN Security Council (*Europa muss...* 2018). The German side is quite serious thinks about the new formula of the CSDP meetings. The new body, the European Security Council, would allow more effective security operations both at the EU forum and with other international organisations. The initiative to create the European Security Council is a co-author concept of Germany and France, it is intergovernmental and is located in the institutional sphere.

c). The concept of using the Bundeswehr in the EU military operations

Germany was already a member of the international military structure – NATO at the time when the country began creating the EU defense policy, and, eventually, also the EU army. Moreover, the country's activity in the area of military cooperation is determined constitutionally. There is a restriction that does not allow the *Bundeswehr* to carry out operations outside Germany, except situations where the *Bundestag* has given its consent. Article 87a of the Basic Law concerns the armed forces that the state creates for defense and not for another purpose. Article 87a (2) states: "Armed forces may be used outside of defense only if the Basic Law expressly allows this" (*Ustawa zasadnicza...* 2007: p. 201).

However, with the adaptation of NATO, the European Union and the United Nations to the changing world at the turn of the 20th and 21st centuries, the tasks of the Member

States, including Germany, have also increased. This fact had far-reaching consequences for the German armed forces, what was described in the defense policy guidelines (germ.: *Verteidigungspolitischen Richtlinien*) of 2003, as well as in the concept of the *Bundeswehr* (germ.: *Konzeption der Bundeswehr*) in 2004. This is the concept of the transition of the German armed forces from the only defensive army to the army participating in the missions. This process was carried out consistently, therefore, the *Bundeswehr* undergoes great changes (*Weissbuch...* 2006: p.18).

Since then, the German armed forces have been increasingly involved in military missions under both the UN and the EU flags. It was important to consistently adaption of the new *Bundeswehr* course to the new spectrum of tasks. In general, it has gained better opportunities to participate in multinational operations (*Konzeption der Bundeswehr 2004*: p.7). Currently Germany is involved in 12 missions, including three in the framework of the EU multilateral cooperation (see Table 1). In addition, Germany has participated in already completed EU missions, such as:

- *EUSEC RD Congo* – EU advisory and support mission for the reform of the security sector in the Democratic Republic of Congo. This mission supported the reform of the Congolese army and the creation of multi-ethnic integrated brigades since 2005 at the formal request of the Congolese interim government.

- *EUCAP NESTOR EU* – the mission to restore maritime potential in the Horn of Africa region.

- *EUTM SOM European Union Training Mission Somalia* – training, mentoring and consultancy for the Somali Ministry of Defense and the Somali National Army (*Die Bundeswehr...* 2013: p. 65–67).

Table 1. Bundeswehr participation in the EU military missions (as of December 7, 2018)

Mission	Name	Place	First mandate	Actual mandate from	Termination of the mandate	Amount of mandates
EUTM Mali	European Union Training Mission in Mali	Mali	28.02.2013	26.04.2018	31.05.2019	350
EUNAVFOR MED	Operation Sophia	Mediterranean Sea	01.10.2015	14.06.2018	30.06.2019	950
NAVMFOR Atalanta	European Union Naval Force – Operation Atalanta	Horn of Africa and adjacent sea areas	19.12.2008	26.04.2018	31.05.2019	600

Source: *Aktuelles Einsätze der Bundeswehr* (2018).

Germany has increased its involvement and participation in military missions. The *Bundeswehr* participates in preventive actions in crisis situations, with time-limited high-intensity operations, but also in long-term stabilisation operations. It has only a multilateral dimension. The basis of action is strong integration with allied structures, the

use of multinational connections and the promotion of common values and interests. The priority for Germany is the close, gradual integration of European armed forces, the strengthening of the European pillar in NATO and more coherent cooperation between NATO and the EU (*Konzeption der Bundeswehr 2004*: p. 9).

d). Germany and the PESCO concept

On November 13, 2017, the ministers of 23 EU Member States, including Germany, signed a joint notification on *Permanent Structured Cooperation* (PESCO) and forwarded it to the High Representative of the Union for Foreign Affairs and Security Policy, Federica Mogherini, and the Council. Formally, structured cooperation in the field of defense was concluded on December 14, 2017 at the Brussels Summit. 25 countries have already declared their accession to the joint defense initiative (excluding Great Britain, Denmark and Malta).

Joint notification, which is a formal step towards establishing PESCO, sets out the principles of cooperation, underlining in particular that "PESCO is an ambitious, binding and inclusive legal framework for investing in the security and defense of the territory and the EU citizens" (*Defense Cooperation 2017*). A list of ambitious and shared commitments that Member States agreed to undertake, included the commitment to "systematically increase of the real defense budgets to achieve the agreed targets" and "PESCO management proposals, providing for the introduction of a senior level that will maintain the consistency and ambition of PESCO's objectives and be complemented by specific project-level management procedures" (*Defense Cooperation... 2017*). It was emphasised that PESCO is not an independent instrument, but it was designed for complementation of other instruments. For example, the European Defense Fund proposed by the European Commission in November 2016 will support some projects financially, and the Coordinated Annual Review on Defence (CARD) – Member States' efforts to better present the possibilities of new cooperation initiatives (in particular PESCO projects).

At the Munich Security Conference on February 16, 2018, German Defense Minister Ursula von der Leyen said that PESCO is an example of a Europe, which (in the face of global challenges such as terrorism, poverty and climate change) must finally start make decisions faster. Those who are willing must be able to move forward – not blocked by other individual nations, just as in the field of defense this has already been achieved thanks to PESCO (*Speech by Federal Minister... 2018*).

From the beginning, the German government supported the work leading to notification of PESCO. At its 165th meeting on October 18, 2017, the federal government dealt with key points regarding German participation in permanent structured cooperation. Defense Minister Ursula von der Leyen and Foreign Affairs Minister Sigmar Gabriel have prepared a joint report on the subject. According to this report, according to Berlin, PESCO's goal is to fill gaps in key capabilities, increase the capacity of the European Union to conduct crisis management operations on its own, and coordinate and more efficient engagement of resources in the area of security and defense in the EU (Gotkowska 2017). According to Lieutenant General Frank Leidenberger, the decision to notify

PESCO is "a significant step in the right direction,[...] because it offers good examples of how to effectively combine forces and strengthen defense skills" (*PESCO: Schritt in die richtige Richtung 2018*).

After the December 2017 EU Summit, at which PESCO was formally established, German Foreign Affairs Minister Sigmar Gabriel called this agreement a milestone. He also stated: "We have known for years that purely state-owned investments are no longer worthwhile", and tax billions spent on defense are being thrown away, because they cannot meet the demands of a dramatically changing security environment. From now, "funds for security and defense can be used more efficiently". Defense Minister Ursula von der Leyen, on this occasion spoke about a great day for Europe: "We are establishing a European Union of Security and Defense [...]. No country can solve for us the problems that Europe has in its neighborhood in the area of security, we ourselves must do it as Europeans" (*Gemeinsam staerker 2018*).

On November 19, 2018, a meeting of EU defense and foreign ministers of the EU on the global security strategy of the European Union took place in Brussels. During the meeting, the EU Foreign Affairs Council decided to begin 17 new PESCO projects, thus their number increased to 34. Ministers also discussed the rules for third countries' participation in these projects. Ursula von Leyen said: "These are steps towards creating an army of Europeans" (*EU-Staaten... 2018*). Currently, the Federal Republic of Germany participates within PESCO in 12 programmes (see Table 2).

Table 2. PESCO projects with Germany's participation

Nr	Original name	Description
1.	European Union Training Mission Competence Centre (EU TMCC)	The EU TMCC is aimed to improve the accessibility, interoperability, specific skills and professionalism of the staff (trainers) for EU training missions in participating Member States.
2.	EUFOR Crisis Response Operation Core (EUFOR CROC)	The core of EUFOR CROC will improve EU crisis management capabilities by increasing the preparedness of EU forces and Member States to act and engage in operations and missions. It should gradually fill the gap between EU battle groups and serve the EU's global strategy.
3.	European Medium Altitude Long Endurance Remotely Piloted Aircraft Systems – MALE RPAS (Eurodrone)	The goal is to jointly use the system in dedicated areas (e.g. operational testing and evaluation, logistics, training, exercises) of the newly developed, functional, inexpensive and sovereign European military capability for the next generation of MALE RPAS.
4.	European Attack Helicopters TIGER Mark III	The goal of this project is to significantly improve the overall performance of the TIGER helicopter by improving its detection, attack and connectivity capabilities, which will lead to the development of a modernised, innovative European attack helicopter.

5.	European Secure Software defined Radio (ESSOR)	The ESSOR aims to develop common technologies for European military radio stations. Adopting these technologies as a standard will guarantee the interoperability of EU forces in joint operations, regardless of which radio platforms will be used, and strengthen European strategic autonomy. The project will create a secure military communication system.
6.	Strategic Command and Control (C2) System for CSDP Missions and Operations	The aim of the project is to improve the command and control systems for the EU missions and operations at the strategic level. It will streamline military decision-making, planning and carrying out of the missions, and coordinate EU forces. The strategic command and control system (C2) for CSDP missions will provide information systems and tools to support decision making. The integration of IT systems would include intelligence, command and control, and logistics systems.
7.	Electronic Warfare Capability and Interoperability Programme for Future Joint Intelligence, Surveillance and Reconnaissance (JISR) Cooperation	The goal of the project is to establish a joint working group on electronic warfare. This is to enable operation in an electromagnetic environment and support EU battle groups through unique electronic warfare capabilities.
8.	European Medical Command (EMC)	The EMC will provide the EU with sustainable medical capabilities to support field missions and operations. The project will contribute to progress in the interoperability and coherence of the healthcare potential in Europe (standardisation of concepts, training and certification).
9.	Network of logistic Hubs in Europe and support to Operations	The Network is aimed to improve strategic support. It is expected to improve logistics planning and movement, as well as to provide common standards and procedures that will significantly improve the ability of the EU and NATO to carry out even the most complicated missions.
10.	Military Mobility	The project supports the commitment of Member States to simplify and standardise cross-border military transport procedures. It aims to accelerate the movement of military forces across Europe and guarantee the free movement of military personnel and assets within the EU.
11.	Co-basing	The project aims to improve the exchange of bases and support points served by Member States both in Europe and abroad.
12.	Geo-meteorological and Oceanographic (GeoMETOC) Support Coordination Element (GMSCE)	The goal of this project is to improve geo-meteorological and oceanographic (GeoMETOC) support for missions and operations through coordinating data acquisition and joint purchase of hardware and software

Source: own study based on *Permanent Structured Cooperation (PESCO) updated list of PESCO projects – Overview – 19 November 2018.*

PESCO is an intergovernmental initiative of European Union countries. Germany has been actively involved in its cooperation, which may improve the EU's capacity for action. They also co-created a new type of structural cooperation concept, thanks to which it will be possible to achieve ambitious goals in a smaller group. From now, groups of Member States can connect and implement joint projects, saving costs and using their potential to each other.

e). The concept of the European intervention initiative

European Intervention Initiative (EI2) is a concept of the French vision of European strategic autonomy outside the EU framework. Its goal is to create a coalition responding to crises around the borders of the European Union without the participation of NATO or the United States. It is about the sense of responsibility of European countries for the southern neighborhood of Europe and the ability to independently conducting the mission outside its own territory. The initiative would be a forum for cooperation of interested states outside the EU structures, which, according to French President Emmanuel Macron, would make it possible to make decisions quickly and efficiently. On 25 June 2018, from the France's initiative, the Letter of Intent launching EII (EI2) was signed by 9 countries: Belgium, Denmark, Estonia, France, Spain, the Netherlands, Germany, Portugal and the United Kingdom.

The French proposal does not imply the creation of joint multinational European forces. The EI2 countries have committed to: regular political and military consultations to identify potential security crises in the EU's neighborhood (especially southern neighborhood); joint planning for the most likely crises; develop common doctrines and cooperation in the operations outside Europe. It is also intended not to duplicate NATO's military structures and undermine cooperation in the EU. The EI2 is a structure developed outside EU and NATO, but it can be compatible with them and, thus, can be used by both of them, if it is needed (Janoš 2018: p. 2).

France's proposal to create a European intervention force caused a wide discussion in some EU countries. There were questions arose: who would authorise the use of force, what role would the United Nations play, how would intervention forces be financed? (Dempsey 2018). At the beginning, Germany was also critical towards the EI2. There were several reasons for this. The details of the initiative remained unclear, and French information policy in this regard was unsatisfactory. The choice of formation outside the EU structures was also criticised. Although, the French analysis of the operational gaps was shared, they insisted on finding solutions in the EU institutions and in as many countries as possible. From the German point of view, building a parallel structure outside the EU always means weakening of the Union (Major, Mölling 2018a: p.4). This could undermine cooperation under the PESCO mechanism. Despite the existing fears, Germany decided to support the EI2. Chancellor Angela Merkel, during her interview with the *Frankfurter Allgemeine Zeitung* in early June 2018, said: "I support President Macron's proposal for the intervention initiative." However, she added: "such intervention forces with a common military-strategic culture must fit into the structure

of defense cooperation. European defense cooperation is very important" (*Europa muss...* 2018). The political costs of Germany's rejection of the European Intervention Initiative would be too high. The EI2 was not a simple French initiative, but a project personally supported by the President Macron, prepared at a high political level. The opposition of the government would not stop French plans, but only delay them. This would complicate bilateral relations. By participating in this initiative, Germany is gaining a greater impact on its development.

Transnational concept

German military concepts have evolved from military intergovernmental cooperation outside the EU institutional and legal system towards transnational concepts¹, located in the EU institutional and legal system, which proves not only a significant change of the priorities, but also the desire to deepen the integration process under CSDP through creation of transnational forms of military cooperation.

a). The concept of the European army

The vision of the European army as the final expression of the strategic autonomy of the European Union in security matters, despite the recently intensified cooperation in the field of security, remains a distant perspective. Nevertheless, the discussion about the degree of the strategic autonomy of the EU (to what extent the EU should develop, independent of individual Member States and international allies, its own security guarantees for its citizens) is increasing. This fact was noticeable in German public discussion.

At the first glance, the need for the EU strategic military autonomy seems to run in contradiction to the growing nationalism and promises of wider national autonomy observed in many Member States. Along with the increase in expenditure on modern weapon systems, social skepticism regarding military operations is also growing. As a result, the most of the EU members have recently reduced or even frozen military spendings. At the same time, however, national governments face complex security threats, ranging from the proliferation of weapons of mass destruction, cyber-attacks, piracy and energy security threats, and environmental protection, which for the most part of them are not limited to the specific countries or regions. In this context, cooperation at European level seems promising to many countries, as it would help reduce military spendings throughout the joint projects, and, at the same time, strengthen political and military power by joining forces from 27 Member States.

Already in March 2013, the chairman of the SPD fraction in the Bundestag Peer Steinbrück called the creation of the European army. During the organised by him symposium on the challenges of a common European security architecture, he said:

¹ by the transnational cooperation the author understands the form of exchange between participating entities (e.g. states, military units, regions), which takes place outside and above countries (over nations), using common institutions (in this case EU institutions with the appropriate competences).

“EU countries should, according to their capabilities, take over important tasks in the European army in accordance with the principle of joining and sharing” (Kühne 2013). This will make it possible to compensate for the shortages in the armies of the Member States. According to Steinbrück, a quarter of the German navy is missing, and specialists and directors lack 40% of staff. It is logical to think only about a joint EU army. The European army would be a remedy for the shortage of personnel and military equipment.

Discussion on this subject became more intensive after Russian annexation of Crimea. The President of the European Commission Jean-Claude Juncker in an interview for *Welt am Sonntag* called for the creation of a European army: “Such an army would help us shape the common foreign and security policy and jointly bear the responsibility of Europe in the world” (Balzli et al. 2015). Thanks to its own army, Europe will be able to reliably respond to the threat to peace in a Member State or countries neighboring the EU. According to Juncker, this may give the Russians the impression that “we are serious about defending the values of the European Union” (Balzli et al. 2015). In response to the harsh situation in Eastern Ukraine and Juncker’s interview, Chancellor Angela Merkel also supported (while quite cautiously) the creation of a European army. According to Christiane Wirtz, the government spokesperson, Merkel welcomed the votes in favor of its creation, saying that there should be “enhanced military cooperation in Europe”, but at the same time she stressed that this is a “project of the future” that cannot be included in a specific schedule (*Kanzlerin Merkel...* 2015). Of course, such an army would not be competition for NATO, but its complementation. The German Defense Minister Ursula von der Leyen also responded to the Juncker’s proposal that in the near future the EU needs a European army.

Until now, however, it has not been openly discussed on what level of strategic autonomy the EU should decide. The position of states could be reduced to the thesis that one should maintain their autonomy with some cooperation at European level. The initiated PESCO initiative may actually lead to wider strategic autonomy. The extent to which this potential will be implemented remains to be seen. Despite some caution, the announcement of work on the future European army can be found in the coalition agreement concluded at the beginning of 2018 between the CDU/CSU (germ. *Christlich Demokratische Union / Christlich-Soziale Union*) and the SPD (germ.: *Sozialdemokratische Partei Deutschlands*). The coalition members forming the new government said, that they wanted to act for defense. Planning processes in the EU should be coordinated in a more effective way and harmonised with NATO processes. The government has pledged to take steps to create an “army of Europeans” (*Ein neuer Aufbruch...* 2018: p.17, 146).

The discussion about the own European army took on a new dimension in autumn 2018. On 6 November 2018, French President Emmanuel Macron gave an interview to the radio station *Europe 1*. He again called for the creation of a European army. He pointed to the rising era of totalitarianism in Europe and nationalist movements that demand closed borders and frighten citizens. But Europeans should be aware of who

they are and how they live: "peace and prosperity, in which Europe lived for 70 years, is a golden breakthrough in our history." Macron took up the subject of the European armed forces: "We will not be able to protect Europeans unless we decide to have a real European army. In the face of Russia, which is at our borders and has shown that it can be dangerous (...), we must have a Europe that defends itself - not only depending on the United States, but also in a more sovereign way" (*Exclusif...* 2018). How would the European army look like? Specific solutions have not yet been presented, but according to the France, the first step towards a common European army would be the creation of intervention troops ready to act in the situations of a crisis, e.g. in Africa. This army would be based on a group of several countries. It was only at the next stage that a full-fledged European army would be created (*Strasbourg: Merkel za "prawdziwą" europejską armią* 2018). On November 11, 2018, during the 100th anniversary of the end of World War I, the French president has explicitly called for the creation of a European army. His initiative met with mixed feelings in Germany. Although defense cooperation is often declared by the German government, Defense Minister Ursula von der Leyen did not directly support the proposal of the French president. She proposed closer military cooperation within the EU, but not as part of a real European army. For Leyen, the army of Europeans (germ.: *eine Armee der Europäer*) is a more realistic goal, not the European army (germ.: *europäische Armee*). The minister said: "every armed forces have their own peculiarities, their identity, this is also important for their own image and action" (*Macron will...* 2018). She also advocated further deepening of existing forms. Soldiers work together, but are still subject to nation states, not the EU. In Leyen's view, responsibility for missions must remain national.

Chancellor Angela Merkel took a different position on this issue. She supported Emanuel Macron's proposal to create a European army. At the European Parliament in Strasbourg, she said: "Europe should work on the vision of creating a real European army" (*Rede von Bundeskanzlerin Merkel* 2018). She explained that a joint European army would show the world that there would never be a war between European countries. She emphasised, however, that such an army would be a supplement, not an alternative to NATO. The current connections should not be questioned, but cooperation within a joint army would be easier. Merkel added: "If we have more than 160 defense or weapon systems today, and the United States of America only 50 or 60, if we need separate administration, support and training for everything, then we are not an effective partner." In her opinion, Europe should also create a common policy on arms exports (*Rede...* 2018). It was about how to ensure the future for the European defense industry. France and Germany account for around 40 percent of the total defense industry in Europe (their combined sales value is USD 29,540 billion) (Fleurent et al. 2018: p.9–10). Germany sells weapons for over USD 8 billion a year (see Table 3). This is a huge potential, thanks to which Europe could gain strategic autonomy in the field of industry. Agreed Franco-German procurement projects can be a catalyst for European projects and the innovative and competitive defense industry in Europe (Major, Mölling 2018b).

Table 3. The largest German defense companies (data as of 2017)

Place in the world in terms of sales weapons	Company name	Arms sales (in USD million)	Total sales (in USD million)	Sales ratio utilities for total sale (in%)
25	Rheinmetall	3 420	6 644	51
53	ThyssenKrupp	1 920	46 704	4
56	Krauss-Maffei Wegmann	1 750	1 803	97
74	Hensoldt	1 160	1 217	95

Source: Fleurent et al. 2018: p. 9–10.

The government coalition does not agree how to refer to Macron's proposal. The Secretary General of the CDU, Annegret Kramp-Karrenbauer, who is the chairwoman of the party as the successor of Angela Merkel, has a different opinion than Minister von der Leyen. She called the European army "significant". Also SPD head Andrea Nahles supported Macron's proposal for the European army. According to her, this will allow for more efficient operation, as there are currently 28 armies, 27 air forces and 23 navies in the EU.

Faced with a lack of resolution and discrepancy between statements of Defense Minister and Chancellor Merkel, an expert on Bundestag's foreign policy from the CDU/CSU, Norbert Röttgen (CDU) claimed that the federal government would take a coordinated approach to defense policy. In an interview with the *Handelsblatt* newspaper, he said: "there is still no German idea on how to establish a common defense. Without a common military capability, a common European foreign policy will not be taken seriously" (Riedel 2018).

Already in 2011, the *Bundeswehr's* colonel Gerd F. Kaldrack presented four steps that could lead to the creation of the European army. The EU should bravely, with the help of experts and under the leadership of the European Commission, create innovative and creative forms of cooperation, up to the development of new European integration structures, despite common thinking in terms of national sovereignty. The first step is to develop a concept of European civilian-military forces. It is about creating a complementary system of civilian-military forces of the EU and Member States and defining their goals, tasks, means, powers, structures and procedures. Step two is jointly development of the concept of a European training network. The Europeanisation of education would have enormous advantages: economy and efficiency gains, while no nation state would lose sovereignty by cooperating at supranational-national level and focusing on education. Step three is the permanent structured cooperation and expansion of the EU battle groups – the cooperation of national commands, state institutions and troops, and the establishment of the first European civil-military forces. Combining the skills of European nations will open new perspectives for the EU. And finally, the fourth and final step: the creation of a European army in the form of integrated EU civil-military forces and developed state structures of the armed forces of the Member States, in accordance with the strategy for the implementation of the CSDP.

The establishment of fully integrated civilian-military security forces and armed forces at European level and forces in nation-states seems to be the best project. Such an army, as a potential intervention force at the European level, would have a whole spectrum of tools for action and at the same time would force the optimisation of the national forces functioning. This would allow us to preserve our combat capabilities at a global level. It also means stronger Europeanisation of national security and the defense industry. An integrated defense and armaments market would be an important signal not only for Europe but also for the US and NATO, that the European Union is serious about improving its defense technology and industrial base, as well as developing military capabilities and instruments and security (Kaldrack 2011: p. 60–61).

The implementation of the idea of creating a European army is in its initial phase. Angela Merkel's government is in favor of its creation, but there are no specific dates or proposals regarding the structure, tasks, and timetable for its creation. There is also no name for this possible military formation, there are several concepts: the Army of Europeans (germ.: *Armee der Europäer*), the European Army (germ.: *Europäische Armee*), the Common European Army (germ.: *Gemeinsame Europäische Armee*) or the European Union Army (germ.: *EU-Armee*).

Despite the fact that title has not yet been created, the Germany see the need for a supranational European army with a joint command, so they will have to convince the other Member States along with the French in this idea. Recognising that they are responsible for strengthening of solidarity and cohesion in the European Union, France and Germany must recognise that Member States differ in their level of ambition when it comes to the project of European integration, including military integration.

Conclusions

Specific conclusions follow from Germany's involvement in military integration within the European Union. The Federal Republic of Germany has set European responsibility for peace as its primary goal. The country wants to be an increasingly active actor and to adapt its internal resources to these aspirations. Germany can, therefore, become a "peace defender" and participate in interventions outside the country. The country creates or co-creates (the most often with France) the order of Europe, which is guaranteed by economic, political and military integration. Thanks to the EU, German foreign policy began to reach into Asia, the Americas and Africa. Events in the immediate vicinity of the European Union, such as the war in Syria, the unstable situation in northern Africa or the accession of Crimea by Russia and the conflict in eastern Ukraine, a change in the tone of foreign policy of the US President Donald Trump, push Germany to support stronger military integration of the European Union. There are two paths of the military concept development.

The first one is the evolution of this concept from intergovernmental military cooperation to transnational cooperation, and the second one is from cooperation outside the institutional and legal system to cooperation in the EU institutional and legal

system. The concepts co-created or co-implemented by Germany assume, however, that a strong and united Europe can fight off external threats if it develops its own military component. Conceptual asymmetry is clearly visible, and it is characterised by the fact, that intergovernmental concepts are easier to present and implement, do not require treaty sanctions, that is why there are more (military missions, PESCO, strengthened CSDP, E12) than transnational concepts, from which only one can be properly extracted, i.e. the concept of the European army. Of course, the German government does not diminish NATO's defensive significance, especially in the face of the uncertain international environment, underinvestment and the modest personal status of the *Bundeswehr*. A possible European army would mean that instead of American soldiers, EU soldiers would then ensure the sovereignty of the European Union (Schrock 2015). Many legal issues related to the operations of such army outside Germany should also be resolved. The debate on legal evaluation would be interesting. Certainly, the legal basis for the functioning of the future European army should be the treaties, it should be through changes in the Lisbon Treaty or the signing of another treaty, e.g. the European Defense Treaty. The Basic Law would also have to be amended. Steps towards the future European Defense Community have already been made, initiatives such as PESCO can bring the creation of the European army closer. The evolution of German concepts may also be influenced by the integral federalism, which this country adheres to, which it implemented after the Second World War into the political and administrative system, i.e. a system based on multilevelness and cooperation of authorities, which has proved itself, brings results, and, therefore, can also bring effects in multilevel military cooperation in the EU.

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EU LAW, INSTITUTIONS AND POLICIES

The European citizens' initiative. Over one million support, and what next?

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Abstract

The subject of the analysis in this article are European citizens' initiatives, which during 12 months gained the support of over 1 million of the EU citizens from at least seven Member States. The aim of the article is to examine, what actions have been taken in these matters by the European Commission. The following research questions were posed: (1) What was the effect of the Commission's call to submit, under its power, proposals, for which, in the opinion of the citizens supporting the initiative, the application of the Treaties requires a legal act of the Union? (2) What actions has the Commission taken and what is their justification? The analysis demonstrates that these initiatives have been taken into account by the Commission to a very small extent in the procedures for establishing legislative acts of the European Union. Therefore, it is reasonable to amend the Regulation on the European Citizens' Initiative.

Keywords: European Citizens' Initiative, follow-up activities, communication of the European Commission

Europejska inicjatywa obywatelska. Ponad milionowe poparcie i co dalej?

Streszczenie

Przedmiotem analizy w artykule są europejskie inicjatywy obywatelskie, które w czasie 12 miesięcy zyskały poparcie ponad 1 mln obywateli UE pochodzących przynajmniej z 7 państw członkowskich. Celem artykułu jest zbadanie, jakie działania zostały podjęte w tych sprawach przez Komisję Europejską. Postawiono następujące pytania badawcze: (1) Jaki był skutek wezwania Komisji do przedłożenia, w ramach jej uprawnień, wniosków w odniesieniu do których, zdaniem obywateli popierających inicjatywę, stosowanie Traktatów wymaga aktu prawnego Unii? (2) Jakie działania zostały podjęte przez Komisję i jakie jest ich uzasadnienie? Z analizy wynika, że przedmiotowe inicjatywy w bardzo małym stopniu zostały uwzględnione przez Komisję w procedurach stanowienia aktów ustawodawczych Unii Europejskiej. Zasadne jest dokonanie zmian w rozporządzeniu dot. Europejskiej inicjatywy obywatelskiej.

Słowa kluczowe: Europejska inicjatywa obywatelska, działania następcze, komunikat Komisji Europejskiej

The European Citizens' Initiative (ECI) is an important tool for direct and participating legitimacy held by European Union (EU) citizens (Błaszczuk-Zawiła 2012: p.11; Marczevska-Rytko 2013: p. 397–406; Musiat-Karg 2014: p. 81–89; Rytel-Warzocho 2010: p. 425; Witkowska 2013: p. 43). It was considered as an important new measure, being an expression of the enhanced democratic legitimacy of the European Union (Barcz 2011: p.16). The European Citizens' Initiative was introduced as a result of the changes implemented by the Lisbon Treaty (see: TEU, Article 11 (4)). The article on ECI assumes that EU citizens can submit initiatives to the European Commission (EC), and during 12 months they must gain the support of over one million EU citizens from at least seven Member States. The detailed procedures and conditions required to submit a citizens' initiative have been defined, in accordance with Article 24 TFEU, by Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative.

The introduction of the ECI instrument in the European public space caused a lot of commotion. EU citizens have submitted many proposals regarding the various spheres of EU activity. It is significant that these initiatives included not only matters related to the rights of individuals. Some of them concerned matters of fundamental importance for the EU, such as the transatlantic partnership or the Energy and Climate Package. In practice so far, four initiatives have gain over a million citizens' support and have passed the entire procedure provided in Regulation 211/2011. On the Commission's website, they fall into the category of the „successful initiatives” (see: European Citizens' Initiative WWWb). Only these initiatives will be the subject of the analysis in this article.¹

The aim of the article is to examine the fate of the European Citizens' Initiative after gaining at least a million citizens' support and to show the impact of this tool on legislative acts of the European Union. The following research questions were posed: (1) What was the effect of the Commission's call to submit, under its powers, proposals, for which, in the opinion of citizens supporting the initiative, the application of the Treaties requires a legal act of the Union? (2) What actions has the Commission taken and what is their justification? The method of legal analysis, the formal-dogmatic method, the descriptive method and the statistical method were used to explain the research problems.

The organisers of the European Citizens' Initiative, after gaining the required support and after obtaining the certificates provided in the Article 8 par.2 of Regulation 211/2011, may submit a citizens' initiative to the Commission (Regulation 211/2011: art. 9). The Commission is obliged to immediately publish the initiative in the register (European Citizens' Initiative WWWa). In addition, it will accept organisers so that they can clarify the issues raised by the initiative (Regulation 211/2011: art.10 par.1). The Commission has three months to issue a communication containing conclusions on this initiative and information on the actions it intends to take, including the reasons (Regulation 211/2011: art. 10 par.2).

¹ The analysis of the initiatives, which were refused for registration, withdrawn, and those with insufficient support, was published in the "Przegląd Europejski" no. 2/2018 (see: Zdanowicz 2018).

Initiative "Water and sanitation are a human right! Water is a public good, not a commodity!"

The first of the analysed initiatives, "Water and sanitation are a human right! Water is a public good, not a commodity!" (Right2Water), was registered on May 10, 2012. The initiators asked the European Commission to recognise the human right to drinking water and sanitation, and to ensure access to water and sanitation as basic public services for all. To implement the main goal notified to ECI, the EU institutions and Member States will take actions:

- ensuring access to water and sanitation for citizens;
- ensuring that water supply and water management are not subject of internal market rules, and that water services are excluded from marketisation;
- to achieve universal access to water and sanitation (see: European Citizens' Initiative WWWWc).

Members of the citizens' committee registered by the Commission were residents of France, Belgium, Germany, Sweden, Bulgaria, Italy and the United Kingdom. The organisers received significant financial support from the European Federation of Public Service Unions (EPSU) in the amount of 140 thousands euro. The initiative was supported by 1,659,543 signatories; it was officially submitted to the Commission by the organisers on December 20, 2013. Over one million statements of support were collected in Germany alone, over 50,000 – in Austria and Italy. The Commission accepted the organisers on 17 February 2014, and on the same day they had the opportunity to present the initiative at a public hearing organised in the European Parliament. On 19 March 2014, the European Commission issued the *Communication COM(2014) 177 final* outlining the actions it intends to take in response to the first successful European citizens' initiative.

In this *Communication*, the Commission emphasises that the EU supports securing access to drinking water and sanitation through two types of action: firstly, by introducing high water quality standards and, secondly, by providing financial support for improving water infrastructure. The Commission explains that matters regarding water services are within the competence of the Member States. In addition, the EU is involved in activities to ensure access to safe drinking water and sanitation at a global level (see: European Commission 2014a: p. 3–6). Moreover, the EC committed to take the following actions:

- more effective implementation of the EU water quality legislation, based on the commitments presented in the *7th Environment Action Programme* and the *Water Resources Conservation Plan*;
- the EU-wide public consultations on the Drinking Water Directive, in particular with a view to improving access to good quality water in the EU;
- increasing transparency in the data management on urban wastewater and drinking water, and to consider the concept of comparing water quality with appropriate levels;
- lead to a more structured dialogue between stakeholders on transparency in the water sector;
- cooperation with existing initiatives to provide a wider set of benchmarks for water services;

- promoting innovative approaches to development assistance (e.g. supporting partnerships between operators in the water services sector and public-public partnerships), promoting the exchange of best practices between Member States (e.g. on solidarity instruments) and identifying new opportunities for cooperation;

- promoting universal access to safe drinking water and sanitation as a priority area for sustainable development (see: European Commission 2014a: p. 7–13).

In 2015, the European Parliament was critical towards the Commission statement arguing that it did not answer the specific questions set out in the citizens' initiative and did not provide all the measures that could have been used to achieve the initiative's objectives. In addition, the European Parliament (EP) called on the Commission to recognise the human right to water and the importance of water as a public good of fundamental value for all EU citizens, not as a commodity (see: European Parliament 2015: p. 6, 18).

A tangible effect of the follow-up action undertaken by the Commission was the adoption of the amendment to the Drinking Water Directive aimed at better monitoring of drinking water throughout the EU (see: Commission Directive 2015/1787). The amendment changed Annexes II and III, which set minimum requirements for monitoring programs for all water supplies intended for human consumption and the specifications of the method for analysing different parameters. The next step, following a public consultation, was the adoption by the Commission on February 1, 2018 of a proposal to amend the Drinking Water Directive. It provides, among others, that states will be obliged to improve access to drinking water for all citizens, especially vulnerable and marginalised groups. The Commission proposed to add Art. 13 „Access to water intended for human consumption”. Two obligations are resulted from it: the first – regarding improvement of access to drinking water and promoting it through various measures; and the second – regarding the implementation of all necessary measures to ensure access to drinking water for vulnerable and marginalised groups (see: European Commission 2018).

From the point of view of the primary goal of the initiative, a key event took place in Gothenburg, where at the *Social Summit for fair jobs and growth* the document entitled *European Pillar of Social Rights* was signed jointly on November 17, 2017 by the European Parliament, the Council and the European Commission. It contains 20 basic principles, the last of which – access to necessary services – provides the statement: “Everyone has the right to access essential services of good quality, including water, sanitation, energy, transport, financial services and digital communications. Support for access to such services shall be available for those in need.” (see: *European Pillar...* 2017: p. 22).

Agnieszka Gajda argues what kind of human right the right to water should be. The author refers to Resolution 64/292 of the UN General Assembly, art. 25 par.1 of the *Universal Declaration of Human Rights*, art. 12 of the *Covenant on Economic, Social and Cultural Rights*, art. 14 par.2 h) of the *Convention on the Elimination of All Forms of Discrimination against Women*, and art. 24 par. 2 c) of the *Convention on the Rights of the Child*, states that the right to water as a human right is not treated as an independent right, but is derived from other rights (Gajda 2017: p. 217–218).

A citizens' initiative may in the future contribute to change in this matter, but so far the Commission has focused in its activities on aspects of improving the quality of drinking water. The *European Pillar of Social Rights* (2017) does not explicitly mention the right to water, but only the right to access good quality services, including water. This document is not legally binding on states. Therefore, the recognition of the right to water as a human right and the recognition that water services are not subject to the rules of the internal market remains only the postulate of the citizens' initiative "Right2Water", that has not yet been implemented.

The first citizens' initiative is also a test of preparing the Commission and other institutions to listen to the voice of citizens. Neglecting or disregarding the demands made under the new democratic mechanism can lead to a loss of credibility in the eyes of citizens. Initially, the follow-up actions undertaken by the Commission seemed to underestimate and disregard the demands made. However, the Commission Resolution and public debates clearly demonstrated for the Commission the expectations of such a large number of citizens. Legislative measures ultimately adopted by the Commission give hope for achieving the objectives of the initiative and for exploiting the potential of citizens' participatory democracy.

Initiative „One of us“

The second initiative called "One of us" was registered on May 12, 2012. Its subject was the legal protection of dignity, right to life and integrity of the human being from the moment of impregnation. The applicants demanded consistency of the EU competence in matters related to human embryos and to prohibition of funding for any activity (including research) that involves destruction of human embryos (see: European Citizen's Initiative WWWd).

Members of the civil committee registered by the Commission were residents of the following countries: France, Italy, the United Kingdom, Hungary, Poland, Spain and Germany. The initiative received financial support in the amount of 159,219 euro. The initiative was supported by 1,721,626 signatories; it was officially presented to the Commission by the organisers on February 27, 2014. The largest number of declarations of support were collected in Italy, Poland and Spain. The Commission accepted the organisers on April 9, 2014, and on April 10 they had the opportunity to present the initiatives at the public hearing organised in the European Parliament. On 28 May 2014, the European Commission issued *Communication COM(2014) 355 final* outlining the measures, which it intends to undertake in response to this European citizens' initiative. In response to the initiative "One of us", the Commission established the following:

1) the primary law of the European Union directly refers to the protection of the dignity, the right to life and the integrity of every human being. The Commission does not see the possibility of amending the financial regulation, which assumes that all EU expenditure should comply with primary law;

2) in the field of research on human embryonic stem cells, the principles of the "Horizon 2020" Programme do not provide the possibility of financing by the EU funds the destruc-

tion of blastocysts for research purposes and ensure full compliance with the national law regarding research on human embryonic stem cells (see: European Commission 2014b).

The Commission decided not to submit any legislative proposal on this matter. Applicants dissatisfied with the reply of the Commission lodged a complaint to the EU Court of Justice, including annulment of the Commission statement, indicating that: firstly, the Commission did not respond to the fact that the human embryo is a human being; secondly, it violated democratic procedures; and thirdly, the objection of non-compliance of the Regulation 211/2011 with the Treaties was raised. The applicants even accused the Commission of maintaining a monopoly on legislative procedures contrary to the provisions of the Treaties on inter-institutional dialogue (see: *Sprawa T651/14*).

It is worth adding, that art.10 of the Regulation 211/2011 does not impose on the Commission an obligation (similar to that contained in the Art. 4 paragraph 3) to inform the organisers of all possible judicial and extrajudicial legal measures. A. Doliwa-Klepacka emphasises, that Commission's freedom in deciding whether to submit a legislative proposal, significantly weakens the real importance of the European citizens' initiative and makes it dependent on the political will of the Commission (Doliwa-Klepacka 2014: p. 352). The Commission represents the interests of the Union, not the citizens, which may weaken the initiative at the stage of examining its legitimacy by the Commission (Łachacz 2013: p. 213).

The Commission has too much decision-making power, therefore the citizens' initiative cannot become a real, effective tool in the EU decision-making process. Under the current legal framework, it should be assessed as an instrument with selective and limited impact on the EU policies, inspiring dialogue with civil society (Balthasar 2012: p. 33-43; Beier 2011: p. 44, Struelens 2011: p. 81; Zeegers 2016: p. 34). There may be a situation, where the organisers will already undergo a complex procedure of collecting statements of support, but the Commission will not be interested in taking any legislative actions and will not take them. In this case A. Capik and A. Gniewek count on the pressure of the engaged public opinion and media support (Capik, Gniewek 2012: p. 106). However, as current practice indicates, it cannot be considered as effective and successful interventions.

The Commission has too much power to decide about the follow-up activities concerning the initiatives that have obtained the required number of statements of support. The initiative's weakness is that it does not impose an obligation on institutions to act (Kosińska 2014: p. 23). The doctrine indicates that it would be more appropriate to submit the proposal to a mandatory debate, e.g. in the European Parliament. It would give people the feeling that they are not ignored and their signatures have not been wasted (Grabowska 2015: p. 91). It should also be considered, whether, following the example of the national citizens' initiatives, the gathering the required support should not result in the automatic initiation of a procedure, i.e. the commitment of the Commission to come forward with a draft act. M. Pisz postulates to impose on the European Commission the obligation to take the initiative of a new normative act, if the required number of the statements of support was collected (Pisz 2014: p. 36). Unfortunately, in the Commission's Proposal 2017/0220(COD) to amend the Regulation 211/2011, the Commission's power to decide on the fate of the initiative remain unchanged (see: European Commission 2017b).

The example of the "One of us" initiative demonstrates how far the approach of citizens differs from the position of the Commission, which decided not to take any legislative action on this matter. It is true, that art.10 par.1 c) of Regulation No 211/2011 provides that the Commission's Communication may contain information and justification for not taking action. However, leaving the initiative, which gain over 1 million 700 thousands of voices of support, without further public debate and the rejection of its objectives, can be understood as a manifestation of the Commission ignoring the votes obtained in this democratic mechanism and may result in further loss of credibility of the EU institutions in the eyes of citizens. This case gives arguments to raise doubts about the legitimacy of the solution adopted in the Regulation, that the Commission can solely decide about the follow-up actions concerning the initiative.

Initiative "Stop vivisection"

"Stop vivisection" is the third European citizens' initiative, presented to the European Commission on March 3, 2015. Its subject is the ban on animal experiments (see: European Citizens' Initiative WWWe). Members of the citizens' committee registered by the Commission were residents of Belgium, France, Spain, the Netherlands, Sweden, Italy and the United Kingdom (European Commission 2015: Annex). The initiative received financial support (much smaller than the previous one) in the amount of 23,651 euro from 16 entities, 1,173,130 signatories supported the initiative. The largest number of statements of support were collected in Italy, Germany and France.

The Commission accepted the organisers on May 11, 2015 and on the same day they had the opportunity to present the initiative at a public hearing organised in the European Parliament. On June 3, 2015, the European Commission issued the *Communication C(2015) 3773 final* outlining the actions it intends to take in response to the presented European citizens' initiative. The Commission emphasised that it recognised the importance of the problem. At the same time, it indicates that currently animal experiments play an important role in protecting human and animal health and in keeping the environment intact. The final aim of the Commission's actions is to introduce a total ban on animal experiments, but at this stage, a necessary EU legal act protected these animals is Directive 2010/63/EU. It imposes an obligation on states to implement the 3Rs principles: the replacement, refinement and reduction in research using animals. The Commission underlines that Member States and the scientific community are making efforts to achieve these goals. The Directive, therefore, provides for the development of alternative methods, which is in line with the demands expressed in the initiative. Therefore, the Commission does not intend to submit a proposal to repeal Directive 2010/63/EU and is not intending to propose the adoption of a new legislative framework (see: European Commission 2015).

In its *Communication C(2015) 3773 final*, the Commission assumed that in order to accelerate the introduction of methods that did not require the use of animals in research and testing, it would take the following actions:

- will accelerate the implementation of the Three Rs principle (the replacement, refinement and reduction of using animals in research, and improving the conditions for raising and keeping animals) by exchanging knowledge;
- will support the development and implementation of the new alternative methods;
- will enforce the Three Rs principle and adapt relevant sector legislation to this issue;
- will undertake a dialogue with the scientific community (see: European Commission 2015).

As a follow-up actions, the Commission organised in Brussels on 6–7 December 2016 the scientific conference *Non-Animal Approaches – The Way Forward*, during which there was debated the question: how to use the latest achievements in biomedical research for the development of new methods in experiments not requiring the use of animals, by creating alternative methods of animal testing. The organisers of the "Stop vivisection" initiative, dissatisfied with the actions taken by the Commission in this matter, lodged a complaint to the European Ombudsman. They alleged that the Commission did not give a comprehensive response to the initiative, in particular it did not refer to all 10 proposals presented in the document "Stop vivisection", which, according to the applicants, is contrary to the purpose of the regulation on the European Citizens' Initiative. Moreover, the applicants pointed out that the Commission's position was inconsistent: on the one hand it agreed with the objectives of the initiative, but on the other – did not propose amendments to Directive 2010/63/EU.

The Ombudsman, after the implementation of the clarified procedure, claimed that the Commission had clearly and specifically justified its position with regard to the demands contained in the initiative. In addition, the Ombudsman indicated that the Commission had taken a number of follow-up actions. In this regard, it stated that the Commission did not breach the principle of good administration (see: European Ombudsman 2017).

The initiative "Stop Vivisection" is another example, where citizens are dissatisfied by the actions taken by the Commission. Regulation 211/2011 does not provide a special procedure for changing the Commission's statement. In case of the initiative "One of us", a complaint was sent to the Court of Justice of the EU, but in the case of the initiative "Stop vivisection" – a complaint was sent to the European Ombudsman. The complaint to the Ombudsman seems to be ineffective in these proceedings, because it can only relate to an allegation of violation of the principles of good administration. The problem of the dispute is due to the different approach of the Commission and the citizens to the need to take legislative actions on a specific topic.

Initiative "Ban glyphosate and protect people and the environment from toxic pesticides"

"Ban glyphosate and protect people and the environment from toxic pesticides" is the latest European citizens' initiative, presented on 6 October 2017 for the European Commission. Its purpose was to ban glyphosate and limit the use of pesticides across the EU. The initiative received financial support in the amount of EUR 328 399 from 15 entities,

1,070,865 signatories supported the initiative. The largest number of statements of support was collected in Germany, Spain and Italy (see: European Citizens' Initiative WWf).

The Commission accepted the organisers on October 23, 2017, and on November 20 they had the opportunity to present the initiative at a public hearing organised in the European Parliament. On December 12, 2017, the European Commission issued the *Communication C(2017) 8414 final* outlining the actions it intends to take in response to the presented citizens' initiative. In this document the Commission emphasised that:

- firstly, as regards the purpose of "banning glyphosate-based herbicides", there are neither scientific nor legal grounds that would justify the ban on glyphosate, so the Commission will not submit a legislative proposal;
- secondly, the Commission has committed itself to present a legislative proposal by May 2018 on its request to include only studies commissioned by the competent public authorities and not by the pesticides sector;
- thirdly, the Commission will focus on the implementation of the Directive on the sustainable use of pesticides. (see: European Commission 2017a).

The Commission announced an amendment to the Regulation (EC) 178/2002, laying down general principles of food law.

Conclusions

The European Citizens' Initiative is an example of the direct and participating legislation of the European Union citizens. The citizens become entitled to call on the Commission to submit, within its powers, an appropriate proposal on matters, for which, in the opinion of the citizens, the application of the Treaties requires a legal act of the Union. However, according to the Regulation 211/2011, the Commission is not obliged to automatically start working on the preparation of a legislative proposal. This also applies if the subject of the citizens' initiative is within the competence of the Commission. The Commission has the right for assessment, whether the subject of a citizens' initiative deserves further actions or not.

The initiative "One of us" is an example of an extremely diverse approach to the legal protection of the dignity, right to life and integrity of a human being from impregnation. The Commission announced that it did not intend to take any legislative action in this area. The initiative "Stop vivisection" demonstrated, that citizens expect a total ban on animal experimentation, while the Commission intends to focus on replacing and reducing the use of animals in procedures and improving the conditions for raising and keeping the animals. Failure to take into account citizens' initiatives and expectations was met with opposition. In these two cases, the initiators expressed their dissatisfaction in their complaints to the European Ombudsman and to the Court of Justice of the EU.

The analysis indicates that in practice, the European Citizens' Initiative so far has a negligible impact on the adoption of new legal acts of the European Union. This is due to the Commission's right for free assessment of the follow-up actions concerning the initiatives. The Commission's prerogatives in this field are too broad. It is reasonable to consider amending the regulation in this field and imposing on the European Com-

mission the obligation to come forward with a legislative initiative. Then the Council and the Parliament (or advisory bodies) will decide whether to accept or reject the proposal contained in the initiative. In the analysed context, it seems reasonable to doubt whether the inclusion of the discussed initiatives in the category of "successful initiatives" means an illusory success. Therefore, there are fears, whether the discretionary power of the Commission and its current practice is going to stop the awaken civic movement.

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Legislative changes regarding unmanned flights as an opportunity for professional empowerment of persons with disabilities

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Abstract

The turn of the 20th and 21st century was the time of flourishing of many modern technologies, among which was the popularisation of unmanned aviation in civil applications. This article aims to presentation of the genesis of this technology and the opportunities, which it offers in the context of people with disabilities. This paper is a synthesis of academic literature of the research subject, legal regulations on international and national levels, as well as the author's own reflections on the ways, in which drones can be used for the needs of people with disabilities in the context of contemporary law and its possible changes.

Keywords: unmanned aviation, drones, disability, labour market, professional empowerment

Zmiany legislacyjne dotyczące lotów bezzałogowych jako szansa na aktywizację zawodową osób z niepełnosprawnością

Streszczenie

Przełom XX i XXI wieku to czas rozkwitu wielu nowoczesnych technologii, wśród których wskazać można m.in. na upowszechnienie się lotnictwa bezzałogowego w zastosowaniach cywilnych. Niniejszy artykuł ma na celu przedstawienie genezy tej technologii oraz możliwości, jakie ona oferuje w kontekście osób z niepełnosprawnością. Praca jest syntezą literatury przedmiotu, przepisów prawnych na poziomie międzynarodowym oraz krajowym, a także własnych rozważań autora na temat sposobów, w jaki drony mogą być wykorzystane dla potrzeb osób z niepełnosprawnością w kontekście obowiązującego prawa i jego ewentualnych zmian.

Słowa kluczowe: lotnictwo bezzałogowe, drony, niepełnosprawność, rynek pracy, aktywizacja zawodowa

The turn of the 20th and 21st centuries was the time of flourishing of many modern technologies, among which was the popularisation of unmanned aviation in civil applications. The aim of this article is to present the genesis of this technology and the opportunities, which it offers in the context of people with disabilities. Particularly important seems to be the issue of professional empowerment of this social group – this is an important social problem, for which there are no unequivocal solutions. The hypothesis of this research is that unmanned aviation may be a new, hitherto unnoticed opportunity for people with disabilities on the labour market. The research methods are: analysis and synthesis of the scholar literature, legal regulations on international and national levels, as well as the analysis of the ways, in which drones can be used for the needs of people with disabilities in the context of contemporary law and its possible changes.

1. The technology of unmanned flights

1.1. The history of unmanned aviation

The concept of "drone" has entered into the language and is widely understood. However, it is worth considering, how unmanned flights were understood until recently. Already in ancient times people created objects that floated in the air without a crew. The Chinese people used lanterns and balloons in their rituals, as well as used them in a way of transmitting signals at a distance. The first attempt to use unmanned objects in a controlled manner took place in 1849 during the Austrian attack on Venice (see: Prisacariu 2017). Balloons with bombs were released from the ships towards the nearby city. The time of explosion was controlled, but the wind caused the balloons didn't hit the target in the most cases. However, the military potential of technology was noticed. In 1917, the first flight of the automatic Hewitt-Sperry aircraft took place, detonating the bomb at a given distance from the start (see: Prisacariu 2017). It was one of the controlled ways, that the US planned to use for fighting against German submarines.

Before the World War II, unmanned aerial vehicle technology was developed by the military, especially in the field of possible types of autopilots. In 1939, the Radioplane OQ-2 was flown - the first unmanned aerial vehicle that entered mass production (Whitmore 2016: p. 16). Since then, this technology has developed in the US, Europe and the Soviet Union as exercise aircraft, reconnaissance aircraft, and also explosive aircraft.

Only since 2010 year drones began to become more popular and also more available for civilian applications. In 2013, the Chinese company DJI produced its first drone, the Phantom model, which quickly gained great recognition. Currently, this company controls over 85% of the global drone market (see: French 2017), and only in the United States 2 million of such civilian devices are registered. For now, annual sales increase of 40-50% is observed (Gartner 2017), and legislative processes are not keeping pace with such a fast-growing market, which only ten years ago was very niche in the area of civil applications. Initially, the issue was disregarded and the rules applicable to passenger flights were applied. Once work began to regulate this area, draft legal regulations were prepared that were adequate to the current level of technology development and the

nature of its use. Consequently, if the technology is at an early stage of development and changes occur quickly, then the proposed provisions become outdated even before they enter into force.

1.2. The terminology and law concerning drones

The most important international organisation dealing with civil aviation is the International Civil Aviation Organisation (hereinafter ICAO). It has been operating since April 4, 1947 as a specialised organisation of the United Nations under the *Convention on International Civil Aviation* of 1944, also known as the *Chicago Convention* (see: ICAO 1944). An aircraft is defined in this convention as "any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface" (ICAO 1944: Annex *Definitions*).

Aircrafts can be manned and unmanned. Unmanned aircrafts have many similar terms, that is why it is necessary to systematise the terminology used for further analysis. This will allow to determine, whether specific aviation regulations can be applied in a given case.

NATO's dictionary defines the *Unmanned Aerial Vehicles* (UAV) as "a powered, aerial vehicle that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, can fly autonomously or be piloted remotely, can be expendable or recoverable, and can carry a lethal or non-lethal payload." (NATO AAP-6 2011: p. 386).

The concept of UAVs can be extended to the *Unmanned Aerial System* (UAS). The replacement of the term "vehicle" with "system" stresses the fact, that in the case of unmanned vehicles, ground control (e.g., an operator) constitutes an important component of their functioning. According to NATO, an UAS is a "system whose components include the unmanned aircraft, the supporting network and all equipment and personnel necessary to control the unmanned aircraft" (NATO AAP-6 2011: p. 413).

Since year 2013 the notion UAV no longer appears in the NATO dictionary, because it has been replaced by UAS, which is currently the most common term in this field (NATO AAP-6 2013: p. 4–9). The unmanned aerial system includes a control station that allows the operator to control the flight of the drone. To make it possible, there must be constant communication between the control station and the aircraft (e.g. by satellite or radio). The last element of the system is the aircraft, which receives communication from the control station and can also send its own data stream, e.g. a camera view or sensor data. The system is supplemented by an operator, who controls the flight of the unmanned aircraft.

The word "unmanned" means that there is no crew on board of the machine. As already mentioned, however, for the UAS functioning, often personnel is needed, who control the aircraft. They are not on board, but they steer the machine in the same way as pilots of manned aircraft do. Should not such personnel also be called "crew" then? These nuances are important, when we are interpreting legal regulations. It affects the health requirements that a person must meet. For example, a person in a wheelchair may have a lot of troubles, while piloting a passenger plane (due to narrow space, stairs and

overloads), but these problems may not exist in the case of the drone's remote control personnel – even though the regulations currently treat these two groups (disabled and non-disabled people) equally. The existing law is adapted to manned aircrafts, hence definition issues may be crucial for identifying the area, where changes are needed or for completely new regulations, so that people with disabilities can be included in the aviation environment.

In 2011 ICAO introduced in its Circular 328 the concept of a *Remotely Piloted Aircraft* (RPA), which constitutes an element of the *Remotely Piloted Aircraft System* (RPAS) (see: ICAO 2011, Cir. 328). Thus, RPAS is a system that comprises RPA and a *Remotely Piloted Station* (RPS).

The terms UAV and RPA, as well as UAS and RPAS, are often used interchangeably. However, the most often used term is "drone", to define all unmanned aerial vehicles¹. The drone can be understood as a synonym of the UAV (Australian Certified UAV Operators Inc. 2016).

In the context of drones, the terms "autonomous" and "automatic" often do not mean exactly the same. An automatic system is defined by T.Zieliński as one that "in response to input data from one or more devices, is programmed to perform specific tasks for achieving the intended results. Knowledge of previously defined and entered data allows prediction of specific results. In turn, the autonomous system is able to predict the changes of the circumstances and modify its behavior in a way that allows achieving previously assumed goals. Therefore, it is able to alternate, and make alternative decisions without human interference and control, despite the fact that it is available" (Zieliński 2014: p.35). From the above definition follows that the autonomous system is a kind of development of the concept of an automatic system that has been enriched with elements of artificial intelligence.

Modern drones are now able to fly off and land automatically, as well as the follow a marked route. After equipping them with sensors (gyroscopes, cameras, infrared sensors), these machines are able to perform predefined sets of commands, e.g. move between obstacles or photograph objects and people, who meet the given requirements. Little is missing for the drone to develop its own patterns of operation, based on previous "experience" acquired through interaction with the environment. It should be noted, that in the era of the "Internet of Things" it is simple to connect many aircrafts into one network with a shared server. Thus, the learning process does not take place in the context of one device, but behavioral patterns can be immediately transferred to other drones in the same network. It is currently used e.g. for monitoring pipelines and other large industrial installations. Connecting drones into a common network not only allows them to be managed effectively, but also offers the opportunity to optimise flight routes for more effective tasks (Knight 2017).

The regulations of the Chicago Convention and secondary EU law (until the entry into force of Regulation 2018/1139 in September 2018), in principle, did not allow the use of autonomous systems. The term RPA (remote piloted aircraft) used in these regulations

¹ "drone – a land, sea, or air vehicle that is remotely or automatically controlled. See also: remotely piloted vehicle; unmanned aerial vehicle" (Joint Publication 2001: p. 171)

clearly indicates, that there must be a person, who manages the device manually by the means of communication. Pursuant to this limitation, RPA does not set the direction of its flight itself, (which could raise problems e.g. when indicating the entity responsible for a given event in air traffic). It is worth noting, that this position is not uniform at all. In order to be consistent with the existing regulations created in the context of manned flights, it is necessary to introduce new terms, such as *"remote pilot"*.

Keeping this in mind, some of the current regulations do not fit the specificity of unmanned flights. These are primarily requirements related to the presence of personnel on board, as well as, for example, requirements related to physical condition, which have a completely different meaning in the case of manned flights than unmanned flights. The consequence is the assumption that drones will not carry out passenger flights anytime soon (ICAO 2011, Cir. 328: p.4), this would primarily involve the need to adapt unmanned safety regulations and mandatory equipment. In this example, however, you can realise, how difficult it is to develop legal regulations in a field, which is developing so dynamically. The Chinese company Ehang presented in 2016 a model of the passenger drone, which is controlled fully autonomously (the passenger only gives the destination location) (Gruber 2016). Currently the introduction of such drones for use in Dubai is under preparation. Airbus and Uber are also developing their solutions in this field (Belton 2017).

In 2020, Uber's passenger drone testing is expected to begin in Melbourne, Australia (Business Day 2019). As a part of this preparation, the first law in the world to allow unmanned autonomous passenger flights is also being developed (Langton 2017). This trend can be seen as an opportunity, e.g. for people with limited mobility. This fact clearly demonstrates that the inadequate adaptation of current legislation to reality affects the development of more adequate regulations by individual countries. Over time, this will lead to widening differences, including fragmentation of the EU internal market (European Commission 2017), and, therefore, maintaining the coherence of these legal systems will be an increasingly difficult task. If technological progress is faster than legislative processes, then even such coherent regulations may require further adaptation already at the time of entry into force. Therefore, the more important is the coordination of lawmaking between various entities (states and international organisations) and the efficiency of its adoption. This problem has been noticed, and such adaptation of the law to changing technology occurs, although it is a long-term process. The American FAA agency regulating federal airspace, has allowed semi-autonomous systems since 2016, i.e. such systems, where the pilot has the ability to take over manual control of the aircraft at any time, but does not have to do it all the time (Connot 2016). In the Regulation 2018/1139 of the European Parliament and of the Council from July 2018, unmanned aircraft is defined as "any aircraft operating or designed to operate autonomously or to be piloted remotely without a pilot on board" (Regulation 2018/1139: art.3, par. 30).

Such adaptation is desirable, but at the same time it leads to the situation, in which the subject scope of the regulations in a given legal system depends on how long ago the amendment was carried out. Since legislative processes are not synchronised with each other, this type of difference is inevitable.

2. Law on unmanned flights

2.1. Application of the Chicago Convention to unmanned vehicles

The Chicago Convention of 1944 is "the basic treaty law system regulating multi-lateral public law issues of international air navigation" (ICAO 1944; Żylicz 2011: p.46), 191 countries are its parties, including all European countries. On the basis of the Convention, the International Civil Aviation Organisation (ICAO) was established as a specialised agency of the United Nations. The regulations of the Convention apply exclusively to civilian vessels, i.e. not used by the public service (army, police and customs services) (see: ICAO 1944: art. 3, point b). All subsequent regulations should take into account the provisions of the Convention. From this perspective, the Convention can be regarded as a "primary law". The most important provisions of the Convention in the context of drones are presented below, as they affect the shape of other legal systems, including the European Union.

An integral element of UAS is the communication system between the aircraft and the control station. According to the art. 3-*bis* of the Convention, it is required to establish communication with any civil aircraft. Theoretically, this condition is met, but communication in unmanned flights has a different nature – the specific transmitter is defined, that gives the aircraft direct commands, however this is not communication between the flight control tower and the pilot on board.

In accordance with art. 8 of the Convention, RPA may move in the airspace of a given country only after obtaining the appropriate authorisation and providing flight control in the movement area of civil aircraft (see: ICAO 1944: art. 8). In Circular 328 from the 2011 year, ICAO specifies: *"All UA, whether remotely-piloted, fully autonomous or a combination thereof, are subject to the provisions of Article 8. Only the remotely-piloted aircraft (RPA), however, will be able to integrate into the international civil aviation system in the foreseeable future. The functions and responsibilities of the remote pilot are essential to the safe and predictable operation of the aircraft as it interacts with other civil aircraft and the air traffic management (ATM) system. Fully autonomous aircraft operations are not being considered in this effort, nor are unmanned free balloons nor other types of aircraft which cannot be managed on a real-time basis during flight"* (ICAO 2011, Cir. 328: p. 3).

The above mentioned citation demonstrates, that all unmanned systems are subject of the Chicago Convention, but only remotely piloted aircrafts will be integrated in the airspace in the near future. It is worth noting, that Article 8 of the Convention raises interpretation doubts – it says about the lack of a pilot, but it is not specifically indicated that this has to be a pilot on board. Therefore, one of the interpretations could be, that the convention can only be applied to autonomous vehicles (Scott 2016: sec. 4.05).

It is important to determine, by which regulations the aircraft is flying. In accordance with Article 12, the regulations of the country in which the aircraft is located are applicable. However, this means that national legislation must be compatible with the regulations established from time to time under this Convention (ICAO 1944: art. 12). This fact requires

ensuring inter-state cooperation in creating regulations in this field, which is confirmed by Article 37 of the Convention.²

In particular, all EU countries are also parties of ICAO, so the *acquis communautaire* (the EU legal order) should be consistent with the regulations of the Chicago Convention.

In 2015, ICAO published a *Manual on Remotely Piloted Aircraft Systems (RPAS)* and presented proposals for amendments to the Chicago Convention and its selected annexes (2 – air traffic regulations, 7 – national and registration signs, 13 – accident investigation and aviation incidents).

The Manual “provides readers with analyses of how the existing regulatory framework developed for manned aviation applies to unmanned aircraft and provides insight into the changes that will be coming. It serves as an educational tool for States and stakeholders, it supports the development of SARPs and guidance material by ICAO and it gives a basis for other standards-making organizations to harmonize their activities” (Cary 2015).

The document addresses the problems that come out from the lack of adaptation of current regulations to unmanned flights. The manual contains a list of all areas, where unmanned flights differ significantly from manned ones, and presents proposals (more or less detailed) to address these differences in new legal regulations, but the Manual itself has no legally binding force.

2.2. Drones in the European legal system

In the second decade of the 21st century, the European Union faces numerous difficulties (such as the migration crisis). As a result, activities in less discussed areas, including in the field of unmanned aviation, are coming to the background. Legislative processes in the EU can be long-lasting and require a consensus to be reached between many groups. In the case of drones, it is more difficult, because international regulations (ICAO), which should be adapted, are still being developed. Accordingly, the regulations of the Chicago Convention are still binding at UN level. On the other hand, due to the lack of EU regulations, individual Member States are forced to prepare their own law in this field to be able to control the rapidly growing drone market. In situation of excess of ideas and solutions, it may be increasingly difficult to develop EU-wide standards that should be implemented by all Member States (it results from the principle of the primacy of EU law over national law).

Due to the “layered” structure of the EU legal system, it is very important to complete the work on common regulations as soon as possible. The longer the arrangements last, the greater the risk of non-compliance, which is very important in aviation. Manufacturers of aircrafts try to reach as many target markets as possible, and the prevalence of international flights means that any differences in regulations (technical standards, required qualifications of personnel, etc.) lead to major difficulties. Moreover, new aviation

² „Each contracting State undertakes to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.” (ICAO 1944: art. 37).

technologies threaten people with qualifications adapted to existing solutions, so these people (in defense of their own particular interests) can lobby for delaying the implementation of regulations in areas not yet regulated (Perritt, Sprague 2016).

The first consultations regarding the regulation of the drone area in the EU took place in 2011-2012 (under the name of the UAS Analytical Process). It is worth paying attention primarily to the potential of the drone market estimated at that time (35,000 drones in global production during the next 10 years). (Council of the EU 2012: p. 4).

Already in 2015, global sales exceeded 6.4 million units (see: Statista.com 2018), i.e. almost two hundred times more than forecasted for the entire decade. Such a large disproportion between estimates and the actual number of drones is primarily due to the specific of the Chinese market. The sale of relatively technologically advanced products at low prices caused the market to open to consumers using drones for recreational purposes. Prices have become so affordable, that small drones have become an excellent commodity bought, e.g. as a gift for a child. The rapid development of this market and strong competition cause that low prices persist (Belton 2015).

It was originally assumed, that the inclusion of unmanned flights in the Single European Sky (SES) means the need to apply exactly the same rules to them as for manned aviation: „controllers should not be expected to do anything different [for unmanned flights] than they would do for other aircraft under their control, not should they have to apply different rules or work to different criteria" (Calleja Crespo, Mendes de Leon 2011: p. 258).

Until 2018, the European Aviation Safety Agency (EASA) only supervised remotely controlled aircrafts with an operating mass over 150 kg, in accordance with the Regulation of the European Parliament and the Council 216/2008 on common rules in the field of civil aviation.

The exclusion from the Regulation the UAS weighing less than 150 kg meant applying national jurisdiction to them. In July 2018, Regulation (EU) 2018/1139 of the European Parliament and of the Council on common rules in the field of civil aviation and establishing the European Union Aviation Safety Agency was adopted, repealing, *inter alia*, the Regulation 216/2008.

The basic regulation extends EU competence to create regulations for unmanned aerial vehicles, abolishes limiting the take-off mass to over 150 kg. In June 2019, Commission Delegated Regulation 2019/945 and Commission Implementing Regulation 2019/947 were published, which systematically define requirements for individual elements constituting unmanned flights, such as aircraft's registration and technical requirements regarding them, reporting and monitoring flights, and certification of pilots (which is very important from the point of view of including disabled people in tasks related to unmanned flights).

3. Drones vs. professional empowerment of people with disabilities

3.1. Activities for people with disabilities

The topic of people with disabilities remain overshadowed by other problems in national and international politics. However, it can be noticed, that this is one of the key

issues, which, if addressed properly, leads to building an efficient economy and reducing social inequalities. Within this topic, we can indicate many issues concerning the people with disabilities. One could mention, for example, the role of national and international legislature in stimulating professional empowerment of social groups with the risk of exclusion, activities for social integration, raising education standards, medical care, information campaigns aimed at disseminating knowledge about people with disabilities, actions to improve accessibility, e.g. adaptation of communication or removing architectural barriers, as well as many other aspects.

As a part of the abovementioned tasks, professional empowerment can be indicated as one of the most important. Its effects can be observed on many different levels. From the disabled person's point of view, the financial aspect is certainly important, because employment gives them the chance to achieve financial independence. This is an important psychological effect, because a person does not have to rely on external financing sources that are uncertain and require a lot of formalities. In addition, indirectly it is possible to relieve the budget allocated to support people with disabilities, if some of them will be able to support themselves. These people can integrate with the rest of society through work, which reduces their social exclusion and can have a therapeutic effect: "apart from financial security and at least the basis of existence, professional work is a form of integration for disabled people, a way to regain self-confidence and success in personal life. Hence, occupational rehabilitation (through work) should be one of the main priorities in the state's activities to support the subpopulation of people with disabilities" (Politaj 2008: p. 228).

What is the most effective way to support people with disabilities in the labour market? To answer this question, it is necessary to analyse the problems of the people trying to enter the labour market. One may start with the fact that in developed countries the labour market is changing. Every year there are fewer jobs requiring physical work, while the number of intellectual workers, whose work tool is a computer, is growing. Theoretically, this fact should make the access to the labour market for people with disabilities easier, because in many cases disability will not be a big limitation for this type of professions. In addition, social trends supporting tolerance, diversity and the fight against social exclusion have been developing strongly in recent decades. This trend should also contribute to easier access to the labour market for the disabled, from a socio-psychological point of view.

One of its manifestations is the concept of Corporate Social Responsibility (CSR) in business. This responsibility is expressed, *inter alia*, through various social actions connecting the world of business with the world of people with disabilities. The potential for change in this area is very high. According to the data of the Central Statistical Office of Poland for 2018, among the disabled people of economic working age the economic activity rate is 28.3%. In absolute terms, this means over 1.1 million people with disabilities outside the labour market. The same ratio for non-disabled people is 80.5% (see: GUS 2018).

Therefore, it is worth asking the questions: how should the professional empowerment of people with disabilities look like? What is the role of new technologies in this

process? There are two basic approaches to this subject in social policy, which are not necessarily mutually exclusive. The first approach is financial, assistance and legally stimulating employers to employ people with disabilities more willingly. This way requires allocating a specific budget for such purpose and very deliberate determination of aid rules and legal regulations in these aspects, in order to avoid abuse. The second approach is to promote self-employment and remove barriers. Activities in this dimension do not have to focus on people with disabilities, and they will still be among the beneficiaries of changes in regulations that streamline the process of setting up their own business, running it and accounting. Of course, it is also possible to additionally support disabled people choosing this form of employment, e.g. in Poland subsidies are paid by PFRON (National Fund for the Rehabilitation of the Disabled). Legal regulations should allow people with disabilities to take all kinds of actions, as long as it is not a threat for themselves and other people (Gietda, Raszewska-Skatecka 2015: p.119). This is directly indicated by the *UN Convention on the Rights of Persons with Disabilities*, where in art. 27: "States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labor market and work environment that is open, inclusive and accessible to persons with disabilities." (United Nations 2006).

It should be mentioned, however, that the prolonged use of drones might have a significant impact on the psychological and emotional well-being of the pilots. The area is not thoroughly researched yet, as the topic is relatively new, but there are still studies which suggest that being a drone operator might have negative consequences for that person's health condition. In this paper the military uses are not discussed, but those obviously can lead to psychological trauma, similar to what the regular soldiers go through, eg. in the form of PTSD (Post-Traumatic Stress Disorder) (Christen 2014).

The same effect, although probably weaker, can be experienced by non-military, e.g. during rescue missions, security surveillance or even aerial photography. One moment the operator feels to be in the sky, in the middle of action, at the same time physically sitting or standing still. This is not a natural situation for the body, as it receives mixed signals – the eyes detect motion and the mind needs to react quickly, but the body stays still. This might not be a problem for a 5 minute long flight, but being a professional would require that state to persist every day, for long periods of time. This, in turn, requires special preparation and using stress-relieving techniques, so that the person's health is not impacted (Kille 2019). For people with disabilities further health deterioration is an even more serious matter, as they might be more vulnerable and easier affected. Keeping this in mind, one also has to think about the alternatives, such as sitting day after day in front of the TV. Any form of activity can be better than no activity at all. It has to be done responsibly, so that it is beneficial instead of harmful. Professional guidance might be useful for such people, to instruct them on how to prepare for drone flights, behave during them and deal with any physical or psychological problems which might result from such activities.

3.2. Drones as an opportunity for people with disabilities

The drones can have great potential in the area of empowerment of disabled people, primarily in terms of mobility. The vast majority of people with physical disabilities have the ability to remotely manage a drone just like a non-disabled person. By undertaking this activity, disabled people get a chance to open themselves to the world, to experience the feeling of flying and speed, as well as to socialise with other people. So, apart from the financial aspect, we can consider drones as one of the forms of rehabilitation. Nothing prevents the disabled people from joining the labor market as drone operators. Unmanned flights are a rapidly growing field, and the demand for operators is high, in the USA the demand for one hundred thousand drone operators by 2025 is estimated (Farrelly 2017).

Depending on the type and degree of disability, it may be necessary to adapt the remote pilot station to the capabilities of a particular pilot. However, these adjustments are relatively low cost, e.g. an appropriate joystick. For people with only one functional hand, there are specially adapted gloves on the market (Wepulsit.com WWW). More advanced technologies are also available, such as e.g. drone control using thoughts – the *Emotive kit* (Werenn 2012).

In 2016, the French charity organisation LADAPT in cooperation with Kindai implemented the project *HandiDrone*, in which drones adapted to the disabled people were prepared, and demonstrative flights were conducted for these people (Kindai.fr WWW).

This example demonstrates, that people with disabilities can be drone operators, in some cases they may require some adjustments, but it is not very expensive and complicated. However, there are also a few less obvious benefits, that unmanned aerial vehicle technology can give to disabled people. In the literature they are referred to as *Assistive Drone Technology* (Fall 2018), i.e. applications that make it easier for people with disabilities to function daily, but these people do not actively manage drones themselves.

An interesting example is the digital mapping of buildings, e.g. university campuses (Keppler 2016). We can set the programme for the drone to cover a specific route and save a three-dimensional image of the rooms. The drone can even automatically respond to unexpected obstacles and dynamically adjust its flight path (Passifume 2017). Flights can be made cyclically, so the information will be updated. The three-dimensional map can be used by people in wheelchairs. Thanks to this, they are able to locate the desired point on the map and mark a route to it, on which they do not encounter barriers. If any part of the route is temporarily closed or new facilities appear, the map will be updated on a regular basis. In the case of large complexes, this effect would not be possible without automation. Such plan would also be useful for blind and visually impaired people, who, thanks to appropriate voice messages, would be able to navigate through this type of places more easily. Of course, this application benefits not only people with disabilities, it can be used, for example, for regular building inspections. The idea sounds a bit abstract, but there are already companies offering the simplified version of such services, e.g. *Industrial Skyworks* (Waterson 2016).

The drone can also be used as a "drone guide" for blind and visually impaired people. Attempts have already been made to use technology for this purpose, among others for

blind runners (Al Zayer et al. 2016). The response of the environment and acceptance for such use of this technology is also analysed in the literature. Respondents declare rather curiosity and positive attitude, so this technology has a chance for rapid popularisation (Avila Soto, Funk 2018).

At the University of Nevada, a prototype device was prepared that navigates the visually blind person in real time, but at the moment the regulations do not allow its use by the blind person, which results directly from the definition of VLOS flights – in Visual Line of Sight.

The popularisation of unmanned flights has contributed to the creation of a new sport - drone racing. Disabled people (e.g. deaf representative of Spain, taking part in the World Championships in Shenzhen in 2019) are already taking part in such competitions (see: World Air Sports Federation 2018). It is worth noting, that being a sports player is often associated with specific health requirements and fitness tests. Even if the sport discipline in itself enables full participation of persons with disabilities, such participation must also comply with the regulations (regulations of competitions, association of athletes, as well as general national and international regulations specifying e.g. requirements for drone pilots).

It can be assumed, that other applications for drones will appear with the development of this technology. An example of such futuristic applications may be dog walking. This simple activity can be a really big challenge for a disabled person in a wheelchair. The use of a drone for this purpose, however, raises doubts, whether this situation is actually safe enough for both the dog and bystanders. For some time, even such devices were offered for sale, although it turned out later, that it was only a joke (Luna 2017). It caused a wide discussion, in which both supporters and opponents of the product spoke. In practice, this application will probably not become a reality, but it shows a certain direction, in which the inventors and producers are going to improve daily activities, that can be particularly helpful for people with disabilities.

3.3. The law and the access of persons with disabilities to the unmanned aerial flights market

At international level, unmanned flights are regulated by the Chicago Convention, but this convention does not deal with the issue of the possibility of disabled persons to play the role of unmanned aerial vehicle operators. At the level of the European Union, relevant regulations are being developed. The approach to people with disabilities contained in these regulations is not yet fully known.

In the Commission Implementing Regulation (EU) 2019/947 of 24 May 2019 on the rules and procedures for the operation of unmanned aircrafts the only condition is, that the drone operator (remote pilot) cannot "perform duties under the influence of psychoactive substances or alcohol or when it is unfit to perform its tasks due to injury, fatigue, medication, sickness or other causes" (Regulation 2019/947: Annex, part A, point UAS.OPEN.060)

From this regulation we can draw the conclusion, that if a person is able to fly despite the disease, then such a flight can be carried out (this regulation will enter into force on

1 July 2020). In Polish law, at the moment there are no restrictions for flights for sport and recreation purposes with drones weighing less than 150 kilograms, within visual visibility. If these conditions are not met, you must obtain a UAVO qualification certificate. One of its elements is a valid medical and aviation certificate on the absence of contraindications to perform the function of a member of the aviation staff, in accordance with art.105 of the Aviation Law (Prawo lotnicze 2018/1183).

It is interesting, that when paying for the exam, there is a discount for disabled people, which would indicate that they are allowed to use unmanned aerial vehicles. It is important, however, to analyse what health conditions are required by the medical aviation certificate. Finally, the medical practitioner decides about the admission of the person, but there is a regulation listing the contraindications to performing the role of aviation personnel.

The Regulation of the Minister of Infrastructure from December 20, 2018 amending the regulation on excluding the application of certain regulations of the Aviation Law to certain types of aircraft and determining the conditions and requirements for the use of these vehicles introduces a significant change in this issue: "in the case of unmanned aircraft, take-off mass of no more than 5 kg, used only in operations within the visual visibility range of VLOS for purposes other than recreational or sporting purposes (...) physical and mental fitness of an unmanned aircraft operator used for purposes other than recreational or sporting purposes, shall be determined on the basis of this person, a written statement that the persons' state of health allows them to perform their aviation activities safely" (Rozporządzenie Ministra Infrastruktury 2019/94).

3.4. Health requirements in aviation law

The Polish regulation of the Ministry of transport, construction and maritime economy defines the requirements for the mental and physical condition of aviation personnel, and therefore also drone operators. Such persons may not have a history of psychiatric, mental illness or clinically diagnosed nervous system abnormalities, including injuries; bone, joint, tendon and muscle diseases; abnormalities in body height, length of upper and lower limbs, and weakness in muscle strength that prevent safe flight operations; disorders of the eye and its appendages, resulting from congenital or acquired diseases and following surgical procedures or eye injuries; disorders in the correct perception and recognition of colors; disorders of the functions of the ears, nasal cavity, collateral sinus of the nose, throat, mouth, teeth and larynx, resulting from congenital or acquired diseases and as a result of surgery or injuries. This means that the majority of people with disabilities are excluded from aviation activities under this regulation. This regulation does not distinguish between manned and unmanned aviation. Similar guidelines also exist at European level, such as Commission Regulation (EU) No 1178/2011 and its annexes.

In this case, there is also no differences between manned and unmanned aviation, the Polish translation even suggests that the Regulation applies only to "aircrew". An attempt to definitively answer the question of whether a person with a disability may legally be an unmanned aircraft operator, does not bring results today. It is understood that the re-

quirements for aviation personnel are relatively restrictive, but the drone operator would theoretically no longer have to meet such criteria, as long as air traffic safety is ensured at all times. This issue has been included in ICAO Circular 328 – pilots must “be proficient in the language used for radiotelephony and meet medical fitness levels, although the latter may be modified as appropriate for the UAS environment” (ICAO 2011, Cir. 328: par. 2.14).

Conclusion

Drones have recently become available for civil flights. Until now, this technology was available only for the military purposes, but over the last few years it has been rapidly popularised for civilian applications, such as sports, recreation and commercial use. At the same time, aviation law is very complex and difficult to change. As a result, legal regulations for unmanned flights at the European Union level are still under development.

During this time various legal regulations were created in national legislative systems, however, not always consistent with each other. This fact introduces additional complications, when attempting to harmonise this law at the international level. At the same time, however, drones bring new opportunities for professional empowerment of the disabled people. As was mentioned earlier, drone operators are in great demand, currently the specialists on the market are scarce. This means attractive working conditions and an opportunity for people with disabilities, if they could obtain the required qualifications and meet the conditions of physical and mental health. At least theoretically, full physical health is not necessary to be a drone operator. In addition to professional empowerment, drones are also a chance for improvement in everyday life. New ways of using drones will probably appear in time, but their adoption depends on whether the law allows these new, previously unknown activities. From the presented analysis we can draw the major conclusion, that in order to use the opportunity, which the unmanned flights provide for the mankind, and for the people with disabilities in particular, the precise regulations need to be developed.

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Monitoring of the employee's Internet use in the workplace in the light of selected case law of the European Court of Human Rights and Polish case law

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Abstract:

This article analyses selected case law of the European Court of Human Rights (ECHR) as well as Polish case law in the subject matter specified in the title, i.e. the monitoring of Internet use by employees in the workplace. The author has selected the research subject based on the own observations on the existence of nuances and divergences in the ECHR's case law in this field, as well as a growing importance of this matter in the context of increasing employees' online activity at work. The study is based on such research methods as content analysis, comparative legal methodology and the formal-dogmatic approach.

Keywords: European Court of Human Rights, Internet use, monitoring, workplace, Internet law

Monitoring wykorzystywania Internetu przez pracownika w miejscu pracy w świetle wybranego orzecznictwa Europejskiego Trybunału Praw Człowieka i orzecznictwa polskiego

Streszczenie:

Artykuł stanowi analizę wybranego orzecznictwa Europejskiego Trybunału Praw Człowieka (ETPC) i orzecznictwa polskiego w zakresie monitoringu wykorzystywania Internetu przez pracownika w miejscu pracy. Wybór przedmiotu badawczego został oparty na obserwacji Autorki w zakresie istnienia niuansów i rozbieżności orzecznictwa ETPC w badanym temacie, jak i rozpoznania rosnącej istotności zagadnienia w kontekście wzrastającego korzystania z sieci Internet przez pracowników w pracy. Badania przeprowadzono wykorzystując takie metody badawcze, jak: analiza treści, metoda prawno-porównawcza i metoda formalno-dogmatyczna.

Słowa kluczowe: Europejski Trybunał Praw Człowieka, wykorzystanie Internetu, monitoring, miejsce pracy, prawo Internetu

The current discussion on recognising Internet access as one of the fundamental human rights highlights the importance and legal significance of Internet use in many fields, including the professional one. Any Internet use restrictions introduced by domestic legislators or internal regulations raise controversies while the absence of consistent jurisprudence on the matter leads to legal uncertainty.

This article analyses the case law of the European Court of Human Rights (ECHR) concerning the monitoring of employees' Internet use at work, with special emphasis on the widely commented judgment of the Grand Chamber of the European Court of Human Rights of 5 September 2017 in Case of *Bărbulescu v. Romania* (hereinafter ECHR 2017), where the Court stated that a disciplinary dismissal of an employee, who had been using company resources (hardware, Internet access) for private purposes, constituted a breach of the right to respect for the employee's private and family life, as well as his/her right of correspondence. A discussion of the matter in question from the perspective of national legislation and selected Polish case law will be presented in the last section of the article.

Research Methodology

The author has analysed the case law of the European Court of Human Rights and, on the basis of the selected methodology, has written this article being a comprehensive source of understanding of the ECHR's position concerning the monitoring of employees' Internet use in the workplace with reference to legislation in force, as well as selected Polish case law.

The research objectives have determined the selection of research methods including content analysis, comparative legal methodology and the formal-dogmatic approach. An in-depth analysis of literature has made it easier to learn about the key literature sources and epistemological foundations of the subject matter discussed here. This, in turn, has facilitated the formulation of a specific problem, compiling the sources and outlining the boundaries of the research problem while pointing out perspectives of new directions of research. The collected data have been analysed resulting in answers to the research question asked.

The following research questions have been formulated for the research work:

- 1) What has the case law of the European Court of Human Rights been to date related to monitoring employees' Internet use in the workplace?
- 2) What have the factual and legal bases been for the ECHR adjudicating in Case of *Bărbulescu v. Romania*?
- 3) How has the monitoring of employees' Internet use in the workplace been formulated in national legislation and selected case law of Polish courts?

Scope of the protection of the right to privacy in the European Convention on Human Rights: selected theoretical considerations

The European Court of Human Rights is a body of international justice, competent to adjudicate cases related to complaints against breaches of rights specified in the

Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter Convention) and its additional Protocols. The signing of the Convention was motivated by the need to establish human rights protection standards in post-war reality, which included the right to privacy¹.

Its reflection can be found in Article 8(1) of the Convention, pointing out to the scope of the legally protected goods, together with a list of values, covering private life, family life, home and correspondence². The absence of an unambiguous terminological scope of the 'private life' category, thus the removal of the normative definitions of the individual terms making it up, suggests a need for analysis of the case law of the ECHR, as well as courts in individual countries (Czubik 2013).

The main approach presented by the ECHR concerning the protection of the right to respect for private life indicates obliging the state in terms of protecting the individual against breaches stemming from abuses by public authorities. Consequently, the state should refrain from unjustified breaches pursuant to Article 8(2) of the Convention³. The other concept is based on a positive obligation covering both protection of the individual by the state and imposing obligations on the state aimed at making it take actions to protect the right to private life, family life, home and correspondence⁴.

From the perspective of theoretical considerations regarding the monitoring of the employee's Internet use in the workplace discussed here, the absence of normative definitions of terms and direct references to the phenomenon forces us to perform an in-depth analysis of the relevant case law of the European Court of Human Rights. However, any legal analysis should begin from the notion of human rights, then narrowing the research area down to the European context, the content of the Convention, the right to privacy in the meaning of Article 8 of the Convention, and then the right to the protection of correspondence, understood as one of the forms of interpersonal communication.

The original justification of applying Article 8 of the Convention to correspondence pertained to postal services, aspects of correspondence in prisons, or wiretapping and conversation recording⁵. It was only later judgments of the ECHR that allowed for further

¹ The Convention was signed in Rome on 4 November 1950 and entered into force on 8 September 1953. At present, 47 European countries are parties of the Convention. Poland joined the Convention on 19 January 1993, and since 1 May 1993 Poland has been recognising the jurisdiction of the European Court of Human Rights to receive complaints of individuals.

² The Article 8 of the Convention: "1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

³ This current interpretation regarding the right to private life is the dominant one in the European Court of Human Rights. Its philosophical origins can be traced back to concepts proposed by J.Locke and J.J.Rousseau, which are in essence a liberal approach to human rights understood as a freedom zone of the individual limited solely in circumstances that are extraordinary and justified (by law).

⁴ The other current interpretation regarding the right to private life is based on the notion of the welfare state.

⁵ See: Case of X. v. Germany, 1979, no. 8383/78 (3 October 1979); Case of Campbell v. the United Kingdom, 1992, no. 13590/88 (25 March 1992) A 233; Case of Huvig v. France, 1990, no. 11105/84 (24 April 1990) A176-B.

interpretative suggestions as regard the notion of correspondence in employee relations, with a breakthrough ECHR judgment of 1997 in *Case of Halford v. the United Kingdom* (ECHR 20605/92), where the Court found that telephone calls from the workplace could fit within the term "private life and correspondence", being covered by the notion of a "reasonable expectation of privacy". That, in turn, became the basis for applying Article 8 of the Convention also to the possible monitoring of internet use in the workplace in circumstances justified by law (see the 2007 ECHR judgment in *Case of Copland v. the United Kingdom* and the 2017 ECHR judgment in *Case of Bărbulescu v. Romania*).

Recognising the need of the citizens of the member states of the Council of Europe that have ratified of the Convention for the Protection of Human Rights and Fundamental Freedoms to have a more in-depth understanding of the matter, the author has decided to carry out a detailed analysis of the most recent judgment of the ECHR related to monitoring at work, including the reasons given for judgments of particular instances as well as the final resolution of the case by the Court. European countries, including Council of Europe members, should seek to ensure consistent jurisprudence in the field of possible interference in their citizens' privacy and the aforementioned case marked a breakthrough in the understanding of the matter discussed here.

Description of the circumstances resulting in the ECHR judgment of 5 September 2017 in Case of Bărbulescu v. Romania

From 1 August 2004 until 6 August 2007, Bogdan Bărbulescu (a citizen of Romania) was employed in a private company as a sales engineer. At his employer's request, for the purpose of responding to customers' enquiries, Bărbulescu created a company's instant messaging account using Yahoo Messenger (ECHR 2017: par.11; Yurkina 2017). The employer's internal regulations, whose copy the Applicant had signed on 20 December 2006 after acquainting himself with their content, prohibited personal use of computers, photocopiers, telephones or fax machines for private purposes on company premises (ECHR 2017: par.12). An identical information notice was repeated in July 2007, and Bărbulescu had also acquainted himself with its contents on an unspecified date between 3 and 13 July 2007 (ECHR 2017: par.15, 16). The regulations did not contain any reference to the possibility for the employer to monitor employees' communication (ECHR 2017: par.13).

On 13 July 2007, Bărbulescu was informed that his Yahoo Messenger communication had been monitored by the employer between 5 July and 13 July 2007 and that some evidence of abuse had been found, for instance his Internet activity was more intensive than that of his colleagues (Dijkstra 2017). Bărbulescu replied in writing refuting the charges, as a result of which the employer presented a 45-page transcript of his correspondence unambiguously showing that he indeed had exchanged messages of a private nature with his brother and his fiancée at work (ECHR 2017: par. 21). On 1 August 2007, Bărbulescu was dismissed on disciplinary ground for having breached the company's internal regulations prohibiting use of its resources for private purposes (ECHR 2017: par. 23).

Bărbulescu appealed to a Country Court, making a case for, *inter alia*, breaching the constitutional right to secrecy of correspondence (Dale 2016: p. 8). On 7 December 2007, his application was rejected with a justification that his disciplinary dismissal had been lawful and the employees had been informed about the ban on Internet use at work for private purposes (Macfarlane 2016). The Country Court indicated that the monitoring itself had been the only way to check the duties performed and to confirm any possible breaches (ECHR 2017: par. 28).

In his appeal, Bărbulescu raised the fact that email correspondence was subject of protection pursuant to by Article 8 of the Convention, as well as pointed out to some procedural errors made by the first-instance court, which, *inter alia*, had not allowed any witness hearing since allegedly there had been no evidence of any damage to the employer resulting from his activity (ECHR 2017: par. 22). The applicant also argued that the first-instance court had not struck a fair balance between the interests at stake (Vaneson 2016: p.10). The Appellate Court dismissed the applicant's appeal in its judgment of 17 June 2008, concluding that the employer had behaved reasonably, the monitoring of communication was the only way to find whether the applicant had breached the regulations, and the evidentiary proceedings had been sufficient (ECHR 2017: par. 30).

Bărbulescu appealed to the European Court of Human Rights invoking breaches of his right to private life and correspondence protection (Article 8 of the Convention), while also indicating the absence of a fair trial (Article 6(1) of the Convention)⁶.

On 12 January 2016, a Chamber (Section IV) of the European Court of Human Rights held in its judgement, by six votes to one, that there had been no violation of Article 8 of the Convention regarding the protection of the right to privacy and family life, while the monitoring measures used by the employer had been of proportional nature and justified⁷. The judges of the Court emphasised that phone calls and electronic mail initiated from workplace in principle fitted within the term 'private life' subject to legal protection, while employees could expect that they were not controlled in the workplace, unless they had been informed about such possibility in advance (ECHR 2016: par. 37). The Court did not refer in detail to the notions of transparency or adequacy of the sanction applied with relation to the applicant's breach (Wragg 2016: p.1-2).

The applicant referred the case to the Grand Chamber of the ECHR for renewed consideration⁸.

⁶ See paragraphs 64-66 of the ECHR judgement of 12 January 2016 in Case of Bărbulescu v. Romania, Application no. 61496/08 (hereinafter ECHR 2016).

⁷ In the judgment of the Chamber (Section IV) of the European Court of Human Rights of 12 January 2016, it was emphasised that the contract and regulations in the workplace indicated a prohibition of using company devices for private purposes, hence Bărbulescu should have been aware of the existence of a ban on private email correspondence from a company computer. The Court found that monitoring of the employee's correspondence, limited to eight days, was a justified form of checking the quality of the employee's work and his meeting the obligations spelt out in the contractual commitments binding him, as well as that it had been carried out with the conviction that the correspondence pertained exclusively to professional matters.

⁸ The extensive partly dissenting opinion expressed by Judge Pinto de Albuquerque emphasises the need to establish specific rules regarding monitoring of employees' electronic communications and lack of approval for the blanket rule of banning Internet use for private purposes in the workplace (see

Judgment of the Grand Chamber of the ECHR of 5 September 2017 in Case of *Bărbulescu v. Romania*

In its judgment of 5 September 2017, the Grand Chamber of the ECHR re-assessed the case, pointing out to some failures in the domestic courts' meeting of positive obligations in terms of ensuring the effective exercise of the right guaranteed by Article 8 of the Convention, underlining the need to conduct a thorough analysis of striking a balance between the right to respect for the employee's private life and the employer's interests ensuring the operation of the enterprise (ECHR 2017: par. 112, 127, 139, 141).

The Court emphasised that the term 'private life' did not allow for an unambiguous definition, because it contained both the "inner circle" and the right to lead a "private social life" covering the sphere of the individual's activity at work and elsewhere (ECHR 2017: par.70). Limitations of one's professional life could be protected by the Article 8 of the Convention, if they had no bearing on his/her building a social identity and relations with the outside world (ECHR 2017: par.71).

As the Court underlined, the applicant had been informed about the ban of Internet use for private purposes, but he had not been informed in advance about the scope and nature of the monitoring carried out by the employer or the possibility of the latter's access to his communications (Cabeza Pereira et al. 2017). As no employer may limit one's private life entirely, the communications performed by Bărbulescu in the workplace were covered by the notions of 'private life' and 'correspondence', thus protected as provided for in Article 8 of the Convention (Boehm et al. 2016).

In the Grand Chamber judgment, the judges referred to the transparency and adequacy of the employer's action concluding that Bărbulescu had not been properly informed by the employer about the monitoring of electronic communications in the workplace and possible consequences of breaches of prohibitions specified in the company's internal policy (ECHR 2017: par.138). The Court's judgment was an obvious indication that the application of the form of control in question had to follow clearly defined rules and be unambiguously presented to the employee as binding principles of the enterprise's policy (ECHR 2017: par.133).

The Grand Chamber judgment invokes Directive 95/46/EC of the European Parliament and of the Council of the European Union of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, previously invoked in the judgment of the Romanian Appellate Court, pointing out that the information concerning the monitoring could have been treated as pre-announcing it only prior to the actual implementation of the control measure, but not after it (ECHR 2017: par.131). The judges of the Court's Great Chamber emphasised that the applicant had not received information that his employer could access the contents

paragraphs 10-13 of the opinion of Judge Pinto de Albuquerque, ECHR 2016). The judge underlined the aspect of assessing internet access as a human right and questioned the binding nature of the prior notification of the applicant of possible monitoring of his computer (see paragraphs 3 and 18 of the partly dissenting opinion of Judge Pinto de Albuquerque, ECHR 2016).

of his electronic communication, while the monitoring of the flow and contents of correspondence, as a major intrusion into the right to privacy, required suitable justification and had to be clearly defined⁹.

It was stressed in the Grand Chamber judgment that although the Romanian courts had taken into consideration the scope of privacy protection and the assessment of the reliability of the disciplinary proceedings, but they had not emphasised the examining the extent in which Bărbulescu had been forewarned of the potentiality and scope of the application of measures limiting his privacy in terms of correspondence in the workplace (ECHR 2017: par.130). The applicant had been informed that his employer did not agree that the company account (or any devices being the company's resources) be used for private purposes, but he had no knowledge about possible control nor had been informed about the intention to carry out a monitoring operation or about a possibility of access to private correspondence, which, according to the Court, did constitute an intrusion into the right to privacy, thus a breach of Article 8 of the Convention. Invoking European standards, the Court pointed out to the need to inform the employee in advance about the intention to monitor electronic correspondence, which includes both specifying the control measure and the scope of its impact (Gray, Henderson 2017).

The national courts did not assess whether the monitoring itself was necessary, apart from a general conclusion that unlawful Internet activity should be prevented. They did not examine whether the performance of the monitoring was justified; consequently, the employer's argument that the company had been put at risk was not substantiated (ECHR 2017: par.145). Moreover, the national courts did not examine whether the objective of the correspondence monitoring could not have been attained using less invasive methods and whether the sanction applied in the case of Bărbulescu, i.e. disciplinary dismissal, had been adequate to the breach level (ECHR 2017: par. 131, 133, 137, 138, 146).

The Court focused on the assessment of the level of restrictiveness of the employer's regulations, which led to the applicant's justified expectation that his privacy be protected, assuming that they might excessively interfere in the individual's social life¹⁰. The right to protection of privacy and correspondence was subject to limitations also in the professional environment yet it did not disappear altogether, from which

⁹ In the Grand Chamber judgement, it is indicated that the term "correspondence" was wide-ranging and included both contact by telephone and electronic means (e-mail communication). See: ECHR 2017: par. 25, 54 and 72.

¹⁰ In its judgment of 16 December 1992 in Case of Niemietz v. Germany (no. 13710/88), the Court noted that an activity related to one's profession or conducting business might be carried out in a private residence, by virtue of which, to the contrary, an activity not related to that might be carried out in an office or on commercial premises, hence the interpretation of the term "home" also includes the premises used for economic or professional activity of the individual. The interpretation of the terms "private life" and "home" with reference to the activity carried out and the premises used is consistent with the purpose of Article 8 of the Convention and allows for the assumption that it is possible to attend to private matters from the office and emphasises the blurring of the private and professional spheres. Furthermore, as separating them is becoming ever more difficult, employees' professional activity is subject to the protection provided for in Article 8 of the Convention.

a positive obligation could be derived on the part of the state being a party to the Convention of ensuring privacy protection by striking a balance between the interests of the employer and the employee (ECHR 2017: par. 112, 127, 139). The interests requiring protection should be reflected in labour law but equally civil and penal law. Such states should be free to create a legal framework of employers' internal regulations in the scope discussed here, yet such freedom may not be unrestricted. According to the Grand Chamber judgment, the states should ensure respect of the rights and interests of the parties adhering to the proportionality principle, which was expressed in a number of the Court's suggestions regarding the consideration of the following factors (ECHR 2017: par.121):

- whether the employee has been notified of the possibility that the employer might take measures to monitor correspondence and other communications, and of the implementation of such measures (the Court emphasised that for the rights spelt out in Article 8 of the Convention to be respected, the employer should be required to make sure the notification is clear about the nature of the monitoring and given in advance);
- the extent of the monitoring by the employer and the degree of intrusion into the employee's privacy (in this regard, a distinction should be made between monitoring of the flow of communications and of their content¹¹);
- the need to justify monitoring of communications and accessing their actual content;
- assessing whether the aim pursued by the employer by means of the employee's monitoring could have been achieved without directly accessing the full contents of his communications, thus whether in a given case less intrusive monitoring measures could have been used,
- examining the consequences of the monitoring for the employee and the use made by the employer of the results of the monitoring operation,
- showing the safeguards applied during the monitoring operation.

The judgment of the Court's Grand Chamber (ECHR 2017) was delivered by eleven votes to six, and repealed the judgment of the ECHR Chamber of 12 January 2016, in which Bărbulescu's application had been rejected. The voting result demonstrated the fact, that the legal qualification of the case can vary¹².

Assessment of the possibility of monitoring the employees' Internet use in the workplace in the light of selected case law of the European Court of Human Rights

The European Court of Human Rights performed a two-track analysis of the scope of the monitoring of the employee's internet use in the workplace discussed here.

¹¹ The Court emphasised that assessment should be made in each individual case of the level of correspondence monitoring, its duration and the number of persons with access to its results.

¹² The judges, who did not share that conclusion, raised, *inter alia*, the failure to correctly apply the concept of positive obligations, pointing out to the positive assessment in judgments of the national courts related to striking a balance between the interests of the employee and the employer.

On the one hand, its case law regards monitoring the employee's email accounts in order to verify the quality of their work as lawful¹³. Collecting such data as the sender's address or even content may be a tool of revealing abuse on the part of the employee¹⁴.

On the other hand, the Court has emphasised in numerous occasions the need of protecting the employee's rights, differentiating between traffic and content data which have different consequences in the sphere of employee privacy breaches¹⁵. In their judgments, the judges of the Court have pointed out the need to differentiate between cases when there exists a prohibition of using electronic communications in the workplace and those where such prohibition is not in place¹⁶. Pursuant to Article 2(b) of Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), as traffic data cover, for instance, the sender's (or the recipient's) address, and so provide information about the employee, a view can be found in the Court's case law that monitoring them is lawful, as a result of the assumption that using a company's email account for private purposes is in breach of the contract concluded between the employer and the employee.¹⁷ As regards monitoring of the contents of electronic mail, the level of the employer's intrusion is much higher, as emphasised by the Court in its judgments pointing out to the unlawfulness of such operations, unless the employer has introduced in the workplace rules for limiting the scope of such activities of the employee in the contract or its internal policy (workplace regulations).

¹³ In the ECHR of 25 August 1997 in Case *Halford v. the United Kingdom* (no. 20605/92) concerning an individual's right to an effective measure of protection against unlawful breaches of the right to privacy, the Court broadened the definition of the term "private life" by including telephone calls made from company devices. The employee retained the right to privacy also while performing professional duties, with the proviso that in specific circumstances that right could be restricted, *inter alia*, for the purpose of monitoring the quality of the performance of one's duties and ensuring a correct course of employees' work. Given that argumentation, the employee has a reasonable expectation concerning privacy when making telephone calls using the employer's devices, and consequently telephone calls made from company premises and from home can be considered a sphere of 'private life' and 'correspondence' in the meaning of Article 8 of the Convention, as confirmed by the judgment of the Court in Case of *Klass and Others v. Germany* of 6 September 1978 (no. 5029/71) as well as the Court's judgment in Case of *Malone* of 2 August 1984 (no. 8691/79). As a result, monitoring of such calls does constitute a breach of Article 8 of the Convention (Case of *Halford v. the United Kingdom*, paragraph 50). In Cases of *Copland v. the United Kingdom* (2007, ECHR 62617/00) and *Malone v. the United Kingdom* (1984, ECHR 8691/79), the Court found that the earlier interpretation also included telephone calls, electronic mail and metadata constituting an integral part of the communication. Thereby, the Court confirmed that Article 8 of the Convention covered positive obligations made between employees and the employer in the area of the private sphere.

¹⁴ Case of *Halford v. the United Kingdom*, 1997, ECHR 20605/92, paragraph 48.

¹⁵ Case of *Malone v. the United Kingdom*, 1984, ECHR 8691/79, paragraph 84. Case of *Copland v. the United Kingdom*, 2007, ECHR 62617/00, paragraph 43.

¹⁶ Case of *Halford v. the United Kingdom*, 1997, ECHR 20605/92, paragraph 45. Case of *Copland v. the United Kingdom* 2007, ECHR 62617/00, paragraph 42.

¹⁷ Art. 2 (b) of Directive 2002/58/EC: 'traffic data' means any data processed for the purpose of the conveyance of a communication on an electronic communications network or for the billing thereof. See the Court judgement of 12 January 2016 (Case of *Bărbulescu v. Romania*), paragraph 57.

Employees' internet use in the workplace in the light of Polish legislation and selected case law

In terms of assessing the protection of the right to privacy and of correspondence confidentiality from the employee's viewpoint, Polish case law is relatively scarce. The Supreme Court has ruled a number of times assessing the circumstances of employees' use of company computers for private purposes, but from the standpoint of the extent of damage to the employer's interest of a property or non-property nature¹⁸.

In the context of domestic legislation, the field of breaching employee obligations has been expressed in Article 52(1)(1) of the Labour Code, which constitutes a basis for an employee's disciplinary dismissal without notice¹⁹. By contracting an employment relation, the employee automatically undertakes to perform a specific kind of work for the employer, which entails the requirement of its conscientious and diligent performance laid down in Article 100(1) of the LC.²⁰

The Article 100(2) of the LC contains some examples of the employee's obligations like respecting working time and work regulations, as well as the order set in the workplace, caring about the interest of the workplace, protection of its good name and keeping confidential information, the disclosure of which could put the employer at the risk of a loss or damage, keeping secrets defined in separate provisions of law, as well as respect for the principles of community life.

In the context of the notion discussed here, i.e. use of the employer's devices and resources made available to the employee in the workplace for private purposes, of key importance becomes the aforementioned aspect related to the conscientious and diligent performance of work, understood as using the entire specified working time for professional activity. In the doctrine, cited as examples of such breaches are the already mentioned use of the mailbox for private purposes, which does not equal, however, the employee's serious breach of the basic employee obligations specified in Article 100(1) in conjunction with Article 52(1)(1) of the LC²¹. The rights and obligations of the employer and the employee are defined in the work regulations and the working order established in the workplace, pursuant to Article 104(1) of the LC. That internal act regulating the rights and obligations of the parties to a given employment relation also includes matters of organisational rules or other instructions issued by the employer (Muszalski 2017).

25 May 2016 saw the entry into force of Regulation (EU) 2016/679²² of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with

¹⁸ Supreme Court judgment of 4 November 2010 (II PK 110/10). Supreme Court judgment of 6 July 2011 (II PK 13/11).

¹⁹ Labour Code Act of 26 June 1974 (*Journal of Laws* 1974 no. 24 item 141, as amended), hereinafter the 'LC'.

²⁰ The cited conscientiousness is the employee's attitude to the work performed, which, however, is a subjective matter as one depending on the work performed, its nature and the post held.

²¹ See Supreme Court judgment of 17 May 2013 (II PK 263/12, Legalis). In the case law of the Supreme Court, there are judgments suggesting that using company equipment without the employer's knowledge could be considered as the basis for employment contract termination without notice (See Supreme Court judgment of 24 February 1998 I PKN 547/97).

²² General Data Protection Regulation (OJ L of 2018 no. 127/2), hereinafter the GDPR.

regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, amending the provisions of hundreds of Polish domestic legal acts, including the LC. Its amendment introduced new regulations that unambiguously defined the notion in question. Pursuant to Article 22³(4) of the LC, the employer may control the use of the employees' company computers, as well as keep a detailed record of internet activity, when that is necessary to ensure work organisation enabling a full use of the working time and correct utilisation of the working tools made available to the employee (Article 22³(4) of the LC). The said monitoring may not, however, breach the privacy of correspondence or other personal rights of the employee. Importantly, for the introduction of company computer monitoring no employee consent is needed, while its scope is defined in the work regulations, a collective work agreement or a public notice, pursuant to Article 22³(4) in conjunction with Article 22²(6) of the LC.²³ Such provisions must comply with the principles of legality, reliability and transparency as well as objective limitation, data minimisation, correctness, data storage restriction, integrity and confidentiality as well as accountability, pursuant to Article 5 in conjunction with recitals 39-47, 58 and 60 of the GDPR. The employer is obliged to notify the employees of the fact that monitoring has been introduced not later than two weeks prior to its activation, pursuant to Article 22³(4) in conjunction with Article 22²(7) of the LC in a manner of his own choosing (Article 12(1) of the GDPR)²⁴. Before allowing them to commence work, the employer should provide new employees with written information concerning the objective, scope and method of the monitoring, confirmed by an attestation, as well as mark the devices (computers) subject to such monitoring in a visible and clear manner, by means of appropriate signs or sound aspects, not later than a day prior to the monitoring activation.

Polish case law concerning the employee's use of company equipment for private purposes may be scarce, yet in the rulings delivered thus far one could discern an ever present position stressing the need to ensure a margin of acceptance for the existence of the employee's private sphere of activity in the workplace.

In the judgment of the Polish Supreme Court of 22 March 2016 we can read that "not always may the employee be deprived of the possibility to incidentally use certain company equipment (e.g. a telephone or a computer) in order to meet his vital needs for private purposes, if such actions do not render harm to the employer or undermine the essence of the employment relation as well as do not breach company rules or general principles of community life (Article 100(2)(6) of the LC)."²⁵

²³ Pursuant to Article 104²(1) and Article 241⁹(1) of the LC, the employer must agree the provisions in collective agreements and work regulations with the company trade union. Should no agreement be found within a specified deadline, or in case of the absence of such company union, the employer may decide on their own as regards the work regulations yet not the collective agreement. However, the employer is entirely free in the case of notices.

²⁴ A possible breach of provisions on monitoring contained in work regulations, i.e. failure to make the required agreement with the company trade union will lead to such regulations being null and void (Supreme Court judgment of 21 March 2001, file ref. I PKN 320/00, OSNP 2002/24/599).

²⁵ Supreme Court judgment – Chamber of Labour, Social Insurance and Public Affairs of 22 March 2016 (II PK 31/15).

Each and every time, the damage/loss potentially suffered by the employer as a result of the employee's use on internet connection necessary for email (and internet communicators) communications needs to be assessed individually, which entails damage liability on his part, not subject to exclusion pursuant to Article 117(2) of the LC (limits of admissible risk). Any possible liability release would be possible when proving that the damage/loss has been incurred as a result of hardware use for company purposes.

In its judgment of 4 April 2017, the Supreme Court referred to the employee's use of company hardware for private purposes, emphasising the major impact of the internet (and internet communications) in the present reality²⁶. In the summary of the ruling, we can read that: "the obligation to refrain from performing private work at workplace using equipment and materials without the employer's explicit consent could be treated as elementary. On the other hand, the stage of law implementation should account for cases when the employee's behaviour deviating from the aforementioned standard is accepted. Meant are cases when "while remaining at the disposal of the employer" the employee uses company equipment (a computer, a telephone, a tablet, etc.) in order to send/receive electronic or verbal messages. Hence, sending occasional greetings as well reading electronic results of laboratory tests or an electronic school register of a child ties up with a sequence of interpersonal contacts by means of social media. The development of such means of communication imposes a rapid decoding of the employees' behaviour in the course of the work provision process. The means of communication in question is instantaneous and statistically does not cease to relate to performing work. In each case, however, there exists a limit to such contacts, because the so-called soft interpretation may be a temptation to allow the multiplication of such behaviour as admissible. Consequently, the oftentimes correct conclusion will be a derivative of specific behaviours, the number of events or the time devoted to duties other than professional".²⁷

Given the relatively scarce domestic case law in the scope discussed here, the more pertinent becomes the interpretive context of the ECHR Grand Chamber judgment of 5 September 2017 in the Case of *Bărbulescu v. Romania* (see: Eichenhofer 2016).

Conclusions

The ECHR judgments may not make law, but they can influence interpretation of regulations as well as contribute to more transparency of interpretation of legislation in the

²⁶ Supreme Court judgment – Chamber of Labour, Social Insurance and Public Affairs of 4 April 2017 (II PK 27/16).

²⁷ Using company equipment (such as computers) for purposes not related to work entails a number of legal consequences, e.g. in the field of intellectual property rights. It is the work performed in compliance with the scope laid down in the agreement binding the employee and the employer that sets the framework for the author's economic rights of the latter. However, the circumstances are different when the very same employee performs when at work tasks that do not feature in the said agreement. Of essence here is the contents of the agreement binding the employee and the employer rather than the ownership of the equipment used for given work. In the context of using employee monitoring, the employer should also take into account personal data protection legislation, as the Supreme Administrative Court pointed out in its judgment of 13 February 2014 (I OSK 2436/12).

sphere of, *inter alia*, privacy and data protection in the 47 countries that are members of the Council of Europe as a specific set of requirements related to monitoring employees' internet use. In the discussed here judgment of the Court's Grand Chamber of 5 September 2017 in the Case of *Bărbulescu v. Romania* marking the first time, that the circumstances of monitoring an employee's electronic communications by a private employer had been assessed, the Court made a precise list of criteria to be used by national authorities when evaluating whether a given measure serving to monitor them was proportional given the aim intended, and whether the employee was protected against arbitrary judgments²⁸.

Summing up the substantive contents of the widely commented judgment of the Grand Chamber, one needs to stress that the employer can control and monitor the employee's electronic communication channels used for professional purposes as well as to demand of the employee not to use them for private purposes, subject to prior explicit notification of the fact, including the indication of its scope and method²⁹. Otherwise (in the absence of such information), the right to respect for the employee's private life and correspondence may be breached, thus breaching Article 8 of the Convention. The judgment contains no general prohibition of such activity on the part of the employer yet it speaks of the need to precisely justify individual provisions restricting the sphere in question within a necessary framework. From the employee's point of view, it is essential that the Court's judgment imposes the transparency of any possible techniques and forms of control applied by employers.

It is important to underline the chronology of the events, i.e. the direction of the interpretation of legislation on the right to privacy in the European context, ECHR case law and the legislative changes after the GDPR regulation came into force on 24 May 2016. It is only a combination of all these elements that makes it possible to clearly specify the boundaries of applying monitoring of employees in the workplace.

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²⁸ In the context of the subject matter discussed here, it is worthwhile to mention the pending case of *Libert v. France* (no. 588/13). The application was sent to the French Government on 30 March 2015. In it, one of the applicant's accusations is breaching his right to respect for private life given that his employer (the French railway company SNCF) opened files named 'D: / personal data' on the hard disc of a company PC during his absence and then dismissed him. See [https://hudoc.echr.coe.int/eng#{,itemid":\[,001-154050"\]}\)](https://hudoc.echr.coe.int/eng#{,itemid) [accessed on 30 October 2017].

²⁹ The Court did not order any indemnity concluding that a breach of the Convention should be sufficient given the moral damage sustained. Still, Romania is obliged to reimburse the applicant for the costs and expenses incurred.

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HISTORY, CULTURE AND SOCIETY IN EUROPE

The specificities of modern consumer society in the European Union

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Abstract

The article aims to analyse the specificities of modern consumer society in the European Union and, therefore, it presents the genesis and the essence of consumer society development in Europe. It points to the idea of consumer society in terms of economy, politics, sociology, and philosophy. The specificities of the modern consumer society in the European Union are influenced by legislative processes in regard to the economical safety of consumers including safety of goods in terms of information, education, and redress, with special regard to cross-border transactions. The article presents the definition of consumer ethics and the specifics of certain ethical norms connected with the purchase process, what have evolved together with the development of consumer society in the EU.

Keywords: Consumer ethics, consumer society, European Union, specificities, consumer policy

Uwarunkowania współczesnego społeczeństwa konsumpcyjnego w Unii Europejskiej

Streszczenie

Artykuł ma na celu dokonanie syntezy uwarunkowań funkcjonowania współczesnego społeczeństwa konsumpcyjnego w Unii Europejskiej. Przedstawiono genezę oraz istotę rozwoju społeczeństwa konsumpcyjnego w Europie. Wskazano na definicję społeczeństwa konsumpcyjnego w ujęciu ekonomiczno-politycznym i socjologiczno-filozoficznym. Na uwarunkowania współczesnego społeczeństwa konsumpcyjnego Unii Europejskiej wpływają procesy prawotwórcze w zakresie ochrony bezpieczeństwa ekonomicznego konsumentów, w tym bezpieczeństwa towarów, w zakresie informacyjnym i edukacyjnym oraz w zakresie systemu dochodzenia roszczeń, ze szczególnym uwzględnieniem zakupów transgranicznych. W artykule zdefiniowano pojęcie etyki konsumenckiej oraz określono, że wraz z rozwojem społeczeństwa konsumenckiego w Unii Europejskiej wykształciły się specyficzne normy etyczne związane z procesem nabywczym.

Słowa kluczowe: etyka konsumencka, polityka konsumencka, społeczeństwo konsumpcyjne, Unia Europejska, uwarunkowania.

The aim of the article is to analyse economic, political, sociological and philosophical specificities of modern consumer society in the European Union. The paper presents the nature of consumer society development in the European Union. It shows analysis of certain legal regulations that influence the development of consumer society and regulate the purchase process: safety of goods, unfair trading practices, and the redress system. Moreover, it considers modern consumer ethics. The analysis of consumer ethics has helped to create a model of modern European consumer. The article focuses on the influence of consumer ethics on two aspects of purchase process: consumer decisions and choices of certain goods or services, and consumer behaviour during the sole purchase process.

The latter part of the article takes the form of conclusions on the actual shape and role of consumer society in the European Union. Its character is determined by different types of behaviour, good manners that influence the consumption choice, and legal regulations that affect the safety of goods and services.

The following research questions have been stated: What are the specificities that influenced the development of consumer society in the European Union? Does the modern consumer have ethical autonomy of purchase choices? Is the decision affected by the actions of retail specialists, economists, psychologists and lawyers who are trying to identify consumer's needs and desires and, therefore, influence the decision he makes? Is the consumer protected by European law after the purchase?

The article critically verifies the following research hypothesis: Firstly, modern European society is perceived to be a consumer society. It is a civilization that prioritises the purchase of goods and satisfaction derived from it over common interest, customs, and social standards. Secondly, the assumption is that the growth of consumer society in the European Union is connected with evolution of regulations regarding widely understood purchase process, safety of goods, protection against unfair commercial practices and different types of redress mechanisms with a special focus on cross-border transactions. Thirdly, the decision-making process may be analysed in the context of secondary system analysis.

The nature of consumer society in European Union

The idea of consumer society may be defined in the context of economy and politics and in the context of sociology and philosophy. In the first approach, consumer society is perceived to be a product of capitalism, and the idea of consumption refers to market consumption (Iwasiński 2015: p. 129). It is a kind of society where buying and selling of goods and services is a prevailing economic and social activity. With regard to this particular context, the main focus is put on the surplus of goods and changes within the range of needs considering the raising needs for intangible assets (Cohen 2017: p. 21). Consumer society is a historical stage in the development of consumption in a capitalist community that is influenced by certain consumer policies that aims to protect consumer's economic interests during the purchase and redress processes. In the context of sociology and philosophy, consumer society is connected with the growing importance of consump-

tion as a determinant of social development. Furthermore, it seems to be associated with the development of consumer culture within the consumerism ideology, changes of social values, and the impact of consumption on the functioning of various social areas. Consumer society perceives itself to be ideal. It has developed particular spheres of life, especially the manner of eating, drinking or spending leisure time. There is no other specific society that conforms to that model.

Bauman draws attention to the socio-philosophical aspect. He claims that the basic features of consumer society are total commodification and commercialisation of almost all aspects of life. Moreover, it is a kind of society where a customer plays the most significant role (Bauman 2009: p. 27). Consumer society is a type of society where life and everyday duties are focused around consumption (Iwasiński 2015: p. 155).

When analysing the nature and specificities of consumer society in the European Union, it is necessary to note that the first sign of consumer society in Europe was the growing market for sugar at the end of the 16th century. It was a time of fruitful production of sugar within the colonies in the islands of southern Atlantic Ocean, e.g. the Azores and America. The production stimulated the development of the market, where sugar became the world's first mass consumer good that could be bought for money. Another attractive stock was tulip market. At first they were imported from Asia, but since 1630, they have been a domain of Holland. In the 17th century, consumption of coffee and tea became very popular and trendy. The beneficial expansion of colonial trade stimulated the growth of consumer's needs. In order to point to the nature of consumer society, it is necessary to note that since the 16th century there has been a "consumer revolution" in the Western Europe, which resulted in the growth of consumption in "consumer context" (McCracken 1987: p. 140, 157).

The growth covered the increase in goods and service acquisition by sellers and consumers whose need for possessing was limited to the basic living necessities. An important feature of the revolution was the fact, that retailers tended to manipulate the consumer by creating and embellishing the reality. The consumer revolution was associated with changes in the sales methods and in the way products were organised according to human needs. The notion of human needs and aspirations was redefined and consumers have started to show willingness to protect their rights (Stearns 2001: p. 16, 18, 23).

Moreover, the consumer revolution involved the change in the term: "to consume". Since the 14th century, it had a pejorative connotation in the English language and meant "to destroy", "to use up", "to waste", "to exhaust". The negative connotation was present until the end of the 19th century when it began to refer to the fulfilment of human needs. Throughout the centuries, the idea of consumption had, thus, changed its original meaning from the one associated with "an end of living" to "living life" (Gabriel, Lang 1995: p.7).

Consumer society began to develop in the middle of the 18th century in the countries where consumption played a vital role in comparison to the other spheres of life, such as the Great Britain, France, the Netherlands, part of Germany and Italy. Signs of consumer society could also be found in the British colonies and in the North America (Stearns 2001: p. 15).

Changes within the area of industrial production and organisation were caused by a rapid growth in the production of goods and services. They contributed to the increase of consumption on the turn of the 19th and 20th centuries. It was that time when the focus was switched from production to consumption, which became a common phenomenon involving larger parts of communities (Vlad et al. 2011: p. 49).

The thrive of consumer society was connected to the great transformation, which made traditional western countries relatively innovative and fast-growing. This particular time in history was characterised by the expansion of shops, new marketing methods and the growth of companies dealing with long distance selling with domestic customers as recipients (Strasser 2003: p. 376).

An intensive growth of the consumer society in Western Europe was observed after the World War II. The process of religious, social, ethnical, national, economic, and ideological opening of cultures was observed in the consumption of goods. The consequence of establishing the European Economic Community on 25th March 1957 was that the European Communities have become vulnerable to the influence of other member states' cultures. The consumption of goods available in member countries mixed up and a new consumer culture has appeared. This culture influenced specific, emotional consumer's attitudes. Retailers started to sell goods of secondary need and used mainly for decoration. The opening of great department stores in the middle of the 20th century continued the process of consumption. Stores were supposed to make shopping more attractive and pleasant (Galbraith 1973: p. 77–84).

The growth of consumption in Western Europe after the World War II has been influenced by economical changes, like economic growth, that covered all sectors of economy, the rise of real incomes, and changes in the system of social values and cultural specificities of consumption. The development of industrialization and urbanization has contributed to the formation of new social sections of society with a broad access to a variety of goods and services. (Thompson 2012: p. 914).

The European Economic Community granted consumers the right of special protection. It was based on the notion that, in comparison to retailers, consumers are in a rather weak position. The new rights have strengthened an average customer's sense of safety in the market and encouraged them to trade. The evolution of support for consumers' rights within the European Economic Community could have been observed at two levels. Indirectly, the protection of consumer rights was included in primary law, and directly: the rights were specified in consumer protection programmes adopted by European Commission. Despite the lack of a legally binding status, they created an impulse for the secondary law-making.

In all ECC member states non-legislative forms of customer protection called "codes" have functioned. There are three spheres of codes. The first unilateral codes covered cases when manufacturers and their associations determined a certain number of regulations as "codes" within the economic sphere of consumer laws and interests. The main intention of unilateral codes was to avoid legislations that would be more restrictive than the abovementioned self-control. The aim was to build the reputation and

create a certain entrepreneurial image. The second category included codes negotiated with consumer organisations. They were possible only when consumer organizations in a given country were strong enough to put the pressure on traders in order to make them accept certain solutions. The last category included "codes negotiated with public authorities". The rules of self-regulation were negotiated between the public authorities and entrepreneurs. The policy of such regulation was the self-regulation, which may have the same effects as legislation and it referred to all the codes (European Consumer Law Group 1983: p. 209–224).

Consumer society vs consumer ethics

The evolution of norms and rules concerning the process of consumption was strongly connected with the formation of consumer society. The modern consumer society is a civilisation, where consumption is linked to a continuous and satisfying purchase of goods and services, and stands above all other values like morality, common good, customs, and social norms. The consumer society degrades sustainability and identifies "old" with "old-fashioned" – that is useless and shall be thrown away (Bauman 2009: p. 27). Consumption in modern consumer society permeates human relations and has become a means of fulfilling desires, communicating with other people, marking place within the social hierarchy, and even contrasting and categorising yourself and your surroundings. Consumption has started to perform a psychological role in the life of individuals, providing a sense of safety (Lewicka-Strzatecka 2002: p. 165).

Together with the development of a consumer society, we may observe a formation of specific ethical norms that refer to the purchase process. We can note the development of a consumer ideology which says that the world is a warehouse of potential objects of consumption, and individual life is a perpetual search for bargains; the life's purpose is seen as the maximal consumer satisfaction, and life success as an increase in each individual's own market value (Bauman 2008: p. 21).

In the scholar literature we may notice a lack of uniform definition of consumer ethics. It is connected with the idea of economic ethics and consumption ethics. Consumer ethics in the context of economic ethics may be defined as a moral obligation of a person whose actions aim to fulfill material and spiritual desires through acquisition of goods and services. (Majka 1997: p. 180). Consumption ethics is connected with a conscious and thoughtful purchase decision, so that certain consumer choices are based not only on moral values, but also on beliefs. Ethic consumption is a responsible consumption that may be described by having a moral approach to the market and consumption of goods and services. Moral factor is associated with the idea of following your values and moral goals (Kalajtzis 2016: p. 40).

Consumer ethics defined as a set of principles and rules of conduct associated with a broadly understood consumption process, which was accepted at a given time, and has gained a new dimension. It was mainly referred to as "the rules, standards, or principles that influence the individual or a group of people with regard to the acquisition, use, and

disposition of goods" (Muncy, Vitell 1992: p.298). It may be pointed out, that ethical ideology is a significant determinant of ethical belief, as well as it influences one's perceptions of the rightness and wrongness of questionable behavior (Chun-Chen et al. 2012: p. 317).

Analysing modern consumer ethics in the context of society growth, this article focuses on its forms in two spheres. Firstly, it is associated with broadly understood consumer decisions and factors that influence the choice of a particular product. Secondly, it refers to consumer behavior during the process of purchase.

The first sphere relates to the factors that influence the choice of certain goods and services and may refer to the idea of utilitarianism in ethics and, to be more specific, the utility principle that has evolved since the 18th century. According to that principle, the conduct is correct if it leads to the greatest happiness i.e. by possession of material goods. Happiness in the context of consumption is understood as pleasure the consumer gains from the sole retail process, and the process of using the goods and services (Mill 2012: p.10). The consumption object is valuable if it leads to pleasure. It is an individual consumer who makes the decision about the attractiveness of the product and, therefore, about buying it.

In the context of consumer ethics, value judgements play an important role as they decide about purchasing the product. A product that used to be valued by an individual because of the presumable pleasure it may provide, can lose the merit as it falls down the scale of socially assigned values. A consumer is public-spirited to such an extent that he will be willing to resign from his own deliberate actions in order to compensate moral values. He will search for such sources of pleasure that are socially accepted. In this case, the decision-making process is rather influenced by cultural aspects rather than instincts (Klimowicz 1974: p. 136).

The doctrine of freeganism that has developed in the 1990s in the USA is a modern idea that relates to consumer ethics in the purchase process. Freeganism in this context is understood as the minimisation of purchasing and the role of consumption in a man's life. (Thomas 2010: p 98). According to freegans, the fundamental ethical standards that determine the process of consumption are society, generosity, freedom, cooperation, and sharing. They are contrary to consumer society that is built on materialism, moral apathy, competitiveness, conformism, and greed (Persson 2011: p. 17).

Another sphere is associated with the influence of consumer ethics on consumer's behavior during the purchase process. Ethical assumptions should be consistent with the standards of conduct and good customs existing in a certain community. Various trading practices used by entrepreneurs influence customer's behavior. They are used to create different methods of purchasing which are often in conflict with socio-cultural standards of purchasing goods and services, and to create desired shopping trends. The globalization of trade and the formation of a uniform European market resulted in the creation of subcultures of the owners of certain goods. The possession of certain goods has generated the sense of belonging to a specific group. For example "Jeep owners", "sportsmen", "motorbike owners", "perfect moms", "perfect housewives" (Quinteros 2014: p. 265). A modern consumer purchases goods not only to fulfill essential needs, but to belong to the

certain economic, technological, and even geographic and spiritual structures they live in (Dalgliesh 2012: p. 6–37). The purchasing behavior of a modern European consumer is also influenced by unfair marketing practices e.g. activities that aim to persuade the customer to purchase the product by any means. According to Unfair Commercial Practices Directive (Directive 2005/29/EC), they take forms of aggressive or misleading marketing practices. Marketing practices used by sellers are considered unfair when they are contrary to morality and significantly distort the marketing behavior of an average consumer before conclusion of a product-related contract, during the process of conclusion, or just after it. Marketing practices are recognized as misleading if they influence the consumer to make an agreement-related decision that he would not make in other circumstances.

An aggressive marketing practice involves putting pressure on a consumer that would restrict the freedom of choice or their behavior towards the product and the consumer makes a decision that in other cases he would not make (Velentasa et al. 2012: p. 412). This involves practices when the prices of products are reduced on particular days in the year. Sellers not only encourage customers to buy a reduced price product, but they have created a fiction about the shortage of such products that triggers aggressive behaviors among consumers. A good example of such activity in capitalist countries is "Black Friday". It is a day following Thanksgiving Day in the United States (the fourth Thursday of November). It has been regarded as the beginning of the Christmas shopping season in the US, and most major retailers open very early and offer promotional sales. The encouragement for purchasing the product in the form of a reduced price raises pathological situations, including violence (McLinden 2015: p. 45). Misleading advertisements and aggressive selling techniques have been forbidden in the European Union since 2005. The European Union protects economic interests of consumers before, during, and after the transaction (Gonzalez 2015: p. 210).

Consumer society vs consumer policy in the European Union

Consumer society is influenced by the process of harmonisation of European markets, and appropriate regulations facilitate the trade, making it accessible even for consumers from the other countries. The EU provides consumers with a set of regulations that ease the acquisition process i.e. regulations that guarantee the safety of purchased products, protection against unfair commercial practices, or a broad redress system.

The development of pro-consumer policy was an important element regarding the growth of consumer society within the Union. The consumer policy in the European Union after 1992 has been created through programmes and strategies where we may find strategic goals related to the protection of customers in various areas of safety: health, economy, information, and education or within the frames of redress. In addition to prime objectives, there are legal solutions that aim to implement their realisation (McDonald 2000: p. 39–40).

Within the context of an enhanced acquisition process, that is common for any consumer society, the European Union introduced regulations that covered basic areas. The first area covered the matter of consumer and products' safety. The second covered

the sphere of information and education, whereas the third related to redress system and cross-border transactions. (Directive 2013/11/EU).

Economic safety is defined as the level of income considered to be basic, so the one that ensures survival, balanced development, and personal dignity. (Human Development Report 1994: p. 23–25). Management of income depends on personal needs of a buyer. An income determines purchasing abilities of an average consumer. Any consumer who concludes a contract should possess broad knowledge about the real terms of agreement, including financial aspects. The economic safety of consumers is particularly associated with the legal protection of financial interest during the process of concluding agreements. Safety is based on eliminating unfair commercial practices used by retailers who seek to persuade the consumer to make financially unattractive retail decisions, which they wouldn't make in other circumstances. Safety is guaranteed by providing the possibility for redress that results from purchasing a good that is not in conformity with the contract.

Only those products which meet standardising norms can be introduced to the market. Directive 2001/95/EC on the general product safety says that any product introduced to the EU market has to meet the general safety requirements, compatibility criteria, and European standards. The retailers shall be required to introduce only these products that are safe. A product is considered to be safe when, in the lack of certain provisions concerning the safety of a given product, it meets the requirements of national legislation in the territory where the product is being sold. A product is said to be safe if all threats covered by national standards have been taken into account. Additionally, it should meet optional, national standards being transposal of European standards. The conformity of the product with the general safety requirements is evaluated by consideration of national standards being transposal of European standards, norms drawn up in the Member Country where the products is being sold, or recommendation of Commissions that regulate the risk assessment of a given product.

An important role is played by the codes of good practice in relation to the safety of products, the implementation rate and the technology used, and possible expectations of consumers about the product safety (article 3).

The sense of consumer safety in EU, whilst increasing the process of the acquisition of goods, was influenced by regulations relating to information. Consumer safety in the context of information may be analyzed at two levels. The first one is the education of a European consumer and raising his consciousness within a widely understood economic and legislative context. It allows for a smooth and conscious participation in a free market. It is important to recall the resolution on consumer education in primary and secondary schools (Resolution of the Council 1986). The right for information provides a consumer with a free and independent choice and guarantees safety. It provides broader content and form of information that is offered in certain situations.

The second level constitutes real and accurate information about the product provided by the retailers and entrepreneurs to consumers. We can distinguish two types of information that a consumer may expect to receive: information about the product, and

about the terms and provisions of consumer contracts. Information about the product comes down to the policy that every product intended for consumers should contain information about its features, purpose, and way of use. EU Directives paid a lot of attention to the products purchased in bulk, such as: food, cosmetics, medicines, childcare products. In case of such products the information about the ingredients, way of use, and the possible dangers was very important. (Streżyńska 2000: p. 98).

The process of purchasing goods may become even more attractive when customers are guaranteed with an accurate complaint and redress mechanism. Especially important are the out-of-court complaint systems, the so called ADR (Alternative Dispute Resolution) that function in the European Union and which are meant to help consumers and retailers who failed to reach the agreement by themselves. The basic ADR systems in Europe are mediations and consolidations, arbitration, the activity of IRS, and ombudsman. They differ in the binding force and the nature of taken decisions. In some cases they take the form of a contract (e.g. model of a mediator or ombudsman), in other cases they are bidding on the retailer (e.g. IRS), and, in other, they bind both parties (e.g. arbitration).

In the context of attractiveness of purchasing process beyond borders of a Member State, the alternative systems of out-of-court dispute resolution are important in the sphere of consumer safety. It is worth paying attention to the two primary legal acts: Regulation (EU) No 524/2013 provides for the establishment of an online dispute resolution, and Directive 2013/11/EU about the alternative methods of dispute resolution. The mentioned Regulation shows that online shopping becomes more and more popular among consumers and retailers, which is why both parties should feel safe while making online transactions. An important tool with regard to customer and seller safety may be the establishment of an efficient online dispute resolution platform at the EU level (ODR platform). The ODR platform should take the form of an interactive website offering a single point of entry to consumers and traders seeking to resolve disputes out-of-court which have arisen from online transactions. It should allow consumers and traders to submit complaints by filling in an electronic complaint form available in all the official languages of the Union and to attach relevant documents.

According to Regulation (EU) No 524/2013 which provides for the establishment of an online dispute resolution, it should transmit complaints to an ADR entity competent to deal with the dispute concerned (point 18). The aim of the Directive is to provide access to simple, effective, fast, and cheap methods of national and cross-border dispute resolution resulting from marketing and service contracts. The procedure of consensual dispute resolution in case of transactions by use of Internet networks and other kinds of transactions ought to be beneficial for consumers and should strengthen their trust for the market (point 4). According to the act, ADR shall meet the uniform quality requirements applicable in the Union. The Directive covers all permanently established entities that deal with dispute resolution between consumers and entrepreneurs within the frames of ADR and which are included in the list.

In connection to the growing international trade and the movement of people, the Directive introduces regulations concerning cross-border dispute resolutions, where

both consumers and entrepreneurs had different places of residence or headquarters in different Member States at the time of concluding the agreement.

Conclusions

The growth of consumer society within the European Union was associated with the socio-economic changes in Europe in the 20th and 21st century i.e. harmonization of the markets, societies growing wealthier, and the rise in the standard of living, access to products that were earlier unavailable, establishment of international organizations which aimed at economic development of Member States, and at the same time legal provisions within the frames of a broadly understood purchase process.

The established hypothesis has been positively verified. Without a doubt, modern consumer society in the European Union is considered to be a consumer society. Analysing the nature and idea of consumer society, it should be noted that modern consumerism means the conversion of humans into consumers – homo consumer, and turning all the other dimensions of humanity into the secondary and minor role. Acquisition processes in this context aim to fulfil not only the basic, physiological human needs, but all the other needs and the ultimate objective (Bauman 2011: p. 109). Modern consumers make purchase decisions under the influence of various external factors like actions of professionals (entrepreneurs, retail specialists, economists, psychologists and lawyers) who are trying to recognize the needs and desires, and therefore, influence consumer's decisions.

The growth of consumer society in the European Union is associated with the development of legal measures within the frames of broadly understood retail process, product safety, protection against unfair commercial practices, and mechanisms of dispute resolution with a special attention to cross-border consumer transactions. The European Economic Community, and then the European Union, emphasize the need to guarantee consumer safety through measures in the field of product safety or the protection against unfair commercial practices. Nowadays, consumers are well guarded by the developed system of dispute resolution with particular reference to cross-border transactions. Modern consumers enjoy the freedom of purchasing goods in the European market. The Union seeks to protect consumers during the process of concluding cross-border agreements. Modern consumers are said to be digital consumers who make cross-border transactions via Internet. The possibility of cross-border shopping made the bargains even more accessible.

The decision-making process may be analysed through the lens of consumer ethics. The decision about the choice of product will be associated with prioritizing different spheres of life. It depends on an infinite number of determinants e.g. the society the consumer lives in, cultural, ethical, geographical, upbringing, lifestyle, character of a consumer, fashion preferences, nutritional style, etc. (Turcotte 2011: p.19–20).

For one consumer, buying and consuming meat may be ethical, and for another it may be immoral as it affects animals' lives. It is doubtless that decisions made by modern consumers are ethically independent. However, they are also influenced by various methods of manipulation used by retailers and trading specialists. An important matter is

the awareness of such practices, broadly understood knowledge, and consumer's consciousness. Educating uniform, consumer society does not have to result in the degradation of moral and ethical standards. It is only their flexibility and range that is increasing. Moral standards that used to be a domain of a small social group shall be suppressed by global customs and consumption standards, however they are applied individually by every customer who decides about the form and character of the consumption process.

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Energy security of the European Union – opportunities and challenges

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Abstract

For many years, the future of energy has been one of the most important problems and challenges for both national and global policy making. It is related to the high responsibility of the energy sector for climate change on Earth, but also for caring about ensuring sufficient energy for the future generations. Thus, energy policy is an important pillar of maintaining, broadly understood as internal security of the country. The biggest challenge related to ensuring energy security of the European Union is the diversification of energy sources. Member States are trying to tackle this challenge in two ways. Firstly, through the development of renewable energy, and secondly, looking for new channels for the supply of non-renewable energy. The restructuring of the energy sector, which has taken place in recent years, in accordance with the guidelines of the European Union, aims to intensify the use of environmentally friendly renewable energy sources. Equally important is the construction of the *Nord Stream 2* and *Turk Stream* gas pipelines, which has been ongoing for several years, which raises much controversy in the Member States. The article is an analysis of the opportunities and challenges facing the European Union related to ensuring stable energy supplies to European citizens.

Keywords: energy security, renewable energy sources, energy policy

Bezpieczeństwo energetyczne Unii Europejskiej – szanse i wyzwania

Streszczenie

Przez wiele lat przyszłość energii była jednym z najważniejszych problemów i wyzwań dla kształtowania polityki krajowej i globalnej. Jest to związane z wysoką odpowiedzialnością sektora energetycznego za zmiany klimatu na Ziemi, ale także z troską o zapewnienie wystarczającej energii dla przyszłych pokoleń. Polityka energetyczna jest zatem ważnym filarem utrzymania szeroko rozumianego bezpieczeństwa wewnętrznego kraju. Największym wyzwaniem związanym z zapewnieniem bezpieczeństwa energetycznego Unii Europejskiej jest dywersyfikacja źródeł energii. Państwa członkowskie próbują radzić sobie z tym wyzwaniem dwutorowo. Po pierwsze poprzez rozwój energetyki odnawialnej, po drugie poszukując nowych kanałów dostaw energii nieodnawialnej. Restrukturyzacja sektora energetycznego, mająca miejsce w ostatnich latach, zgodnie z wytycznymi Unii Europejskiej, ma na celu intensyfikację wykorzystania przyjaznych dla środowiska odnawialnych

źródeł energii. Równie istotną kwestią jest trwająca od kilku lat budowa gazociągów *Nord Stream 2* oraz *Turk Stream*, która wzbudza wiele kontrowersji w państwach członkowskich. Artykuł stanowi analizę szans oraz wyzwań stojących przed Unią Europejską związanych z zapewnieniem stałych dostaw energii obywatelom Europy.

Słowa kluczowe: bezpieczeństwo energetyczne, odnawialne źródła energii, polityka energetyczna

The basic task of each state is to provide its citizens with the broadly understood security. The catalog of the society's needs has been expanding over the years. In this context, however, the necessity to ensure the stability of energy supplies is constant. Initially conventional power engineering, in connection with the increase of ecological awareness of both entities exercising power, as well as society, slowly gives way to the renewable energy.

The energy of the European Union member states is largely dependent on the supply of energy raw materials and fuels from the Middle East and Russia. Thanks to import, about 50% of energy is produced. Forecasts, based on the current increase in energy consumption, predict that this state will deepen by up to 70%. The consequences of such a situation do not need to be presented to anyone – Europe's dependence on energy supplies (raw materials for its production) can cause not only an increase in prices, but also fluctuations in the economies of many member countries. According to the World Energy Council's (WEC) calculations, crude oil and natural gas reserves in the world at the end of 2005 are 159,644 million tones, which gives 1,215,186 million barrels of oil (World Energy Council 2019: p. 9–10). With an average consumption level of 3,725.5 million, oil and gas give us reserves for nearly 43 years. The situation looks better with coal deposits, which comprise 847,488 million tons of coal, what with consumption of 5,850 million a year gives a minimum of 144 years of reserves. However, natural gas production annually amounts to 2,796.6 trillion cubic meters, with resources of 176,462 trillion cubic meters, it will allow us to extract natural gas for 63 years (World Energy Council 2019: p. 14).

Accordingly, renewable energy sources (RES) play an increasingly important role in meeting society's needs around the world. Competitiveness of some technologies based on unconventional sources, currently reaches a level similar to technologies based on fossil raw materials. Moving away from a coal-based economy to increase the use of greener sources, resulting in lower emission to the atmosphere, can be an energy security not only on a local scale, but also on a national scale, and also improves the living conditions of the community. Diversification of energy sources is aimed at long-term maintenance of the energy security of a given country and independence from producers of fossil fuels. The national authorities, which are mainly responsible for the implementation of the concept of sustainable development, try to match European trends in the creation of a competitive market for renewable energy sources. The implementation of this principle applies, however, not only to the perceived economy of the achievement of sustainable development, but also to influence the natural environment, as well as to ensure an adequate quality of life for all people. The role of the state is,

therefore, to develop a model that will allow economic entities to develop in effective manner, ensuring continuous civilization development, which will not negatively affect the natural environment.

Since the beginning of the 20th century, there has been a significant change in the context of shaping the energy sector. The restructuring of this sector of the economy took place also in every EU Member States. Currently, there is a tendency to seek a balance between maintaining the importance of some market mechanisms that drive the energy market and maintaining the partial influence of the state on its formation. The role of the market primarily affects the maintenance of appropriate conditions, and strategic planning for which the government is responsible is important in the long-term perspective. Its prerogatives are often transferred from the national level to the supranational level, which is responsible for creating a legal framework for the energy market and for formulating a coherent energy policy limiting the negative impact on the environment.

The research problem is the question, what – considering the complexity of the issues which include individual elements of energy security, the international situation, legal aspects and the importance of security for the modern state – is the biggest challenge for European energy security? Member States' previous experience allows formulating the thesis that the main challenge in shaping the EU's energy security is ensuring diversification of energy sources. In this context, both Member States on its own and the European Union are looking for new energy sources – in particular renewable as well as new sources of conventional energy supply.

The essence of energy security

After the Cold War, the understanding of national security was extended by classifying the new areas of social activity in this aspect. One of the often cited by scientists is the division proposed by Barry Buzan into five major security sectors: military, political, social, economic and ecological. Security in newly defined areas, is called soft security, while traditional military security – hard security (Buzan 1991: p. 19–20).

In the aspect of ecological security, the main assumption is to preserve the natural environment at the level necessary for the survival and development of humanity. The term may refer to the environment as a whole or to its subsidies. It can be analyzed at various management levels. Ecological safety should be distinguished from the concept of environmental safety because it places greater emphasis on the ecological issues of human activity and puts the ecological system in the center of attention (Brauch 2008: p. 19). The reference subject of safety in this case is neither the state nor the individual but the ecological system as a whole. Ecological security consists of four main components: security of natural resources, which relates to competition for resources at global and local level, energy security, which includes access to energy sources necessary for the development of the country, environmental security in the traditional approach related to the issue of preventing environmental degradation natural and biological security, which refers to maintaining community health and stable biological systems (Allenby 2000: p. 14–15).

Energy security can be understood in many ways. The most common one is the definition included in the Energy Law Act, which defines it as the state of the economy enabling coverage of the current and future demand of consumers for fuels and energy in a technically and economically justified manner, while maintaining environmental protection requirements (Ustawa prawo energetyczne: p. 8). Experts in the field of energy define energy security as the ability to satisfy the demand for energy in terms of quantity and quality in market conditions, at a price resulting from the balance of demand and supply, while maintaining environmental protection conditions (Wilczyński 2014: p. 48).

All definitions of energy security proposed in various types of documents cover three main aspects. They include the energy aspect that concerns the balancing of demand and supply, as well as the technical issues related to infrastructure and management. The second is the economic aspect, which means the need to ensure the price of energy acceptable by final recipients specified in the contracts or tariffs.

The last, ecological aspect, concerns ensuring environmental protection and its good behavior for future generations (Borgosz-Koczwara, Herlender 2008: p. 2). This interpretation also refers to the need to fulfill commitments and other environmental standards. Several entities are responsible for its provision, the most important being government administration, local government administration, energy sector entrepreneurs and the largest energy receipts.

Energy security can be analysed in the objective, as well as the subjective dimension. The first one has three main points of view. First, the perspective of producers, which is a guarantee of demand. From the consumer's point of view, it means resource security, i.e. the obligation to ensure stable supplies of raw materials and properly balanced prices that react to market changes as well as the stability of political relations between countries that import and export energy resources. The perspective of transit countries through which raw materials are transported is also extremely important. The second aforementioned dimension of energy security concerns the subject criterion. As part of this categorization, energy security is understood through the strategic and political aspect, which concerns the influence of the foreign policy pursued by a country on the export and import of energy resources. The next interpretation takes into account economic issues. Security is understood by the amount of available raw materials at a predetermined price. In the ecological aspect, the impact of the use of specific energy resources on the state of the natural environment in a given country is considered. The last aspect concerns infrastructural issues. Energy security is translated in the context of how to manage and develop the infrastructure necessary to ensure sustainable energy supplies in a given country.

Among the factors affecting the assurance of energy security in a given country, one can distinguish primarily: the level of diversification of supply directions, diversification of sources, issues related to fuel storage on the territory of a given state, the degree of privatization of enterprises functioning in the energy sector, reliability of the energy supply system and its transmission, the role of the state in supervision and the degree of ordering of the energy sector coordination system, planning, as well as development

and investment decisions, uniformity of the situation within the country and on the international arena (Czerpak 2006: p. 26).

Threats to security can be divided according to the time criterion into short-term and long-term (Bachman 2017: p. 15). The first group includes breaks due to technical problems, weather anomalies or political disruptions in importing and exporting countries. On the other hand, the second group includes, first of all, supplies that do not meet the demand of a given country for energy. They may be caused by actions taken by economic, financial or political entities that hinder investments in production or transport of given raw materials. At present, a cyber-terrorist attack that could temporarily reduce the functioning of critical energy infrastructure is also a big threat. However, the biggest problem is the possibility of total depletion of conventional sources, and therefore, many countries (including Poland, whose economy is still the most reliant on non-renewable energy resources) are facing the challenge of ensuring energy security based on other sources.

Legal aspects of the renewable energy sources functioning

The intensive development of renewable energy sources in most Member States began in the 1990s. The construction of the first installations using wind, solar, geothermal and biomass energy was started. Although, at that time there were already a few installations using water energy, public awareness of renewable energy sources was not common. The development of the market based on unconventional raw materials came out from the interest of private investors in the use of this type of energy sources. Another turning point in the development of RES was the introduction of legal regulations at the international level, which somehow forced the nation states to develop this energy sector.

Modifications of the national energy law were introduced mainly due to the need to implement Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market. The document assumed the use of renewable energy at the level of 22.1% in the perspective until 2010. After the enlargement of the European Union in 2004 by 10 countries with a much lower level of development of renewable energy than in old Member States, the assumed level was reduced to 21%. The White Paper of 1997 *“Energy for the Future”* also obligated the Member States to achieve a 12% share of renewable energy sources in national gross energy consumption by 2010 (European Commission 1997; Pultowicz 2009: p. 107).

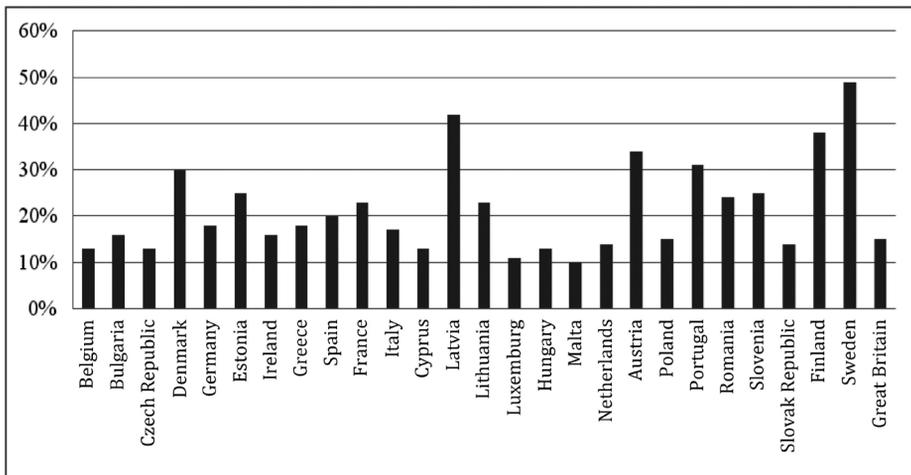
In 2005, the EU countries also committed to developing a coherent energy policy based on the pillars of competitiveness, sustainable development and security of supply. The legitimacy of such a policy was confirmed by repeated disputes over gas between Russia and Ukraine, as well as geopolitical tensions in North Africa and the Middle East. Another important document in the field of energy was the Green Paper of March 8, 2006 *“A European Strategy for Sustainable, Competitive and Secure Energy”*. In line with the recommendations contained in this document, measures to increase energy efficiency

will only bring profits if the initiatives undertaken at the international and national levels are duplicated at the local level. The *Green Paper* (Commission of the European Communities 2006) also lists the benefits that will be achieved through the implementation of tasks at many territorial levels:

- 1) increased competitiveness of the European Union resulting from energy savings;
- 2) increasing the employment level;
- 3) significant reduction of greenhouse gases polluting the atmosphere;
- 4) increasing energy security by reducing energy demand.

In 2007 and 2008, activities on the European forum were conducted to combat global warming and significant emissions of atmospheric pollutants. These activities resulted in the adoption of the so-called 3x20% package, which obliged Member States to reduce greenhouse gas emissions by 20%, to increase energy efficiency by 20% and to achieve a 20% share of renewable energy sources in the national energy balance. These values must be achieved by 2020. At the forum of the European Parliament in 2009, it was stated that pre-established values should in fact be much higher, therefore in 2011, the so-called energy road map by 2050 and a plan for the transition to a low-emission economy were developed (Ciepielewska 2016: p. 12).

Figure 1: Estimated share of renewable energy in gross energy consumption in 2020



Source: (GUS 2012: p.12)

Another extremely important document for renewable energy is the EU strategy for smart, sustainable and inclusive growth *Europe 2020* (COM(2010) 2020 final). This document includes the European Union's priorities for employment and economic growth. The implementation of the strategy started in 2010, and its main objective is to create the conditions for smart, sustainable and inclusive economic growth. These priorities are related to the achievement of 5 assumptions for various areas of life by 2020: employment,

investment in research and development, environmental issues, education and the fight against poverty. From the point of view of energy policy, the most important issues raised in the strategy are related to climate change and sustainable energy use. The strategy *Europe 2020* assumes reduction of greenhouse gas emissions by 20% compared to 1990 level, and even by 30% if conditions are favorable. The 20% of energy should be obtained from the renewable energy sources. Energy efficiency should be increased by 20% (see: *Europe 2020 Strategy in a Nutshell* 2012). Therefore, the objectives of the strategy are reproduced by those included in the climate and energy package. The progress in implementing the strategy is being monitored within the European Semester, which aim is to coordinate the economic policy of the Member States of the European Union.

The EU energy policy framework is currently defined by so-called EU energy policy framework. The framework includes a package of 8 legislative acts that help to shape the Energy Union and meet the EU's Paris climate commitments. The last legal acts were adopted in May 2019 (Energy Union for Europe 2019). The new rules will make the EU electricity market more competitive, more consumer-oriented and more flexible. Consumers will have more rights and will be able to participate in the market as active clients. Electricity suppliers will be able to set their own prices, which will reduce market distortions, increase competition and lower prices for consumers. The new rules on turnover and balancing obligations will allow the power system to receive energy generated from renewable sources with unpredictable production characteristics. The new act on how to prevent, prepare for and manage electricity crises will increase energy security throughout the EU. The regulation will oblige Member States to draw up emergency preparedness plans based on regional and national electricity crisis scenarios. It also provides for greater cooperation and easier assistance between Member States in the event of such a crisis.

In conclusion, the old law frameworks did not encourage entrepreneurs to invest in renewable energy sources. Excessive bureaucracy in the process of obtaining permits prevents many people from successfully commencing an investment. Potential in using energy from non-renewable sources remains unused, which may in the future result in the problem of ensuring stable energy supplies, as well as the intensification of problems in meeting the ecological requirements imposed by the European Union law. The legal framework changed in 2019 is create to change the attitude of entrepreneurs and facilitate the market entry of renewable energy producers. It will be possible to assess their real impact on the energy market in a few years.

Challenges for the development of renewable energy sources on the example of Poland

According to the current report about renewable energy, most Member States will achieve their targets for the level of energy production from renewable sources. The share of renewable energy in heating and cooling services in 2014 was estimated at 16.6% (European Commission 2015: p.3). Heated energy sources are increasingly used as

a cost-effective and safe alternative to fossil fuels in the application of warm state entitlements at a specified level.

Currently, 26% of EU energy uses renewable sources. Around 10% of total EU electricity with changes in energy sources and variable characteristic productions (such as wind or solar).

Achievements in renewable energy for 2020 will remain fully available for the EU as a whole and to some Member States. However, based on a comparative and planned assessment, it can be found that most countries need to meet or exceed their 2020 targets for the updated energy (Renewable Energy Progress Report 2019: p. 3). Nineteen Member States – including, for example, Austria, Estonia, Denmark, Germany, Italy, Lithuania, Romania and Sweden – may exceed their 2020 renewable energy targets implementing planned policies for the renewable energy.

Some countries (including France, Luxembourg, Malta, the Netherlands, the United Kingdom, and to a lesser extent Belgium and Spain) should be assessed, whether their policies and instruments are sufficient and effective in achieving their energy resource targets. Reaching renewable energy coverage in 2020 is not particularly important for Hungary and Poland (Renewable Energy Progress Report 2019: p. 6).

The development of renewable energy sources in Poland began with the initiative of small investors who were the first to notice their energy potential. There were few non-governmental institutions and foreign experience to support investors. In the initial phase, the development of RES took place entirely without the participation of state institutions (Bogusz-Koczwarą, Herlender 2008: p. 13). The increase in prices of fossil fuels was indicated as the main reason for interest in new energy sources. As shown in the table below, renewable sources accounted at the beginning of 2017 for about 15% of installed capacity and accounted for around 7% of electricity production in Poland.

Table 1: State of the National Power System in 2017

Type of power station	Power (MW)	Production (GWh)
Professional water power plants	2 296	2 399
Thermal power plants	30 097	138 328
Coal power stations	19 155	813 48
Brown coal power plants	9 332	51 204
Gas power plants	1 610	5 776
Wind power plants and RES	6 344	11 769
Total	38 737	152 496

Source: Own study based on statistic data of the Polish Power System 2017.

The main source of renewable energy in Poland is biomass, and state institutions have the greatest hope for the future concerning it. The share of biomass in the fuel balance in Poland is increasing with each subsequent year. The accumulation of biomass can be an opportunity for the development of agriculture in many regions of Poland,

which in the longer term will translate into a reduction in unemployment in some regions of the country. These benefits can only be achieved when determining the appropriate national or regional policy to support local initiatives to build small installations producing renewable energy. Biomass can be directly incinerated in the form of solid biofuels such as wood, straw, energy crops, gas plants in the form of biogas or processed into liquid substances such as oil or alcohol. Biogas can also be a support for energy wastewater treatment plants, often financed by local government.

As far as wind energy is concerned, the countries with a long shoreline have the greatest potential to use this energy source, because the wind blows in such regions most intensively and most often. This type of energy is developed primarily in Denmark, Germany, the Netherlands, Spain and Portugal. Poland has no climatic conditions for the development of this type of energy production. However, the Pomerania and Suwałki Region have the best potential. Wind energy is associated with the problem, that its too big share in the energy balance of a given region may cause temporary changes in voltage parameters, which exposes very sensitive consumers to losses caused by interruptions in energy production resulting from windless periods. This issue is a serious limitation and it also discourages small business from using this type of electricity source.

An interesting solution, the use of which in Poland is becoming increasingly popular every year, are solar systems. Solar energy can be produced anywhere in Poland. Such installations are the most often used in residential and service construction. The use of solar energy in public buildings is also quite common. Theoretically, technical potential of solar energy in Poland is very high. In addition, such installations are willingly co-financed from the EU funds, which undoubtedly encourages their assembling.

Until now, the share of energy from renewable sources in the overall energy balance has been growing at a satisfactory pace, faster than expected from commitments. In 2014, the share of renewable energy amounted to 11.45%, while the target for this year was 9.5%. Thus, Poland achieved a better result, than e.g. France or Great Britain. However, the situation looks worse when we look at the pace of change. According to it, the achievement of the required 15% share of RES in energy production in Poland may not be achieved. The analysis of the trend of the last five years demonstrates that in 2020 the share of the renewable energy will be 14.9% (Raport 2016).

On the other hand, applying only on the basis of the growth rate in 2013-2014, Poland will reach by the end of 2020 only 12.2% share of renewable energy sources in the energy balance, thus it fails to meet the level assumed in the EU commitments. The situation can be saved by the rapidly growing wind energy sector. Windmills in Poland in 2015 produced over 5 GW of power, while the governmental National Action Plan for RES assumed production at the level of 3.5 GW (Raport 2016). Biomass-based power plants, which once played a dominant role in the production of renewable energy, are currently achieving a much lower level of development. In 2015, energy production from biomass amounted to approximately 1 GW against expected 1.5 GW. The transport sector may have the greatest influence on the failure to reach the required European Union index. The downward trend in green energy production is currently dominating

instead of planned growth. In 2014, the production of renewable energy (mainly from biofuels) amounted to 5.67% while the national government assumed a share of 7.48%. If this trend is maintained, the share of renewable energy in transport will fall below 5%. The EU commitments take into account specific objectives, one of them is to achieve a 10% share of renewable sources in energy production for transport, which Poland will most likely fail to meet.

Nord Stream and Turk Stream as a chance for diversification of energy supply?

For 20 years, natural gas – unlike two other major fossil fuels: oil and coal - has played an increasingly important role in meeting Europe's energy needs. Currently, gas accounts for almost 25% of the EU's gross internal energy consumption, in particular in home heating and electricity production. However, the importance of gas varies from country to country – in countries such as the Netherlands, Italy and the United Kingdom, gas plays a greater role than in Sweden, Estonia or Finland. At the beginning of 2019, Malta received the first ever supply of liquid gas, and Cyprus is just beginning to search for gas (European Parliament 2019). The European Commission would like every EU country to benefit from at least three independent sources of gas supply. The European Union imports two-thirds of its demand for natural gas – via pipelines or by sea through terminals (gas ports). More than a third of these imports come from Russia, and gas is also purchased in Norway, Algeria and Qatar. Most EU countries depend entirely or almost entirely on gas imports, with some being the main or sole gas supplier is Russia. Dependence on one supplier or one means of gas transport is risky for security of supply (e.g. technical disturbances and faults, political or economic disputes over gas prices, as between Russia and Ukraine in 2006 and 2009).

Currently, two gas pipelines are being built: *Nord Stream 2* (55 billion cubic meters) and *Turk Stream* (31.5 billion cubic meters), which are supposed to displace gas transit through Ukraine and strengthen the position of Russian gas on the European market. According to the plans of *Nord Stream 2*, it was to be completed by the end of 2019, however, due to the fact that Denmark proposed a different version of the route (which involves the need to carry out an environmental impact assessment), this deadline will be extended (Brzozowski 2019). Construction of the pipeline is opposed by Central and Eastern European countries, and the United States has repeatedly expressed its disapproval of this project. *Turk Stream*, which one thread (15.75 billion cubic meters) is to supply gas to the Turkish market, and the other one, the so-called *Turk Stream 2* for the European market, are supposed to be ready by the end of 2019.

Works are also underway on diversification projects supported by the EU's Project of Common Interest. Among them, Trans Adriatic Pipeline is being built as part of the Southern Corridor. Trans Adriatic Pipeline with a transmission capacity of 10 billion cubic meters will deliver Azerbaijani gas and Baltic Pipe to Europe from 2020, which will enter into operation in 2022 and will transported Norwegian gas to Poland.

The diversification of energy sources is also important because at the end of 2019, the contract for the transit of Russian gas through the territory of Ukraine expires. Future of the gas supply using the Ukrainian transmission system is the subject of tripartite negotiations, in which the European Commission (EC), Ukraine and Russia participate (Brzozowski 2019). Gazprom has already announced that it will stop supplying gas to Turkey via Ukraine and Bulgaria from January 2020 (despite the current contract for transit with Bulgaria until 2030) (*Gazprom stops...* 2019). At the same time, the Bulgarian transmission system is involved in running the European branch of *Turk Stream* through Bulgaria, which could become a Balkan energetic supply.

In total, both gas pipelines, *Nord Stream 2* and *Turk Stream*, account for 70.75 billion cubic meters of additional capacity for Russian supplies transported to the EU. This means an oversupply of transmission capacity to the eastern part of Europe. For comparison, diversification projects amount to 20 billion cubic meters for gas from Norway and Azerbaijan. Currently, Ukrainian transmission capacity towards the EU and Turkey amounts to 146 billion cubic meters. Due to the approaching end of the transmission contract, the Ukrainian side claims that it is not profitable for them to maintain transmission below 40 billion cubic meters per year, and the Russian side talks about the possible maintenance of transit at the level of 10–15 billion cubic meters per year. Considering the volume of Ukrainian transit with high *Nord Stream 1* exploitation, the construction of *Nord Stream 2* and *Turk Stream* (a total of 86.5 billion cubic meters) is able to almost completely replace transport through Ukraine. The delay in the construction of *Nord Stream 2* and the increase in gas imports by the EU make possible to extend the transit of 40–50 billion cubic meters in the short-term and long-term maintenance of transit at the level of 20–25 billion cubic meters. For Ukrainian and EU's interests, this is an unsatisfactory solution which does not guarantee that Ukraine will maintain a stable position as a transit state. In Union's interest is maintaining transit through Ukraine as part of stabilizing its direct neighborhood and creating better conditions for exporting its regulations. In parallel with the policy of diversifying sources and directions of supply, leaving some of Ukraine's supplies to the EU is a form of guaranteeing energy security for the EU and building Ukrainian international status as a reliable partner. In the face of a potential crisis, the EU will have an additional argument to engage in its resolution and strengthen its position in the region. In addition, Ukraine is a member of the Energy Community, in the structures of which it is reforming its energy sector thanks to the implementation of the EU regulations aimed at adapting the Ukrainian market to the requirements of the EU market.

Although the delay in the construction of *Nord Stream 2* improves the EU position in discussions about the future of gas transport through Ukraine, it does not give prospects for a long-term solution. The situation is significantly complicated by the presence of the second Russian project, *Turk Stream*. Usually, the EU works effectively when it determines access to its internal market based on a system of regulations and standards. The reality shows that in the case of relations with Russia, in the conditions of a huge divergence of opinions at the intergovernmental level in the EU, this approach is insufficient. The construction of *Nord Stream 2* and *Turk Stream* shows the asymmetry in

the implementation of energy projects by Russia and the European Union. Therefore, the EU's weakness is the lack of political will (due to the differences in Member States' interests) at the intergovernmental level and the lack of a political approach at the supranational level in the form of the European Commission, which results in the inability to effectively enforce the EU interest.

Conclusions

It is the responsibility of many institutions to ensure energy security. The competences in this respect are primarily provided by state administration bodies, local government institutions, energy sector enterprises and the largest energy recipients in a given country. Therefore, coordination of activities undertaken by the above institutions becomes extremely important. Many aspects of energy security require that coordinated actions are carried out in a different way and that it cannot be fully provided to citizens. In addition to its own efforts to increase energy security, it is also important to be active on the EU forum, to influence the energy policy of Brussels and to use its assumptions to achieve a joint sustainable development of European countries.

Renewable energy sources in both Europe and Poland have been of great interest in recent years, primarily due to the need to increase Europe's energy security by reducing the dependence of Member States on imported fossil fuels such as coal, oil and natural gas. Secondly, it is equally important to ensure environmental protection by reducing greenhouse gas emissions, and in particular by reducing emissions from fossil fuel combustion.

Moreover, energy security is an extremely important element in achieving the economic security of a given country. Activities in this area should be aimed at the rational use of available energy resources, as well as at searching for the new ones. Despite the fast development of renewable energy, which may be adapted to the needs and capabilities of a given country, Poland still does not express much interest in this kind of the energy sources.

Analysis of the energy policy of the entire European Union demonstrates, that the EU have no chance to block the expansion of the gas pipeline. Alternatively, the project may be still delayed. The fact that Gazprom will simultaneously be the owner of the gas pipeline and the gas supplier, also draws special attention. Theoretically, the European Commission should not agree to this, taking into account one of the key assumptions of the Energy Union, which states that one company cannot be responsible for transmission and extraction at the same time.

There is still no clear and easy solution to the problem of lack of political will in the intergovernmental dimension of the EU. However, these difficulties can be reduced to some extent by postulating the adoption of a more active political role by the EC. Manfred Weber, head of the EPP faction in the European Parliament and a candidate from the group for the position of President of the European Commission, during one of the meetings discussed the need for a greater political role of the EC in the context of China's expansion in the EU market and the EC blocking the merger between Alstom and

Siemens. He suggested that the EU must be more open to the possibility of political use of competitive regulations to create European industrial champions. These proposals can be efficiently transferred to the EU's energy relations with Russia, which show that rigid compliance with regulations does not always bring the expected results. Therefore, setting the EU policy towards Russia in a geopolitical context and interpreting it in the spirit of EU interests could result in better EU political efficiency.

As the above considerations show, the European Union's energy security is ensured by encouraging Member States to diversify their energy sources. Considering the global trend of sustainable development, the development of renewable energy is promoted more than providing various sources of conventional energy. Both solutions form the basis for political discussions, but environmental issues are prioritized which results in greater involvement in regulation at EU level of issues related to renewable energy sources.

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Russian natural gas sector: current situation, perspectives and its importance for Europe

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Abstract

The aim of the article is to outline the prospects for the Russian natural gas market in the future and to present the Russian gas sector in comparison with the strategic "players" of the global market. The author examines the issues related to the production, transmission and sale of Russian natural gas. The main problem concerns the possibilities and limitations, that influence the power of the Russian "blue fuel" sector. The article presents briefly the results of the research, which were obtained mainly through the method of *case study*. The verification of the main hypothesis will be made from the *top-down* perspective, considering analysis of the actions of state decision-making centres. Less explicit impact, including the interaction of non-public actors (such as economic items), will be skipped, because their more precise consideration would provide to the interesting, but different direction of analysis of the sectoral groups of interest.

Keywords: Russian Federation, Gazprom, natural gas, global fuel market, pipelines.

Rosyjski sektor gazu ziemnego: stan obecny, perspektywy oraz jego znaczenie dla Europy

Streszczenie:

Celem artykułu jest nakreślenie perspektyw dla rosyjskiego rynku gazu ziemnego w dającej się przewidzieć przyszłości oraz prezentacja rosyjskiego sektora gazowego na tle strategicznych „graczy” globalnego rynku. Autor analizuje problematykę związaną z produkcją, przesyłem i sprzedażą rosyjskiego gazu ziemnego. Główny problem dotyczy możliwości oraz ograniczeń, które definiują siłę rosyjskiego sektora „błękitnego paliwa”. Artykuł prezentuje skrótowo wyniki badań, które zostały uzyskane głównie dzięki metodzie studium przypadku. Weryfikacja głównej hipotezy zostanie dokonana z perspektywy *top-down*, uznając za kluczową analizę działań państwowych ośrodków decyzyjnych. Oddziaływania mniej jawne, w tym oddziaływania graczy niepublicznych (w postaci np. podmiotów gospodarczych), zostaną pominięte, przede wszystkim dlatego, że ich dokładniejsze uwzględnienie kierowałoby rozważania na skądinąd ciekawy, ale odmienny tor analizy sektorowych grup interesu.

Słowa kluczowe: Federacja Rosyjska, Gazprom, gaz ziemny, globalny rynek paliw, rurociągi.

Energy resources are not only a valuable source of income for the exporting countries, but also an excellent tool for creation of global reality. This fact influences the strength and relevance of the participants in international relations with strategic hydrocarbon resources (Gawlikowska-Fyk 2007: p.15–32; Ruszel 2013: p. 93–104; Łoś-Nowak 2000: p. 44–45). The power and importance of oil and gas exporting countries are determined by the size of the deposits, their location, the production costs, the length and the mileage of the transmission routes. The policy of transit countries, through which the pipelines are running, is also important (Rotarski 2008, p. 267–298). Energy resources focus the attention of the great powerful states, often leading to the armed conflicts, which directly affect events occurring internationally (Klare 2001: p. 27–137).

The dissolution of the Soviet Union caused major changes on the geopolitical map of the world. This fact was the cause of the serious depreciation of the position of the new Russian Federation, which was formed as an independent state. In comparison to the Soviet era, Russia has lost the most of its assets contributing to its power and leadership position. In the last decade of the XX century, in addition to weapons of mass destruction, only access to hydrocarbons contributed to Russia's strength and importance on the international arena. Based particularly on the rich resources of natural gas, crude oil, as well as on a very well developed transmission network, the new Russian leader Vladimir Putin began his efforts to regain the country's power on the international arena. Although, the oil export brings incomes to the state budget, the importance of natural gas in the energy strategy of the exporting countries is broader. In this context, it is possible to assume that natural gas, in relation to crude oil, is more "versatile". Thus, alongside the military power, natural gas is considered as a fundamental tool for shaping the foreign policy of the Russian Federation (Gryz 2009: p.119–133; Paniuszkin, Zygar 2008: p. 5–7).

The main directions of Russian natural gas export are the European countries, and to a smaller extent – the Asian market. This is due to the directions of existing gas routes, as well as to the favourable price of natural gas in relation to its acquisition and transfer costs. The dominant position of "Gazprom" – the Russian monopolist on the European energy market – is a cause of doubts of some countries of the "Old Continent", that arises from the fear of obtaining a too broad political influence by the Russian authorities and its economy. Therefore, it is not surprising, that some of the European Union's Member States work to diversify the supply of natural sources, to build a common energy market, aiming at reinforcement of the negotiating position towards the Russian side (Bryc 2009: p.122–129). Together with the increasing importance of Russian natural gas on the European fuel market, which is the result of the increased demand for it from the dynamically developing EU economy during the recent several years, we can see a strengthening of the energy policy (Leszczyński 2008: p.1–17).

Simultaneously with the actions undertaken by the EU countries in the energy sector, the Russian side seeks to increase the number of natural gas consumers. This is reflected in the cooperation undertaken by the Russian Federation with Asian countries, especially with China as a leader (Dobosz 2013: p.1–8). In recent years, the increase of interest of

Russia in the use of new technologies for natural gas transfer in the form of LNG (liquefied natural gas), as well as the implementation of the sourcing process of the "blue fuel" extraction from bituminous slate and gas hydrates, must also be noted.

Russia also works on methane gas acquisition. Together with the rejection of nuclear energy by some countries, more intensive pressure on natural gas prospecting is expected to be a component of the electricity production process. Russia is also trying to prepare new deposits of natural gas for exploitation, for example, Arctic deposits and those located in Eastern Siberia and the Russian Far East (Eder et al. 2015; Provornaya 2016; Saenko 2015). These activities are necessary for maintaining the strategic position of the gas supplier, especially in the face of the dynamically developing competition in the form of exploitation of shale on industrial scale in the USA, which may in the future (with the expansion of the American LNG infrastructure) lead to the important change in the global fuel market (WNP.PL 2017; Newsweek 2012).

Methodological assumptions of the research

The research described in this article examines the issues related to the production, transmission and sale of Russian natural gas. The main research problem concerns the possibilities and limitations, that influence the strength of the Russian "blue fuel" sector. The aim is to outline the prospects for the Russian natural gas market in the future and the presentation of the Russian gas sector in comparison of the strategic "players" of the global energy market. The article presents the results of the research, which were obtained mainly by the *case study* method.

The author focuses his attention on numerous research problems, including the first: insufficient adaptation of the modernisation processes of the Russian natural gas sector in relation to the current global standards and competition strengthening in the "global natural gas market" by entering new "players"/actors on the energy market. The other research problem is related to the Russia's weakness on the international scene caused by its aggressive foreign policy.

The author claims, that despite the dynamically changing situation in the field of production technology and the ways of the "blue fuel" distribution, the Russian Federation will remain in the future a key actor on the global fuel market. According to the author, it is visible from the actions involving the Russian Federation (not only on the European, but on the broader global fuel market), successively reinforcing the position of this state as a strategic exporter of the "blue fuel". The author will try to defend the above-mentioned statement using examples chosen by him. The verification of the main hypothesis will be made from the *top-down* perspective, considering analysis of the actions of state decision-making centres. Less explicit impact, including the interaction of non-public actors (such as economic items), will be skipped, because their more precise consideration would provide to the interesting, but different direction of analysis of the sectorial groups of interest. The used model of the analysis, carried out from a *top-down* perspective, appears to be adequate in view of the centralised and concentrated style of public

decision-making and the implementation processes that dominate in Russia. Within the used model approach will be taken into account the main opportunities and barriers for the implementation of the strategic decisions of Russia, the European Union and the other public actors. Taking into consideration the broad dimension of the subject, many of these opportunities and barriers will only be outlined with the intention of developing appropriate interpretations in the further discussions. Therefore, the used model of the analysis concerns the natural gas sector, with particular emphasis on Russia's policy, in certain sense is a *case study*. However, the methodological essence of this research is the *top-down* method. According to this method, the strategic decisions in the analysed sector are taken in three main stages.

The first stage is the choice of place and, more precisely, the country or the group of countries, to which the political and economic decisions are aimed, in order to achieve both macro-economic effects and a widening of the zones of influence. The second stage is focusing (through the state decision-making centres and the institutional and organisational brokers, acting on their behalf) on the industry conditionalities of the target economic markets. The third stage is the weakening and the elimination of regional and local rivals, and strengthening of the centres cooperating with the Russian gas sector.

The main tool of the embedded in the characterised model analysis will be a narration in progress, which will be presented in a descriptive way. It may even seem sometimes publicist, but the used concepts are professional and subordinate to the principles of science, and the language that can possibly cause this publicist effect, has been applied by the author with the intention to at least partially diversify the text.

The narrative structure has been arranged according to the three phases that correspond to the used *top-down* model, taking into account the characteristics of the resource sector. In this context, the first phase demonstrates the specifics of the energy sector in Russia, consisting of the vast amount of natural gas resources, as well as the specific characteristics and production capacities of the Russian "blue fuel" sector. The second phase will assess the problem of the diversification of the natural gas supply, that would give the opportunity to weaken the sectoral position of the hegemon, which Russia remains. In the third phase of the analysis, the author will consider the new possibilities for the exploitation of gas deposits. At the end, both of the *top-down* model analysis threads will be recapitulated, which will allow the author to verify the main hypothesis.

The author used broad scholar literature for this research, which includes studies, scientific articles, analytical centres' reports and numerous netographic positions. The author of the article also used foreign language sources, especially the Russian ones. Special attention is paid to the materials of the Centre of Eastern Studies and the netographic materials from Polish and foreign servers, related to the problems of the energy sector. In particular, the last mentioned sources provide access to current, the most up-to-date information, giving a chance to conduct research that takes into account dynamically occurring changes.

Russian natural gas sector: resources, production, specifics

The Russian Federation has the largest in the world natural gas reserves. Other key actors in the natural gas market are the USA and Iran, but the last mentioned country due to the sanctions plays a marginal role as an exporter of gas. However, also the largest gas producer in the world, the USA has a fairly cautious approach to the possibility of the export of the "blue fuel" on a mass scale. This is due to the lack of adequate technical infrastructure in the form of LNG terminals, the lack of experience in global export and the fluctuation of prices in the natural gas market.

The volume of the "blue fuel" resources is estimated as 32.3 trillion of cubic metres, which is nearly 18% of the confirmed global resources of gas. Some experts of the global fuel market are willing to increase its volume to 47 trillion m³, that would correspond to 30% of the world's resources in case of inclusion in the "final balance sheet" the Russian Arctic reserves and the projected ones (Kłaczyński 2009: p. 35–36; Kardaś 2017: p. 11). Russia is the largest producer of natural gas after the USA. The volume of the "blue fuel" extracted in the Russian Federation represents 16.1% of its global production (Kardaś 2017: p. 11). A key region for the Russian natural gas sector, where the exploitation of deposits on industrial scale started in the 70s of the XX century, is Western Siberia. The total volume of natural gas extraction from the West Siberian region is estimated at 90% of the value of the entire Russian production, of which close to 80% is extracted in Yamalo-Nenets Autonomous Okrug (Łoskot 2003: p. 9; Kardaś 2017: p. 11–12). Because of depletion of the Western Siberian deposits, production will be displaced to Eastern Siberia and the Arctic region (Ciechanowska 2012). The degree of exploitation of the Western Siberian deposits estimates as 60–80%. However, for financial and technical reasons related to the length of natural gas transmission routes, the Russians try to exploit the existing, already partially managed its deposits.

According to Szymon Kardaś (2017: p.11-12), the largest deposits used in the Russian Federation are: "Urengoy gas field" (5 333 billion m³), "Bovanenkovo gas field" (4 304 billion m³), "Stockman field" (3 939 billion m³), "Yamburg gas field" (3 109 billion m³), "Astrakhanskoye" (3 087 billion m³). Some deposits of natural gas – however, having less importance – are also found in the Black Sea and the Stavropol region (Wyganowski 2014).

The main producer of the "blue fuel" on the territory of the Russian Federation is the "Gazprom" company. Its participation in the Russian natural gas market producers is 68.1%. The second of the gas production companies is "Novatek" (almost 11% of the market). The rest of the gas extraction is provided by oil consortia, which develop both oil and natural gas deposits. For example, the company "Rosneft", whose participation in the Russian market of the "blue fuel" together with the dependent operators is estimated at 9.4%. At the disposal of "Rosneft" there are deposits of around 6.5 trillion m³ of natural gas.

Together with the development of the global market in natural gas and the increase in its demand, some changes of the Russian "blue fuel" market should be expected,

including its partial deregulation. The forward-looking policy of the Russian authorities will aim to boost the efficiency of the gas production process, thereby, increasing the export opportunities (Kardaś 2017: p. 18–29).

In the first decade of the 21st century, the Russian energy sector has been working on the basis of the technologies deriving from the Soviet era. This was due to the inertia of the Russian authorities and the lack of adequate funding for the modernisation process. The production process management system within the energy sector had all the necessary features to fill the extensive economy model. In 2000, when Vladimir Putin came into power, the difficult changing process of the adopted energy strategy has gradually begun. It included not only the issues related to the production and distribution of natural gas to the foreign markets, but also the effective use of gas within the internal relations. While in the 90s of the XX century, a significant part of natural gas was lost during oil production, two decades later it is already possible to speak about serious, positive changes. In 2005, during crude oil production, only 42.6 billion m³ of natural gas were extracted. A decade later, in 2015, there was a dynamic increase of the "blue fuel" production up to 82 billion m³. This is due to the Russian authorities' strategy, that seek to force oil companies to use appropriate technologies to increase the natural gas utilisation rate within primary production, covering the operation of the oil deposits. In 2016 the level of natural gas utilisation in crude oil production was around 90%. The principles of the Russian energy strategy defines the need to raise the gas utilisation rate by further five percent to year 2020. According to the experts dealing with the Russian gas market, due to the incorrectly organised processes of the crude oil and natural gas production, combustion is almost 50 billion m³ of gas per year. The lack of access to modern technologies, and the belief of inexhaustibility of the domestic natural sources' deposits, lead to resource waste (Kardaś 2017: p. 17–18).

Russia took care of the expansion of the existing and the construction of new natural gas storages. The latter are an extremely important security buffer for the entire system of the Russian transmission pipelines. In case of precise usage of the stored gas there is a possibility of undisturbed deliveries both in the export dimension, as well as for the domestic consumer. In the years 2005–2015, the capacity to store natural gas increased from 57.8 billion m³ to 74 billion m³. Together with the development of the transmission infrastructure, there is a further need to expand the storage capacity. It is planned to increase the amount of stored natural gas to 90 billion m³ in the next few years (Kardaś 2017: p. 31).

Russia also store natural gas using storages in the European countries. An example of such cooperation is the use of German "blue fuel" storages. The capacity of the German storage in Rheden, which remains at the disposal of "Gazprom", reaches nearly 5 billion m³ of gas. The total capacity of the natural gas storages on the "Old Continent", whose owner or shareholder is the Russian side, reaches 6–7 billion m³ (in 2017 year). Russia intends to increase it in a few years to 13 billion m³ of natural gas. The German side demonstrates the interest in the Russian energy policy. In the framework of the bilateral energy agreements, Germany shares its gas storages, and also reconfirms the

construction of the new installations, acquiring shares of the Russian energy companies, and permits Russia to participate in the German energy sector. Such policy is aimed to create in the territory of the Federal Republic of Germany the largest European gas hub for service and redistribution of Russian natural gas (Sikora A., Sikora M. 2016: p. 21).

Due to the reduced demand for gas in Russia and the reduction of domestic consumption after a period of rapid increase in production in the years 2000–2008, the scale of the “blue fuel” extraction has now a level above 650 billion m³ annually, which is a few percent decline, in comparison with the record-breaking year 2013 (684 billion m³).

After a few years of the stagnation on the global fuel market, a major increase of natural gas extraction in Russia was noted only in 2017, when Russian energy companies with “Gazprom” as a leader, extracted 690 billion m³ of natural gas (Druś 2018). According to the EU member states, which are importers of Russian “blue fuel”, in 2017 they received from the Russian Federation close to 194 billion m³ of gas (14.6 billion m³ higher than in 2016). (Kardaś 2018: p.1–4). This situation was caused by increasing the demand for gas from the rapidly developing European economies, and by lesser participation of the Chinese market (Malinowski 2018).

Significant changes affecting the energy policy of the Russian Federation also can be observed in the internal market of the “blue fuel”. In the years 2005–2014 there was a serious increase in prices for the gas supplied to households, as well as to the industrial sector. It is estimated, that the costs of natural gas for the national recipients increased nearly three times. This situation has resulted the reduction of consumption, while also influenced modernisation processes forced by the excessive energy intensity of the Russian economy. There is also an excessive tax on the part of the Russian state, which is expressed in an uneven fiscal scale for Russian producers of the “blue fuel”. The average tax rate for each 1000 m³ of gas is about 250 rubles bigger for “Gazprom”, than for the other natural gas producers. This is due to the state strategy, which (faced with economic stagnation persisting after the events in Ukraine) tries to force the modernisation of the gas sector and the accumulation of investments in not yet exploited gas deposits by the new entities operating on the market. Russian strategists believe that the existing model of production, transmission and trade, based on one, leading company is going to depletion, and situation must be changed. While in case of the external market, the dominance of “Gazprom” appears not to be threatened, therefore far-reaching changes can be observed in the internal market. The Russian group “Rosneft” in 2016 has sent to the domestic consumers almost 72 billion m³ of gas, with a much larger quantity contracted by the internal recipients. “Rosneft” operates on the Russian “blue fuel” market extremely dynamically, even aggressively, which probably does not happen against the awareness and will of the Russian authorities. To fulfill its internal obligations, the company had to purchase from the gas traders on the Russian fuel market close to 13.3 billion m³ of gas. Following the decisions of the Russian authorities, this can be evidenced by the intention to divide the Russian gas sector between the two big “players” in the fuel market. “Gazprom” will focus on gas trade and expansion into external markets, while “Rosneft” and “Novatek” will focus on the domestic consumer market. This policy can

strengthen the Russian expansion in the global fuel market by harmonisation of the production, transmission and the sales processes. It will also help to focus more than ever on the implementation of the Russian strategy by "Gazprom", which will be exempted from the national market (Kardaś 2017: p. 23–26).

The problem of the natural gas supply diversification

The disposal of the natural gas resources is not sufficient to play the role of energy power state at the global "blue fuel" market. There are also needed sales markets, transmission lines and the consent of the transit countries for the transfer of the gas through their territories. The last element is mainly determined by political factors, with which the Russian side has been struggling for more than two decades. Some of the transit countries (including Poland and Ukraine, as a result of geopolitical changes) have been opposed to the Russian plans to expand the natural gas sector with a view to its use for the foreign policy purposes. Central European countries are afraid about their dependence on Russian gas supply and deprivation of their status as transit countries. Their negotiating position concerning the long-term transit agreements and the extracting of the gas in this case would be very poor (Drabik et al. 2016: p. 91–132). By expanding its own transmission system, focusing on the new technologies for the gas sourcing in the form of LNG terminals, as well as the prospective production of gas from the deposits of bituminous slate, the Central European region's states are weakening the monopoly position of "Gazprom". Ensuring energy security by replacing Russian natural gas by the gas from other independent deposits could reverse the dominant current trends. Thus, Russia would become dependent on the transit countries, which would create, to some extent, the situation on the European fuel market and at least become its important, difficult-to-miss entities. Therefore, the Russian side, facing such a prospect, decided to accelerate the implementation of the energy projects ensuring the possibility to exclude the Central European region from the gas transit (Nowakowski 2016: p. 9–20). The flagship project, which succeeded in finalizing, the launch of the direct deliveries to Germany, bypassing the countries of the Central and Eastern Europe, is the "Nord Stream" gas pipeline. Currently, the work on the "Nord Stream 2" construction is being implemented in the atmosphere of confrontation. The implementation of the so-called "northern circumvention" will enable the Russian side to transmit 110 billion m³ of natural gas, which is equivalent to 60% of the existing exports' volume. Such solution is financially advantageous, because it excludes transit fees. Moreover, Russia would no longer has to use the Ukrainian transit pipeline, which means that the "blue fuel" goes to Europe directly (Bajczuk 2018; Dąbrowski et al. 2015: p. 1–4). The opponents of the "Nord Stream 2" project underline the environmental damage and the possibility of a simpler and less costly construction of a transmission route by land, thus, taking into account the interests of the countries of Central and Eastern Europe and Ukraine. In fact, however, they are not interested in cooperation with the Russian natural gas sector, aiming to decrease Russian influence in the European "blue fuel" market by replacing Russian contractors with the suppliers from Norway and USA.

Russian political elites also wanted to lead to the construction of the (analogical to the "Nord Stream") southern route, where natural gas was supposed to be sent to customers in Southern Europe without the need of negotiations with the transit countries. Until the Russian-Ukrainian conflict in 2014, the Russians lobbied the construction of the "South Stream", which was supposed to hit the European fuel market with 63 billion m³ of gas annually (Szpala 2014b: p.1-3). When the finalisation of the project became unlikely for political reasons, Russia replaced the designed transit pipeline with another gas transmission connection. Using the deteriorating relations on the Ankara-Brussels-Washington line, they offered Turkey purchase of more gas in exchange for consent to its transfer to Southern Europe, using the Turkish part of the Mediterranean Sea. The direct Russian-Turkish gas agreement will ensure deliveries to Turkey and to the Southern European market of nearly 32 billion m³ of natural gas annually, bypassing the countries of the Central and Eastern Europe. This fact will allow "Gazprom" to deliver gas directly to Turkey, bypassing Ukraine as a transit country. The second part of the gas pipeline, linking Russia with Turkey (with an analogous transmission capacity of 16 billion m³ of gas), will be used for the transmission of "blue fuel" to the other European contractors. It will reduce the amount of natural gas transmitted through the territory of Ukraine by almost 30% (Kublik 2017).

After a few years of lack of interest in the LNG market, Russia began to work on the finalisation of several installations, in order to dynamically step into the liquefied natural gas market. It is economically proven that European LNG terminals are currently used only for 40%. This fact offers an opportunity to Russian liquefied gas, which, according to the recent declarations by the Russian authorities, will be one of the foundations of the export strategy (Sikora A., Sikora M. 2016: p. 29). The example of such policy has become the opening of the LNG terminal in the Yamalo-Nenets Autonomous Okrug, which will transfer gas from Siberia to the contractors all over the world (Kublik 2017: p. 1). Russia is also planning to open a gas harbour in the Kaliningrad region. The transmission capacity of this installation is calculated as 2.5 billion m³ of gas annually (see: *Rosyjskie LNG już w Polsce* 2014; Cizak 2017: p.1-2). It should be underlined, however, that at the moment these are only plans for the future, and now the European LNG market remains the domain of the other countries (eg. Qatar, Algeria and Norway).

An important element of the Russian authorities' energy policy, which supports the diversification of the transmission lines, is also the expansion of infrastructure supporting the natural gas transfer (in Germany, Austria and Hungary). From outside the European Union, numerous proposals for cooperation in the energy sector with "Gazprom" expresses Serbia (Szpala 2014b: p.1-5). The main emphasis, however, is on cooperation with the Federal Republic of Germany, which wants to become the major European gas hub. Germany intends to provide in the future a lucrative business in the form of redistribution of Russian natural gas, both in terms of its sales to the EU countries, as well as to strengthen own participation in gas contracts for the individual consumer market (Sienkiewicz 2012; Gazprom Export 2018).

One of the most important changes, that have occurred in recent years in the Russian strategy of the supply direction diversification, is a partial change of vector from

European to Asian. Launching the "Force of Siberia" installation, with a total transmission power of nearly 40 billion m³, proves determination of the Russian party wishing to enter more broadly the regional markets of the "blue fuel", not only the European ones. The construction of a new gas pipeline linking the Russian distributor with the Chinese recipient of the "Force of Siberia 2" with a transmission power of 30 billion m³ of gas annually is planned. The Russians are also expanding the transmission capacities of LNG systems to serve Asian countries and to some extent the USA (Jakóbiak 2017).

The Russian natural gas sector, and new technologies for the gas deposits exploration

The changes that occurred on the global "blue fuel" market resulting from the beginning of the shale gas deposits exploitation on the industrial scale have forced the Russian Federation to determine the operational capacity of its own gas deposits. The total amount of unconventional gas resources accumulated on the territory of the Russian Federation can be two or even three times bigger, than conventional deposits (close to 680 trillion m³). The Russian Federation has strategically important resources estimated as 20 trillion m³. It is expected to operate on an industrial scale between 2015–2030. In 2020, the Russian energy sector intends to take on a larger scale the production of gas from methane deposits. Russia is not in a hurry to extract shale gas, it is trying to manage the already existing deposits of conventional gas. This is due both to facilitated access to it, operating costs, as well as technological problems related to the production process. Russia is striving to pursue a political campaign on the international level to weakening the influence of the shale gas lobby, alerting the devastating effects of shale gas production on the environment (on the example of the American experience). Most European countries have taken into account in their energy strategies the problems, which entail the exploitation of shale, abandoning its production on an industrial scale. In some countries, such as Poland, the dispersing of the deposits, the problem of human aggregates and the access to sufficient amount of water needed in the hydraulic fracturing process, has inhibited the work on the implementation of the shale gas production process. The Russian gas sector has much more attention focused on other unconventional deposits of "blue fuel" (see: *Rosyjskie LNG już w Polsce* 2014). In 2011, nearly 11 million m³ of natural gas were extracted from the methanol deposits in Urengoy (Forbes 2012). Russia is also working on obtaining gas from gas hydrates. Plans to operate unconventional gas deposits go much further. In recent years, the need for the production of Helium-3, which would be shipped from the Moon to the Earth, is under intense discussion nowadays. There probably will be a Russian–Chinese competition in this area. China announced the dispatch of the space probes, which aim would be to take the gas samples of Helium-3 and deliver it to the Earth. The purpose of this defined space expedition is to develop a method of acquiring this extremely valuable (due to its properties) raw material from the lunar areas. There are only 10 kg of Helium-3 on the Earth. The energy value of Helium-3 on the Moon is almost ten times greater than all the

energy resources accumulated on the Earth. According to the Russians, for the operation of Helium-3 resources will be needed from 40 billion USD to 200 billion USD (Kublik 2006).

Conclusions

The dynamical changes on the global fuel market make impossible the creation of a fully reliable long-term forecast for the development of the Russian "blue fuel" market. However, several conclusions can be formulated concerning the foreseeable future. The strategic direction of the Russian natural gas supply will remain the European market. The primary recipients will be countries in Western Europe (with Germany as the leader of the region) and Southern Europe (with Italy as a representative of this region).

Some countries of Central Europe will reduce the volume of Russian fuel import by increasing investment in gas purchases mainly in the LNG formula. However, the volume of demand gas will increase in the countries – the main actors of the European "blue fuel" market (including Germany, Italy and France), which would open for the Russian side the possibility of compensating for smaller than ever deliveries to the countries from Central and Eastern Europe. The gas transportation will be carried out using new transmission routes, in particular, new strands of the gas pipelines "Nord Stream" and "Turkish Stream" (TurkStream), which would eventually be accompanied by another successive installation strands, thereby closing the construction project of the European gas pipeline "Nabucco".

The Russians will continue to work towards the construction of new conventional gas pipelines, linking Russian gas deposits with China. Thanks to the growth of the demand for natural gas in Chinese economy, the road to the "Force of Siberia 2" project will be open.

The large financial resources devoted to the construction of LNG installations, originating from both state and private sources, traditionally from the German and Russian companies, will increase the share of Russian liquefied gas on the global LNG market from a few percent to nearly 30% in 2030 year. It will allow to broaden the circle of recipients of the Russian gas, even for the British market.

Russia will also invest in modern gas extraction technologies from bituminous slate and gas hydrates, as well as methane gas. However, it should be expected that its exploitation will only be possible in case of a favourable calculation of the profit in comparison with costs. It would entail a dynamic increase in the demand for gas and, at the same time, a decreasing or slow-growing supply.

Over the decade, Russian expansion in the Arctic is expected, and the displacement of natural gas production from western Siberia to its eastern part. This will allow the growth in production for national needs, which, after transition and recession, will increase, together with the growth of the Russian GDP.

Although, today it sounds impossible, but in 10–15 years we can also expect attempts to acquire Helium-3 from the lunar substrate, and work on technology of the implementation of

its use in the industry. There will be competition in this case between Russia and China, which has already begun work on the project of bringing the samples of the Helium-3 from the Moon. A dynamically growing Chinese economy will need a strategic amount of natural gas, which will result, that China will become an important import partner for EU over the decade.

These changes will contribute to a further deterioration of geopolitical situation for most of the countries in the "Old Continent". Despite the access to hydrocarbons, relatively good development and aggressive, but effective energy policy of the Russian Federation, it will not be possible to overcome in the future the stereotype of "Peripheral Empire". It is depend on both internal and external factors, in the form of policies of EU member states, especially Germany and France. Increasingly, incomes from the production and sale of natural gas will be strengthened by the development and modernisation of the Russian state. Thus, it will reduce the distance between the Russian Federation and the key actors for the development of the international situation.

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***Podemos* and the conquest of the skies**

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Abstract

The article deals with the establishment by several professors of the Complutense University of a leftist political movement. Its name is *Podemos*, and it is a political movement that emerged from 15-M movement, based on different groups of left-wing and claim struggle, and it inaugurated a platform, that had a strong role in shaping the Spanish left, assuming a plurinational, feminist, antimilitarist and favorable speech to the new Bolivarian left.

Keywords: *Podemos*, 21st century socialism, new left, Pablo Iglesias

***Podemos* i podbój nieba**

Streszczenie

Artykuł poświęcony jest założeniu przez kilku profesorów z Uniwersytetu Complutense lewicowego ruchu politycznego. Nosi on nazwę *Podemos*, i jest to ruch polityczny, który narodził się z ruchu 15-M, na bazie różnych ugrupowań należących do lewicy oraz walki poglądów, inaugurując platformę, która odegrała ważną rolę w kształtowaniu hiszpańskiej lewicy, przyjmując narrację wielonarodową, feministyczną, antimilitarystyczną i przychylną dla nowej lewicy boliwariańskiej.

Słowa kluczowe: *Podemos*, socjalizm XXI wieku, nowa lewica, Pablo Iglesias

Podemos is a recent formation that emerged as a political projection of the revolts that arose in 15-M movement. The article aims to describe its components and its short electoral history. Its elaboration intends to relate it to the other formations of the European radical left, it is not an exclusively Spanish factor, and at the ideological level it does not respond to an apolitical protest movement, but most of its leaders had a long trajectory of connection with organizations of the extreme left. At the methodological level, the search for information has the problem that since it is a recent study, the books that describe its phenomenon, begin its publication now, settling the information in the recent press sources, bibliographical, but of previous formations, where they came from their leaders and private conversations with some of the leaders they asked for were not documented. The article tries to be introductory in the subject, and shed some light on the presented issues (considering also other similar movements, like *Syriza* in Greece, *Block of left* in Portugal or *Razem* in Poland).

The cradle of *Podemos*

On January 12, 2014, on the website of the digital newspaper *Público*, there appeared a Manifesto called "*It's your move: convert indignation into political change*," that tried to politically materialise the protests originated from 15-M. The manifesto described the critical situation in Spain and the southern European countries. It also stressed the need for people to come together to propose a radical alternative, with a flat organisational structure, that would bring together and represent the views of all those indignant in a political candidacy for the next European elections. The text of the manifesto is below:

"The elections for the European Parliament will be held at a time of deep crisis of legitimacy of the European Union. In our case, we are facing the greatest loss of credibility of the regime born with the 1978 Constitution. Movements of political indignation like 15-M connected with a clear popular will: to not sacrifice more rights for markets guided by speculation and rapine. The impotence or abandonment of responsibilities of the governments, the voluntary incapacity of the political parties in government, the conversion of the parliaments into bureaucratic organs without political capacity and the confusion of the trade unions have left the citizenship abandoned to their own fate. As in so many other countries, perplexity is being used to convert private debts into public ones, to transfer the common assets raised during decades to private groups and to dedicate the last public resources to the financing of private and narrow business interests. We are facing a financial coup against the peoples of the south of the Eurozone. Those who rule are selling the country and our future piece by piece. The increase in repression (with more authoritarian laws, increased fines in a scenario of economic impoverishment and even difficulties for the exercise of civil and political rights) makes up a landscape dominated by the worsening of social and gender inequalities and greater deprecation of natural resources. It is not strange to feel that despite the pessimism and defeatism on show, a small spark of illusion will suffice to get us out of this despair.

Today our demand for a policy that returns to the streets, that talks like most people who are fed up, is a reality. Our demand for greater generosity to the representatives, a greater

structural flatness and transparency, a return of the republican values of public virtue and social justice and the recognition of our plurinational and pluricultural reality is more real than ever. For the first time in decades, our desire to make our own decisions and answer our own questions is so real. 'La casta' is leading us to the abyss for its own selfish benefit. The solution can only come from the citizenship, as have the protection of employment, the defence of families by holding back evictions and the guarantee of public services, which are small but significant victories. Popular mobilisation, civil disobedience and confidence in our own forces are essential, but it is also essential to forge the keys to open the doors that today want to close to us"¹

The manifesto was signed by a number of scholars and social activists, who had participated in the 15-M protests, and others that had appeared since then:

- Juan Carlos Monedero (professor of political science, Complutense University of Madrid)
- Alberto San Juan (actor)
- Marta Sibina (editor of the magazine *'Café amb Llet'*)
- Santiago Alba Rico (writer)
- Cándido González Carnero (trade unionist, Asturias)
- Jaume Asens (lawyer)
- Albano Dante-Fachin (editor of the magazine *'Café amb Llet'*)
- Jorge Riechmann (poet, environmental activist)
- Jaime Pastor (professor of political science, UNED)
- Cecilia Salazar-Alonso (activist of *Marea Verde – Madrid*)
- Teresa Rodríguez (secondary school teacher, union delegate and part of *Marea Verde Andalucía*)
- Francisca Camacho (cleaner at University of Cádiz and union delegate)
- Laura Mingorance (student at University of Cádiz and part of *Asociación Estudiantil Contra la Precariedad*)
- Jesús Jaén (activist of *Marea Blanca – Madrid*)
- Carmen San José (activist of *Marea Blanca – Madrid*)
- Javier Cordón (activist of *Marea Blanca – Madrid*)
- Sixto Casado (railway unionist)
- Antón Gómez Reino-Varela (social activist, Galicia)
- Jorge Moruno (sociologist)
- Elena Maeso (*Oficina Precaria*, Madrid)
- Isabel Serra (social activist, Madrid)
- Tristán Meyer (*La Tuerka*)
- Bibiana Medialdea (professor of economics, Complutense University of Madrid)
- Olga Abasolo (sociologist)
- Raimundo Viejo Viñas (professor of political science at UdG)
- Germán Cano (professor of philosophy at University of Alcalá)

¹ Author's own translation from Spanish into English.

- Rita Maestre (student)
- Alejandro García (union delegate in McDonalds, Granada)

On January 17, 2014 at the Teatro del Barrio (owned by the actor Alberto San Juan, in the Lavapies neighbourhood) took place a public presentation of the movement that was to be called *Podemos*. The new movement was the result of a small group that had been working for four months on what was to be a new reality, breaking the two-party politics and the government's dominant neoliberal economic policy. In the new movement's founding act, Pablo Iglesias took the floor – the professor of political science and regular speaker on various programmes of political analysis. He was joined by some members of the movement, such as the teacher, *USTEA* unionist and *Marea Verde* activist Teresa Rodríguez; the professor Juan Carlos Monedero; the psychiatrist Ana Castaño from the *Marea Blanca*; the analyst and researcher Íñigo Errejón and the social activist Miguel Urbán. Among the public there were well-known people such as Carlos Fernández Liria, Jorge Alemán, Carolina Bescansa and Jaime Pastor, who had signed the manifesto or had collaborated with their opinions on the outcome. On March 11, 2014 the new movement, *Podemos*, was registered in the Ministry of the Interior as a political party.

It happened at the perfect moment, as the social deprivation favoured a radical response. Unemployment in Spain in 2014 was at an overall rate of 25.93%, with youth unemployment standing at 55.49% and 21.71% for the remaining adults. In those households with all members unemployed, the rate rose to 10.83%². The growth of poverty in Spain rose dangerously, demolishing the image of a society based on the middle classes – as was the case during the later years of Francoist Spain – and with a very high volume of long-term unemployed with no opportunity to return to the labour market. The foundation of *Podemos* as a political party, due to its flat organisational structure, aspired to play a key part in the European elections by becoming the voice for the proposals of those sectors punished by liberal economic reforms based on austerity.

The foundations for a new revolutionary left movement

The new political movement chose purple as its defining colour, a colour linked to spirit, sobriety, power and change. In Spain's case, it was also of republican significance, as this was the colour the characteristic strip of the official flag of Spain during the Second Spanish Republic (1931–1939). The ideas of its ideological programme were based on: the increase of salaries and pensions; the prosecution of corruption and tax fraud, in order to obtain the resources for aid; the constitutional right to decent housing, promoting the creation of a public housing estate with social rents; a defence of public services in the face of the growing policy of outsourcing services that concealed the privatisation of broad services previously covered by the State – in terms of education, health, justice, transportation, information, housing and culture. Importance was also given to feminism

² Data from the INE First Population Survey of the first quarter of 2014, in http://www.foessa2014.es/informe/uploaded/descargas/VII_INFORME.pdf

in relation to its struggle against gender violence and in the defence of free abortion covered by public health; the antimilitarist discourse, with the departure of Spain from NATO; immigrant aid groups, with the repeal of immigration laws. In relation to the structuring of Spain, they opened themselves up to the radical nationalist left groups recognising the right of self-determination through a referendum that decided on Catalonia's permanence in Spain.

As for the candidacy for the European elections, it was necessary to endorse the figure of Pablo Iglesias, the person best known at that time by the media, and who would hold the position of the general secretary of the new political party. The procedure that was explained by the *Izquierda Anticapitalista (Anti-Capitalist Left)* activist, Miguel Urbán, required a minimum support of 50,000 people through www.podemos.info, the new party's website. Supporters had a period of 20 days, until February 8, to support the option proposed.

As a new party with an evocative rhetoric, the movement's activists sought to attract existing forces in the panorama of the radical left to the heart of the movement, who would assume the new approaches. Among its targets were *Izquierda Unida*, *CUP*, *Partido X*, the *Andalusian Workers Union*, *Anova*, and the *Marea* citizen movements. The strong lines were developed into the political programme in direct relation with the *Marea* movements, with several of its main activists among the founders of *Podemos*. The only political group that emerged from the 15-M movements was *Partido X*, which was constituted in 2012, with a "restart the system" approach. Its points of reference were transparency, the fight against corruption and the demand for direct and participatory democracy by means of social media. *Partido X* preserved the anonymity of its founders, but it was made up of people from the university world related to new technologies. However, *Partido X* decided to go solo in the European elections with Hervé Falciani as the party's leader. Falciani was a computer engineer who provided French prosecutors with data on more than 130,000 tax evaders from the Swiss subsidiary of HSBC where he worked. Later he also helped the Spanish justice. However, his *Partido X* candidacy only obtained 100,561 votes, with a low 0.64%. The French computer scientist offered himself to *Podemos* as an adviser on anti-corruption issues.

The rest of the groups needed to support the movement in certain regions. The *Andalusian Workers Union (SAT)*, founded in 2007, had assembled various leftist groups. However, it was based on the SOC social labourer base, a trade union emerged from the PTE, which included the mayor of Marinaléda, Juan Manuel Sánchez Gordillo, leader of the *Unitarian Candidacy of Workers (CUT)*, the political arm of the union, and founder of IU in Andalusia. Sánchez Gordillo was a member of regional parliament and number one on the IULV-CA list. In 2015, it was the adequate moment for IU to integrate into the *Podemos* projects. With regard to *Anova*, the party had had a similar experience with electoral success with the candidacy of *Alternativa Galega de Esquerda (AGE)*, for which Pablo Iglesias had served as external advisor in the 2012 electoral campaign. Iglesias valued his experience in the following way: "The first electoral depiction of 15-M was not *Podemos*, but *Alternativa Galega de Esquerda (AGE)* and its candidate in the last regional elections, Xosé Manuel

Beiras" (Iglesias 2016). As for the *Candidatura d'Unitat Popular* (*Popular Unity Candidacy, CUP*), that gathered the radical Catalan left-wing independence groups, the party sought the same task of uniting on a common front most of the sentiments of left-wing extremism. Their objective was to work for "an independent Catalan country that is socialist, ecologically sustainable, territorially balanced and unleashed from patriarchal forms of domination." The CUP is currently supported by *Poble Lliure*, a party which comes from the *Movement for Defence of the Land (MDT)*, which emerged from the confluence of the historical *Socialist Party of National Liberation (PSAN)* and its former division the *Independentists of the Catalan Countries (IPC)*. The other party is the *Socialist Organisation of National Liberation, Endavant (OSAN)*, which was formed with the members of the former *Platform for the Unity of Action*, which in turn was formed by the confluence of people from the *Call to Solidarity in Defence of the Language, Culture and Catalan Nation* and the *MDT*. The latter is in favour of expanding in the direction of social and alternative groups, while *Poble Lliure* leans more towards the dissenting political spheres of ERC and other pro-Catalan independence sectors (Bolaño 2016; Fernández, Jodar 2016).

With respect to its initial line-up of members, its main founders were a group of teachers from the Complutense University of Madrid (UCM), Pablo Iglesias, Juan Carlos Monedero, Iñigo Errejón, Carolina Bescansa and Luis Alegre. Pablo Iglesias (Madrid, 1978) – a son of a former *FRAP* member and a leader of *Comisiones Obreras, CCOO (Workers' Commissions)*, professor of political science at the UCM and well-known guest on programmes on the *Intereconomía*, *La Sexta* and *Cuatro* television channels. *Intereconomía* was rightist and liberal leaning in terms of economics. *La Sexta* has leftist ideological stance, while *Cuatro* is centre-left. In addition, Pablo Iglesias was the host of two programmes: *Fort Apache*, the resistance political talk show of the TV channel *Hispan TV*, and *La Tuerka*, the television interview programme, produced by *Producciones CMI*, and broadcast by *Público TV* via the Internet. The former is the foreign channel in Spanish language of Iranian TV, while the latter is related to *Público*, a medium characterised by its leftism. As a political scientist, Iglesias was characterised by his mastery of political dialectic on television, forming a stance against "*La casta*", where he identified the political positions of the PP and PSOE, putting both parties in the same situation.

The other members of the founding process were Juan Carlos Monedero (born in Madrid, 1963), who, like Iglesias, is a professor in the Faculty of Political Sciences of the UCM. Monedero was an expert in globalisation issues, essentially in State theory, focused on Latin America. In the world of politics, he was an adviser to Gaspar Llamazares from 2000 to 2005, during his time as general coordinator of IU. He was then an adviser to the Venezuelan government from 2005 to 2010 and became a strong defender of the Bolivarian revolution, forming a friendship with the controversial president, Hugo Chávez. In *Podemos*, he occupied the position of secretary of the Constituent Process and Programme until April 2015, when he left the party in favour of a return to the assembly's origins of 15-M.

Iñigo Errejón (born in Madrid, 1983) is a researcher at the Complutense University of Madrid, a member of the Centre for Political and Social Studies Foundation (CEPS) and of

Juventud Sin Futuro. He received his doctorate in the MAS government in Bolivia, which marked his line of research on the politics of Evo Morales. Pablo Iglesias then made him campaign manager for the European elections. Errejón defended the need to build a platform that was as broad as possible, bringing together as many social movements as possible.

Carolina Bescansa (born in Santiago de Compostela, 1971) is a professor of methodology at the same faculty as Iglesias at the UCM. The Galician professor has a degree in Political Science and Sociology from the University of Granada. She spent time abroad in Lisbon (Erasmus Programme) and at the University of California (San Diego). On February 1, 2017, she left her post as secretary of Political and Social Analysis for *Podemos*.

Luis Alegre (born in Madrid, 1977) is a professor of philosophy at the Complutense University of Madrid. He was a disciple of Professor Carlos Fernández Liria, who was present during the foundation of *Podemos* and later wrote a book *En Defensa del Populismo (In Defence of Populism)*, which was presented to him by Pablo Iglesias. He has been linked to anti-capitalist leftist organisations since 1992. He was part of the CEPS Foundation and introduced the rights of the LGBT collective as an integral part of the *Podemos* programme. He is the author of the 2017 *Elogio de la homosexualidad (Eulogy of homosexuality)* and was the coordinator of the technical team that organised the *Citizen Assembly "Si se puede"* held at the Palacio de Vistalegre. Alegre was one of the speakers of the assembly along with those previously mentioned.

Luis Alegre was a member of *Espacio Alternativo*, which came from the political party *Izquierda Alternativa (IA)* and brought together the recent legacy of the former LCR and that of the POUM. This group played an important part in the formation of *Podemos*. Among its main ideologists was Jaime Pastor, the associate professor of political science and of administration at the National Distance Education University (UNED). Alegre was a former leader of the LCR. He signed the *Podemos* manifesto and supported the students who formed *Juventud sin Futuro*. However, one of the members of IA that stood out the most was Miguel Urbán, a faithful ally and friend of Pablo Iglesias. Urbán became known as an activist in movements such as the *No a la Guerra (No to War)*, 15-M, in defence of decent housing and against the commercialisation of universities. The vacancies in the *Podemos* European list allowed the influential representative of IA to enter the European Parliament. Another influential member of IA was Teresa Rodríguez, who was a participant in the public education movement and a member of the European Parliament, until she resigned to be the head of the movement in Andalusia. IA was seen at a time as the party of hardcore members who would control *Podemos*, similar to what the PCE did with IU. However, Pablo Iglesias maintained control of the party with IA's support, but keeping the latter in positions far from the decision-making bodies.

Podemos's objective was to encompass and represent the movement of '*Los Indignados*' that emerged from 15-M, divided into an innumerable sea of acronyms that responded to different interests. Their common ground was their situation of precarious work, when they were recognised as a generation with university level studies with high consumer tastes. According to Juan Carlos Monedero, the precarious profile is formed by

very educated, urban people, who support themselves to a great extent thanks to close family ties. They live in an environment in which youth extends to 40 years of age and in which women enjoy and fight for equality, sharing the rebellion and non-conformism inherited from May 68. However, paradoxically, they are deeply connected to social media, while they are disconnected from the real world. As the analyst Fernando Vaquero accurately quoted in his article (Vaquero 2016).

***Podemos* in political combat**

On May 25, 2014, the European Parliament elections were held and in Spain the radical left gained great momentum, despite the PP's victory with 4,098,339 votes and 16 MEPs – eight fewer than before. The PSOE experienced something similar, its 3,614,232 votes and 14 seats obtained revalidated its second place, but at the cost of losing nine European seats. Meanwhile, the left benefited from the fall of the two traditional parties. *Primavera Europea (European Spring)* was a coalition that brought together the *Compromís* coalition, founded in 2011 by different Valencian left-wing nationalist groups along with ecologists. They joined forces with *Equo*, a left-wing environmentalist organisation that sought to bring together the green groups in a single representation. Finally, *Chunta Aragonesista (Aragonese Union)*, a left-wing Aragonese nationalist party, which, together with other minor groups from Castile and Melilla, formed *Primavera Europea*, which obtained 302,266 votes and one MEP. IU–LV ran as *La Izquierda Plural (Plural Left, IP)*, bringing together IU and the entities that emerged in different regions such as IPC–LV and EUIA in Catalonia; *Anova–IN* in Galicia; *Batzarre* in Navarre and smaller green and left-wing groups. IP obtained 1,575,308 votes and six MEPs, an increase of four, which confirmed the left's surge in popularity³.

However, *Podemos*, with its motto: “*When was the last time you voted with enthusiasm?*” managed to surprise the sociological institutes by obtaining 1,253,837 votes and five MEPs with 7.9% of the votes that nobody expected. This was perhaps because of the party's unfamiliarity, despite the figure of Pablo Iglesias, the most known person in the new political organisation. The momentum of Ciudadanos (Citizens), the Catalan anti-nationalist party, saw the party obtain 497,146 votes, with Javier Nart – a lawyer and guest on political debate different programmes. *Ciudadanos* also undertook a campaign as heirs of 15-M, by representing those who alluded to a reform of the State, but not to a rupture and the start of a new transition, as defended by *Podemos* and his followers. *Podemos* was the third most voted party in Madrid, Aragón, Cantabria, Asturias and the Balearic Islands.

On October 18, the First State Citizens Assembly was held at the Palacio de Vistalegre, which 7,000 people attended. Through the crowdfunding of 5,750 members and supporters, they raised 132,711 Euros for the expenses of the congress and the movement's

³ The election results come from the official website of the interior ministry <http://www.infoelectoral.mir.es/infoelectoral/min/>

finances (see: Gil 2014). *Podemos* claimed to have 240,000 members due to the fact it did not request mandatory fee payment. In the final speech, Pablo Iglesias closed the congress with a declaration of intentions: "*Heaven is not taken by consensus: it is taken by assault*". The surprise triumph in the European elections, and its leader's burning ambition to snatch voters from the PSOE, led to a very interesting general election. On February 4, 2015, the Centre for Sociological Research (CIS) announced that *Podemos* reached a 23.9% pre-election intention to vote, surpassing the PSOE as the country's second political force. In the following elections, *Podemos* consolidated its popularity, only to see its support decline later, as the party began to be seen to represent a revolutionary left and not to be a rebellious movement that overcame the traditional two-party politics of right and left.

In the municipal elections on May 24, 2015, *Podemos* did not run a candidacy under its own name, but it did decide to support electoral candidatures with other groups and platforms as a part of the *Ganemos (Let's Win)* movement. *Izquierda Unida* had to decide on a possible integration or a re-founding of the left, where it was positioned. In December 2014, Mauricio Valiente and Tania Sánchez had won the IU primary elections to run as candidates for the Madrid council and autonomous region respectively. However, both candidates decided to abandon their party. Valiente joined *Ahora Madrid* and Tania Sánchez – who had a relationship with Pablo Iglesias – founded a new political organisation, *Convocatoria por Madrid*, that would eventually integrate into *Podemos* in May 2016. In these local elections the lists were formed with people from the PAH, from the *mareas* protests and small groups like *Por un Mundo Más Justo (For a Fairer World, PUM+J)*, the socialist splinter group *Socialist Alternative (CLI-AS)*, *Equo* and *Alternativa Republicana (Republican Alternative, ALTER)*. *ANOVA* and *Iniciativa per Catalunya Verds (Initiative for Catalonia Greens, ICV)* joined the movement in the elections for the autonomous regions. However, the capacity for local decision prevailed and the confluences developed fully in some places, while in others there were several candidacies that would contest a similar electorate. Nevertheless, the results were seen successfully when, after the negotiations mainly with the socialists, they allowed them to govern the cities of Madrid, Barcelona, Zaragoza, Cádiz, and La Coruña.

In Madrid, the mayoralty was won by *Ahora Madrid*, a coalition of *Ganemos Madrid* and *Podemos*, with independent components, dissidents of IU – although some later returned to the communist organisation – and *Equo*. The candidacy was headed by Manuela Carmena, a labour lawyer and former Communist Party member who had become a judge of Penitentiary Vigilance, where she favoured the release of several prisoners committed of terrorist offences. In Barcelona's case, it was the list of *Guanyem Barcelona*, renamed *Barcelona en Comú (Barcelona in Common)*, due to the influx of *Iniciativa per Catalunya Verds*, *Esquerra Unida i Alternativa*, *Equo*, *Procés Constituent* and *Podemos*, and which was headed by Ada Colau, former spokesperson of the PAH. In Zaragoza, the winning candidacy, *Zaragoza en Común (Zaragoza in Common, ZeC)*, was headed by Pedro Santisteve – the professor at the University of Zaragoza and a founder of the *Asociación de Seguimiento y Apoyo a Presas y Presos en Aragón (Association for Monitoring*

and Support of Prisoners in Aragón, ASAPA). The candidacy was formed by *Podemos*, *IU*, *Equo*, *Somos* and *Demos+*, *Piratas de Aragón* and *Puyalón de Cuchas*, a splinter group of *Chunta Aragonesista*. In La Coruña, there was victory for *Marea Atlántica (Atlantic Tide)*, headed by Xulio Ferreiro, professor of procedural law at the University of La Coruña, formed by *Esquerda Unida*, *Podemos*, *ANOVA-Irmandade Nacionalista*, *Compromiso por Galicia*, *Equo* and *Espacos Ecosocialista Galego*, whose success was matched with those of its sister coalition candidacies of *Compostela Aberta* and *Ferrol en Común*. In Cádiz, the victorious candidacy was of "*Por Cádiz si se puede*", which was the local brand of *Podemos*, led by José María Gonzalez (commonly known as 'Kichi'). 'Kichi' was a high school teacher, the partner of Teresa Rodríguez and was also loyal to the IA manifesto. He received the support of the *PSOE* and *Ganemos Cádiz* – the latter being formed by *IU* and *Equo*. *IU* obtained victory in Zamora, with the candidacy of the former anarcho-syndicalist member, Francisco Guarido. In Valencia, the left took power through the *Compromís* coalition headed by Joan Ribó, a former communist member in the *United Left of the Valencian Country (EUPV)*, who received the support of the *PSOE* and *Valencia en Comú*, the local brand of *Podemos*.

The success obtained by the urban candidacies – thanks to the collapse of the socialists, and the progressive absorption of social movements, the radical nationalisms of the left and the space occupied by *IU* and its federated satellites – promised unstoppable growth for *Podemos* of the left spectrum and even the possibility of producing an overtaking of the historical *PSOE*.

The next electoral test was the regional elections in Catalonia, which were held on September 27, 2015, where Artur Mas took a secessionist approach in order to hide his party's scandalous corruption and its sharp fall in popularity due to the drastic application of austerity measures that eliminated a large part of the existing social measures. The new *Junts pel Sí (Together for Yes)* coalition brought together the nationalist parties *CDC* and *ERC* together with the pro-independence organisations *ANC* and *Òmnium*, who had been promoted and subsidised for that purpose. The result was 1,628,714 votes and 62 seats, but with a sharp drop compared to what both parties drew separately. Inés Arrimadas, the new head of the *Ciudadanos* candidacy managed to agglutinate the centralist voters with 736,364 votes and 25 seats, representing an increase of 16, thanks to the *PP*'s disaster at the polls and those in the *PSOE* against Catalan independence. At the same time, *Catalunya Sí que es Pot (Catalonia Yes We Can, CSQP)* – a coalition that grouped together *Equo*, *IPC*, *EUiA* and *Podemos*, under the leadership of activist Lluís Rabell, president of the *Federation of Neighbourhood Associations of Barcelona* – tried to take advantage of Ada Colau's success in Barcelona. However, the historical activist was actually the businessman José Luis Franco Rabell, the president of a family business that went bankrupt, and whose political experience came from his participation in the Trotskyist *PORE*. His leadership was ineffective, obtaining 367,613 votes and 11 parliament seats, which were distributed among its participants in the following way: four for *ICV*, four for *Podemos*, one for *EUiA* and two for independent representatives, though the coalition of the political forces had achieved two more seats in the previous elections separately.

One of the reasons for its failure was down to the success of the CUP, which obtained 337,794 votes and ten seats, rising from three to seven. The CUP managed to gather the vote of radical protest along with a clear message of independence against the so-called political caste of the rest of the parties, which turned out to be more attractive to the social groups than the new coalition that brought together the historical groups of communists and greens with *Podemos*. The CUP's radicality and its new image prevented *Podemos* from obtaining the ascending result that the party believed it was going to obtain with its coalition candidacy.

After this initial disappointment came the big electoral test, the general elections on December 20, 2015, where the actual extent of *Podemos*'s influence in the national parliament would be seen, along with the end of the consolidated two-party politics since the time of the transition to democracy. These general elections saw a repeated victory for Mariano Rajoy's PP, but with 123 seats (63 fewer than in 2011) and the loss of 3,629,601 votes, although the PSOE had a smaller setback when obtaining 90 seats (20 fewer than previously) and 1,458,196 fewer votes. The great beneficiaries of the decline of the two traditional parties were *Ciudadanos* and *Podemos*. Albert Rivera's party obtained 40 seats and benefited by proclaiming a reforming spirit of the system, with a special focus on the fight against corruption and the defence of the unity of Spain. Meanwhile, *Podemos* obtained 3,198,584 votes and 42 seats under its own name, in addition to the votes obtained by its corresponding candidacies in Catalonia. The *En Comú Podem* coalition was inspired by Ada Colau's *Barcelona en Comú*, which was joined by *Podemos* and *ICV-EUiA* and obtained the support of other groups such as *Procés Constituent*, which was already included in *Barcelona en Comú*. The candidacy was headed by Xavier Domènech, a professor at the Autonomous University of Barcelona (UAB) and a commissioner of strategic studies and memory programmes of the Barcelona City Council, a kind of political commissar for the elimination of right-wing and Catholic names and symbols in the streets of Barcelona such as the bust of the monarch Juan Carlos I. Domènech was a close colleague of Ada Colau and had a good personal relationship with Pablo Iglesias. On this occasion, they achieved a monumental result with 929,880 votes and twelve seats, three corresponding to *ICV*, two to *Podemos*, two to *EUiA*, two to *Barcelona en Comú*, two to *Procés Constituent*, and one to an independent representative, to become the first political force in Barcelona and Tarragona and leading to the overtaking of the PSC (the PSOE's representative in Catalonia).

In Valencia, it was a *Compromís - Podemos - És el Moment* coalition, based on *Podemos* and *Compromís*, which obtained 671,071 votes with nine seats, four of which for *Podemos*, four for *Compromís* (two for *IdPV* and two for the *Valencia Nationalist Bloc*) and one for an independent representative. In Galicia, the *En Marea* coalition was formed, which was registered as a political party in July of the following year. *Podemos*, *Anova-Irmandade*, *EU*, *Equo*, and *Espazo Ecosocialista Galego* joined forces in this electoral candidacy along with the groups that had emerged for the previous municipal elections. The results gave them 408,370 votes and six seats. Two of the seats were for *Anova-Irmandade*, two for *Podemos*, one for *Esquerda Unida* and one for *Ourense en Común* (one of the municipal

groups). The grouping together of all these candidacies helped *Podemos* to obtain more than five million votes and 69 seats in the general elections.

At the same time, a platform called *Ahora en Común* was formed, which aimed to create electoral candidacies, in a similar way to the municipal ones, where *Podemos* and *Izquierda Unida* could converge. However, it was not possible because of the opposition from Pablo Iglesias, who began to see IU as a burden after the Catalan failure. Nevertheless, after the registration of the party, some of its promoters adopted the name *Unidad Popular (UP)*, where *Izquierda Unida*, *Unidad Popular en Común*, *Chunta Aragonesista*, *Izquierda Asturiana*, *Batzarre – Asamblea de Izquierdas*, *Construyendo la Izquierda – Alternativa Socialista*, *Entre Tod@s Si Se Puede Córdoba*, *Segoviemos* and *Izquierda Castellana* were integrated. The UP candidate was Alberto Garzón, a young economist and member of the PCE, who Pablo Iglesias tried to integrate into his party. In June 2016, he replaced Cayo Lara as federal coordinator of IU. In that year's general elections, UP obtained 923,133 votes but only two seats, losing 759,257 votes and nine seats – this presumably went to the *Podemos* candidates.

However, the results impeded the possibility of forming a government. This was because neither of the two candidates obtained the necessary majority in the parliament. Neither Mariano Rajoy's PP nor the PSOE, under the new leader Pedro Sánchez – who had the support of *Ciudadanos* – obtained the necessary abstention from any of the strong parties to be able to be sworn in as a prime minister. The result was a new call for general elections for June 26, 2016. On this occasion, Pablo Iglesias was seduced by the possibility of adding almost another one million votes to the five million he had, in order to try to overtake the PSOE, like the Greek *Syriza* (see: Stavrakakis, Katsambekis 2014) had done to the PASOK movement. In May, one month before the call for elections, IU and *Podemos* agreed to run together as a coalition (Carvajal 2016).

The 2016 general elections can be interpreted in different ways. The PP won again and recovered a high percentage of the votes lost to *Ciudadanos*, obtaining 704,271 more votes, leading to another 14 seats and 137 seats in total. 372,958 votes came from *Ciudadanos* voters, with the party losing eight seats. The PSOE lost another 101,469 votes, with the loss of five seats, its lowest result since 1977. The *Unidos Podemos* candidacy won an impressive 3,227,123 votes and 45 seats. In Catalonia, the *En Comú Podem – Guanyem el Canvi* coalition won 853,102 votes, some 76,778 fewer than the previous time, although no seats were lost, as it kept the twelve it had. Something similar happened in Valencia, as the integration of the federated branch of IU gave rise to *Compromís – Podemos – EUPV*, which obtained 659,771 votes, 13,778 fewer than the last time, although it maintained its nine seats. In Galicia, *En Marea* collected 347,542 votes, losing 63,156 and one seat, leaving the party with a total of five. The *IU–Podemos* alliance failed to obtain any extra seats, in fact, adding together the results of both lists led to a loss of more than one million votes and two seats in relation to the 2015 elections. The IU working-class voter did not feel identified with the profile of its *Podemos* counterpart, with a radical left discourse until the moment of the coalition. The project of forming a union in line with *Podemos* emerged in 2014 with *Somos*, taking advantage of *Podemos*'s surge in

popularity, whilst accusing the trade union centrals of also being 'La casta'. However, the experience did not come to fruition over time, as some of its main members left and it has nowadays become a marginal group that prefers to distance itself from *Podemos*.

The next electoral test was of great importance for *Podemos* and took place on September 25, 2016 in the regional elections of Galicia and the Basque Country. In the Galician elections, Alberto Núñez Feijóo's regional government maintained its 41 seats and the absolute majority, which turned the Atlantic region into the PP's breadbasket for votes. However, on the left side of the political spectrum, the lack of leadership of the PSdeG-PSOE led to the loss of four seats, as the BNG lost one. *En Marea*, now officially a political party, managed to overtake the PSOE and take second place, becoming the key player of a possible future leftist tripartite government in Galicia, under the leadership of Luis Villares, spokesperson for Judges for Democracy in Galicia. The party obtained 19.7% in the elections, with 273,523 votes and 14 seats, representing an increase of five. *En Marea* again fulfilled its objective of a group integration approach that managed to replace the PSOE as a major force on the left for a possible government.

Meanwhile, the political situation was very different with regard to the Basque regional elections. Iñigo Urkullu's PNV managed to obtain 28 seats with 37.36% of the votes, maintaining its irrefutable position as a governing party. However, the historically second political force, Idoia Mendía's PSOE, lost 40.6% of the vote with respect to the previous elections. *EH Bildu*, under the leadership of Maddalen Iriarte, a presenter on EITB (Basque public television), renewed the image of the old social support and ETA, but saw its electorate drop by 19%, although it managed to stay in the second place, which was very important for the internal discourse to its electorate. In these elections, the electoral expectations of *Podemos* were very high. In the previous general elections, the party had obtained 29% (the PNV won 24.9%) as the great electoral surprise to win the first place. In these regional elections, where the Basque parties exclusively dominated, the big question was whether *Podemos* could revalidate that success by agglutinating the socialist and leftist nationalist votes. *Elkarrekin Podemos* was the name for a coalition formed by *Podemos*, *Ezker Batua-Berdeak (EB-B)*, *Ezker Anitza* and *Equo*. In October 2011, EB-B had broken relations with IU, operating independently. Therefore, IU was rebuilt with dissidents *Ezker Anitza*, which became its federal reference in the Basque Country from then on. The candidate for the Lehendakaritz (presidency of the Basque government) was Pili Zabala, an odontologist chosen because she was the sister of a member of ETA, who was killed by the *Antiterrorist Liberation Groups (GAL)*. The decision was clearly aimed at snatching the electorate from the nationalist left, which could be white-washed by voters abandoning an organisation that was characterised by its support for the terrorist organisation's assassins. However, although the final result was significant, it disappointed by not living up to its expectations. The overtaking of the *PSE-PSOE* was possible, but *EH Bildu* was the stumbling block. The results were 157,334 votes, with 14.86% and eleven seats, representing the third political force of the autonomous region. It was a significant result, but was not what had been expected after those obtained in the general election of the same year.

The beginning of the end

The last electoral results and the divergences between the main leaders of *Podemos* gave relevance to the next party conference, which again took place in Vistalegre, on February 13, 2017. The strategic differences between Pablo Iglesias and Iñigo Errejón became more visible, and the formation of the State Citizen Council (consisting of 62 members) was essential when measuring the support that both leaders could draw from its constituency. There were 9,000 people present at the second Vistalegre party conference, but in the voting, all those registered considered active could vote directly. In *Podemos* there were no delegates and at that time an incredible 456,725 number of people were registered, because there was no obligation to pay the fee, and registration was done directly on the party's website. However, the active members, with the right to participate in the voting at the conference, were those who had already participated actively in the past, reducing the census to 283,175 people (155,275 people participated in this group, 34.5% of those registered).

Pablo Iglesias received a backing of 89% with 128,700 votes for his leadership against the alternative, Juan Moreno, who garnered 15,700 votes. The organisational model presented by the general secretary of the party, called *Podemos para Todos (Podemos for Everyone)*, compared to that of Iñigo Errejón, *Recuperar la Ilusión (Regain the Hope)*, was backed by more than 50% of the constituency, compared to 34% of the critical sector. The four documents presented at the conference (political, organisational, ethical and equality) were accepted by the constituency, who thus underlined the following as the party's priorities: the struggle for social justice and human rights, the "right to decide" (the right of self-determination of the regions of Spain) and to combat gender violence. The party went from being an assembly-based organisation to a more presidential one. In the State Citizen Council, composed of 62 members, 37 councillors favourable to Pablo Iglesias were elected; 23 to Iñigo Errejón and 2 anticapitalists to Miguel Urbán (see: García de Blas 2017). At the end of the event, the attendees sang *L'Estaca*, by Lluís Llach, a song that became a symbol of the struggle against General Franco by communists and radical leftists. Currently, the author of the song is a member of regional parliament in favour of the independence of Catalonia.

The next electoral test was the Andalusia regional election on December 2, 2018. This proved to be the moment when power was overturned for the first time in the history of the region after the loss of Susana Diaz's *Socialists*. Although the PSOE still obtained the highest number of votes, the decrease of 14 seats meant it lost its absolute majority, which led to the creation of a new government formed by the PP and *Ciudadanos*, with the external support of VOX. The PP had dropped seven seats, but the rise of *Ciudadanos* with twelve seats (totalling 21) and the emergence of VOX (a group emerged from a split of the PP, which was the surprise of the elections, obtaining 395,978 votes and twelve seats) paved the way for the renovation of the Andalusian government, which had been badly affected by corruption, with two former socialist presidents on trial.

Meanwhile, the radical left took the form of *Adelante Andalucía* in October 2018, through the agreement of *Podemos Andalucía* and IULV-CA together with Equo and groups from the dissolution of the *Andalusian Party*, such as *Andalusian Spring* and *Andalusian Left*. The candidate for the presidency was Cádiz-born Teresa Rodríguez. She had previously been an activist against the military base in Rota, her native town, although she later became a trade unionist in the educational field, belonging to *Izquierda Anticapitalista (Anti-Capitalist Left)*. She came into the public eye as a member of the European Parliament for *Podemos* and was elected as a general secretary of *Podemos Andalucía*. In these elections she managed to gather 584,040 votes and 17 seats, but the result proved to be disappointing because in the previous elections in 2015 *Podemos* had obtained twelve seats and *IULV-CA* another five. In the 2018 elections, with a unified candidacy of both lists of *Podemos* and *IULV-CA*, the final result was the loss of three seats, finishing as the fourth Andalusian political force, behind *Ciudadanos*. Although Teresa Rodríguez had distanced herself from the socialist regional government to avoid being accused of supporting a corrupt party, her organisation did not benefit from the social unrest, as it favoured the splinter group from the PP-VOX and the liberal *Ciudadanos*.

The premise was that *Podemos* had reached its limits, as the conquest of the skies now seemed far away and the overtaking of the socialists was now a notion of the past. According to the polls, Pedro Sanchez's party continued to benefit, gradually recovering votes that it had lost to *Podemos*. The political consequences arose with the territorial coalitions and Iñigo Errejón's critical sectors of the party. In Valencia, *Compromís* ran alone in all the following elections and in Galicia *Podemos* distanced itself from *En Marea*, with its own candidacy. In Andalusia, *Adelante Andalucía* opted to evolve into a coalition with its own autonomy within *Unidos Podemos*, as did the others, except *Compromís*, who moved to the mixed group in 2016. The difficulty of forming a united parliamentary group made visible the movement's problems, which began to grow in the form of the electoral setbacks.

On January 17, 2019 Iñigo Errejón announced by surprise his intentions to be a candidate for the autonomous region of Madrid by launching a joint political platform with the mayor, Manuela Carmena. A few days later he left his seat in the Congress of Deputies. On January 25, 2019, Ramón Espinar resigned as general secretary of Madrid, a member of regional parliament and senator, leading to the formation of a management committee and the deepening of the crisis.

The name of Manuela Carmena's new platform was *Más Madrid* and had been created outside of *Podemos* and IU, on December 22, 2018. Rita Maestre, spokesperson for the Madrid City Council, and José Manuel Calvo, Francisco Pérez, Esther Gómez, Jorge García Castaño and Marta Gómez, councillors of *Podemos* had announced in November 2018 that they would not be running in the party's primary elections and instead would be joining Manuela Carmena's platform. Once the division had appeared those on the pro-Errejón side of the party moved to *Más Madrid* in a matter of days. After the formation of *Más Madrid*, the parliamentarians of the Assembly of Madrid, Clara Serra, Eduardo Fernández Rubiño, Mónica García, Hugo Martínez Abarca and Jazmín Beirak joined the platform, along

with the ecologists of Equo, while *Podemos* and IU negotiated the formation of common lists as *Unidas Podemos (United We Can)* – in clear reference to gender radicalism.

However, the Madrid crisis reflected important problems in other regions, such as in Navarre, where, after a very close primary election, the former general secretary of *Podemos Navarra*, Laura Pérez was expelled from the party. However, she did not renounce her seat and, along with three other parliamentarians, changed the denomination of the parliamentary group to Orain Bai and expelled the remaining three (Ainhoa Aznárez, Mikel Buil and Tere Sáez), who remained loyal to *Podemos*, but were forced to sit in the mixed group and lose the presidency of the parliament of Navarre and parliamentary group grants (Arnedo 2019). In January, the crisis broke out in Cantabria as Veronica Ordóñez's decision to leave the *Podemos* group led to its dissolution. The former parliamentary speaker became an independent parliamentarian, and José Ramón Blanco and Alberto Bolado joined the mixed group (Alonso 2019). In La Rioja, the primary elections were suspended for similar reasons.

In the coalitions in Catalonia, the crisis began from October 2017 with the support or non-support of the right of secession. The general secretary, Albano-Dante Fachin, parliamentarian of *Catalunya Sí que es Pot* of Argentine origin, clashed with the party's official direction that supported the secessionist movement, which emerged from the illegal referendum on 1 October. On November 6, 2017, he resigned as general secretary of *Podemos* in Catalonia and formed a new group called *Som Alternativa (We Are Alternative)*. From then on, the group formed part of *Catalunya en Comú*, when Xavier Domènech, professor of history at the Autonomous University of Barcelona, took office and was elected by *En Comú Podem (ECP)* for the Congress of Deputies, where he was from the 13th January 2016 until January 17, 2018. In April 2018, he was elected as a general secretary of *Podemos* in Catalonia, but on September 4, 2018, he announced that he was leaving his posts in *En Comú Podem* and renounced his seat in the Parliament of Catalonia, because of the strong internal disagreements in the party. Noelia Bail was chosen as his replacement, with the aim of preventing the collapse of the party. In Galicia, Carmen Santos, was elected general secretary of *Podemos* in mid-2016, but left the position in October 2018, when she decided not to run and support the candidacy of Carolina Bescansa, who lost to Antón Gómez-Reino, representative of Pablo Iglesias's faction. Now the new leader of *Podemos*, wanted to reach an agreement with Anova and EU, against the one represented by its former coalition, Luis Villares' *En Marea*.

With regard to the founding members of *Podemos*, Carolina Bescansa abandoned politics to return to teaching at the Complutense University of Madrid. Luis Alegre, the first general secretary of the party in Madrid, resigned due to pressure from supporters of Iñigo Errejón, leaving politics and returning to the Complutense University of Madrid, but he later put his name forward for Errejón's *Más Madrid* candidacy, even though he had always been a supporter of Pablo Iglesias. Juan Carlos Monedero was the first to leave the party. He did so in April 2015, when he denounced the party's strategy, for becoming institutionalised and moving away from its 15-M origins. Of the founding group members, only Pablo Iglesias and Iñigo Errejón remain in competitive political projects.

On April 28, 2019 were the general elections, and on March 15, 2019, *Podemos*, *IU* and *Equo* changed the name of their candidacy to *Unidas Podemos*, to give it a more feminist resonance. However, some of its allies such as *Compromis* and *En Marea* decided to go on separate lists and distance themselves from the control of Pablo Iglesias. However, the results were disastrous to obtain 3,135,480 votes, 11.97% and 35 seats in which were the 2 galicians of *En Común – Unidas Podemos*, they have been presented rivaling *En Marea* that had decided to present separately. However, *En Marea* barely reached 17,700 votes, a small 1.08%. As for the Catalans, they participated under the candidacy of lawyer Jaume Asens, deputy mayor of Barcelona, but the list of *En Comú Podem* received 614,738 votes, from the first to the third most voted force in Catalonia with 7 seats, losing 5 in these elections, his profile favorable to independence favored an important exit of his vote in favor of the PSC. In Valencia, *Compromis* decided to appear separately obtaining 172,751 votes, 6.45% and a single deputy, losing 3 that he had previously joined with *Podemos*. Finally, *Podemos* had demolished a capital of 71 deputies. In these elections, the PP also obtained the worst results in its history with the emergence of its VOX split, which with a traced speech by US President Trump capitalized 2,688,092 votes and 24 seats. The PP was reduced to 66 seats, losing 71. The PSOE on the contrary recovered 38 and reached 123, assimilating much of the losses of *Podemos* and its confluences.

A month later, on May 26, were the European, municipal and regional elections in much of Spain. *Unidas Podemos Cambiar Europa* won 2,258,857 votes, 10% and 6 MEPs. The failure was confirmed in the municipalities where those who had maintained discrepancies with Pablo Iglesias were those who had good results. Cádiz with José María González "chiqui" of the anti-capitalist current was the only city that remained and Valencia with the good result of *Compromis* at the expense of *Podemos*. In Barcelona Ada Colau, from Barcelona en Comú, tied with the ERC independence candidate, Ernest Maragall, but remained as mayor for the socialist support and Manuel Valls, the former French Prime Minister, who had presented himself as a candidate on his own list supported by Citizens. Manuela Carmena managed to win in Madrid with the *More Madrid*, 30.94% of the votes, which were granted by 19 councilors, but the alliance of *Citizens* and VOX gave the victory to the Popular Party candidate, José Luis Martínez Almeyda. In the community of Madrid, the formation of *Más Madrid* with Iñigo Errejón obtained 14.65% of the votes and 20 seats.

Conclusions

Podemos had spectacular growth and served as a binder for many protest movements, in a context of strong social protest. The loss of socialist vote for the numerous cases of corruption served to add support. However, the coalition with the United Left, the takeover of the formation by Pablo Iglesias, the departure of the dissenting voices, have placed *Podemos* on the left side. The radicalization of the discourse of the socialist party with Pedro Sanchez, but with possibilities of exercising for his control of the government, favors a massive absorption of the vote from *Podemos*.

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The contemporary migration and population situation in Poland on the background of the European Union

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Abstract

We are currently observing significant changes in the world's population. Until World War II, we could see a constant increase in population in various parts of the world. Currently, in the selected countries of the eastern part of the EU, the population is decreasing, e.g. in Poland or Romania. Demographic indicators (fertility rate, mortality rate, migration rate) are affected by economic and social conditions. Various *en masse* pro-natalist policies are ineffective. EU societies are focused on expectations other than parenthood. These changes will require new actions by state authorities in the area of demography.

Keywords: Demography, population, migration, refugees, repatriates

Współczesna sytuacja ludnościowa i migracyjna w Polsce na tle Unii Europejskiej

Streszczenie

Aktualnie zauważamy głębokie zmiany w populacji świata. Do II wojny światowej mogliśmy dostrzegać ustawiczny wzrost liczby ludności w różnych częściach świata. Obecnie w wybranych państwach wschodniej części UE liczba ludności maleje, np. w Polsce lub Rumunii. Na wskaźniki demograficzne (współczynnik dzietności, współczynnik umieralności, współczynnik migracji) mają wpływ uwarunkowania ekonomiczne i społeczne. Różne polityki pronatalistyczne *en masse* są nieskuteczne. Społeczeństwa [państw] UE są skoncentrowane na innych oczekiwaniach niż macierzyństwo. Wspomniane zmiany będą wymagały nowych działań władz państwowych w obszarze demografii.

Słowa kluczowe: Demografia, populacja, migracja, uchodźcy, repatrianci

The changes in population processes in Europe that began in the 1960s were the result of profound cultural, social and economic transformations. The development of modern, efficient technologies widely used in industry resulted in a sharp increase in revenues in EEC countries. At that time individual assistance programs for citizens began to be developed. It was not supposed that the significant development and expansion of the sphere of responsibility of state institutions for the well-being of citizens would change many spheres of social life, create new cultural phenomena and would affect the economy of individual countries. From the perspective of five decades, we can assess these changes as positive. The standard of living of the population has clearly improved due to widespread health protection programs and pensions, the dissemination of education at higher levels and the availability of housing. Finally, social rescue activities in critical life situations played a significant role, when citizens could not cope with fulfilling their social roles on their own.

This article presents the characteristics of population processes in the world, in Europe and in Poland. The aim was to show the diversity of occurrences of individual changes over the time, but also to alarm what would most likely occur in Poland with some delay.

In the light of the statistics presented, differences in population processes can be noticed between the rich North and the poor South. These data confirm the relations between overpopulation and poverty known since ancient Greece, but at the same time in modern terms they alarm prediction of the growing pressure of migration.

The individual chapters of the article present the situation of the world's population in the historical context. The process of demographic changes in the European Union is also based on the historical data, and the individual demographic indicators are discussed. The next parts of the article describe the population situation in Poland.

The image of migration processes in the European Union and Poland is complementing the picture of processes occurring in changes in natural traffic. This is an extremely important issue, having a direct (and quick) impact on the structure of the population in the selected countries.

The subject of discussion in this article are demographic changes that currently shape the population situation in the individual countries, but the sources of these changes in the past have been indicated.

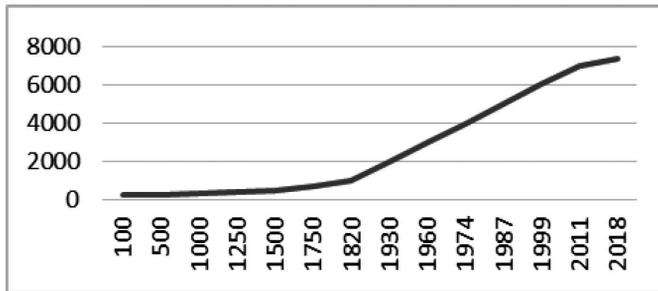
The discussion in this article is based on the existing sources, which are statistical summaries covering both changes in natural and spatial movement. In addition, the information obtained in the years 2004–2019 while performing the function of a member of the Council for Refugees and during meetings of the Government Population Council was used in a collective form, unpublished materials of the Department of Repatriation and Citizenship and the Department of Analysis and Migration Policy of the Ministry of Interior and Administration were also used to characterise individual phenomena in the aggregated statistical form.

Situation of population in the world

The structure of the world's population is shaped as a result of natural and territorial movements. Since the industrial revolution in the nineteenth century, there has been

a significant increase in population on the particular continents, which has attracted the attention of the researchers. However, scholars devoted attention to population issues already in ancient China, ancient Greece and the Roman Empire. In those days, the population constituted the strength of the state, its ability to develop faster and the protection of its own territory. The harsh conditions of the natural environment, the natural disasters (floods, fires, droughts), various diseases (epidemics) and constant wars have caused great havoc in the population.

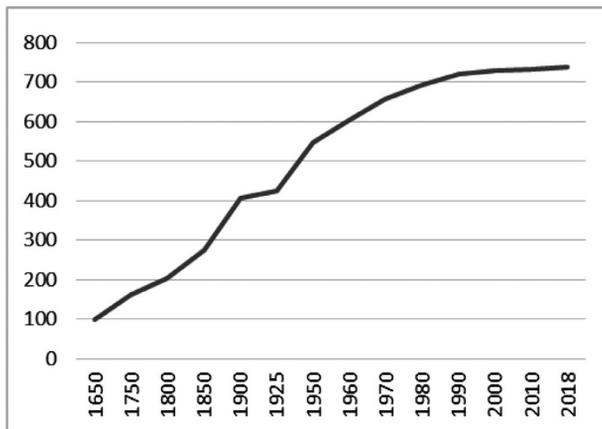
Figure 1: Population growth in the world in the years 100–2018 (mln)



Source: own study based on Holzer 2003; p. 117–121.

The dynamics of population growth slightly increased during hundreds of years. Only after technological inventions, changes in the ways of farming and breeding, as well as medical achievements, which led to a significant improvement in living conditions, which in turn resulted in a decrease in the number of deaths due to the prolonged duration of human life.

Figure 2: Population growth in Europe in the years 1650–2018 (mln)



Source: own study based on Holzer 2003; p. 117–121.

Particularly high dynamics of population growth occurred on the European continent during the industrial revolution, and it should be remembered that its individual parts developed with different pace. Economic and social changes taking place in Western Europe reached Central and Southern Europe with a delay, and at the same time they were practically imperceptible in the backward areas of the Russian Empire close to the Urals, where poorly developed agriculture dominated.

The population growth was also halted in the years of the World War I and II, when millions of people lost their lives.

In the years of the post-war reconstruction of the European economies, the number of European population increased again. As in earlier periods, these dynamics was not even in individual parts of the continent. In the western part, the growth rate began to slow down at the turn of the 1960s and 1970s. In Central, Southern and Eastern Europe a similar process took place only in the 1990s.

During this time, references to the population crisis in Europe began to appear in public discourse. Its most important signs are: low fertility¹, late motherhood, one child in a family and an increase in the median of age in the European societies². To counteract this situation, institutions and privileges were developed to encourage women to make reproductive decisions. These are: maternity and parental leaves, allowances, tax benefits, salary supplements, social care and educational infrastructure and counseling. The dimension of support for mothers and families varies from one country to another. The activity of institutions dealing with the protection of children's rights is also different³. In many social environments, the issue of admissibility of abortion is recognised as a natural element in counteracting the population crisis. Another solution is to develop immigration from overpopulated areas of the world (Hut 2009; p. 161).

Nowadays, the dynamic development of the Asian and African population, as well as South and North America, deserves a special attention. While Asia and Africa have always been characterised by a high population rate⁴, South and North America were not very populous continents and only the colonisation process caused an increase in the population rate. However, today the highest fertility rate is recorded in the undeveloped African countries and causes a significant increase in population.

Table 1: Countries with the highest fertility rate (2016)

Country	Fertility rate
Niger	7.1
Somalia	6.1
Democratic Republic of the Congo	5.9
Mali	5.9

¹ Total fertility rate – the number of live births per woman aged 15–49; above level 2.1 guarantees simple replacement of generations.

² A measure of demographic aging of the society.

³ There are many critical comments about the German *Jugendamt* and the Norwegian *Barnevernet*.

⁴ It means the nominal number of inhabitants, not the population density per sq. km in the area.

The Republic of Chad	5.7
Angola	5.5
Burundi	5.5
Uganda	5.4
Nigeria	5.4
East Timor	5.3

Source: own study based on *Fertility rate, total (births per woman)*, www.data.worldbank.org

It is worth emphasising the huge diversity in terms of population of individual countries in the world. As mentioned, Asia has traditionally been the most populous continent. Moreover, nowadays there are two countries in Asia whose population exceeds 1 billion inhabitants and covers a total of about 30% of the world's population. The most populous EU country, Germany, with its population of 82 million of inhabitants in the global ranking is on the 19th position, while Poland is on the 36th position in the world as for its population number (www.data.worldbank.org).

Table 2: The most populous countries in the world (2018)

Country	Population number (in mln)
China	1,379
India	1,281
USA	326
Indonesia	260
Brasil	207
Pakistan	204
Nigeria	190
Bangladesh	157
Russian Federation	143
Japan	126

Source: own study based on www.data.worldbank.org

It should also be noted – this is a process recorded by the demography scientists – that the overall growth rate of the world's population is falling down. Admittedly, there are areas with a high fertility rate whose population is increasing rapidly; however, the overall decreasing growth rate tendency in the world is generally noticeable nowadays. Moreover, as the emphatic example of the world's population decreasing tendency is the cancellation of the "one-child policy" by the People's Republic of China authorities.⁵

⁵ Actions of the China's authorities initiated in 1977, which aimed to regulate the number of births. According to its assumptions, the family could have one child. In the case of a larger number of children, additional financial charges were imposed on the family. The result of this situation was violation of human rights (including forced abortions) and upsetting the proportion of women and men in the society (parents decided to have a male child).

Population situation in the European Union

In total the territory of the European Union has 515,8 million of inhabitants⁶, and, although it is a joint body of international law, which is statistically the third largest entity in the world in terms of population, the population situation in the EU should be assessed negatively. Demographic aging, which characterises all Member States, is undoubtedly a factor which slows down development and limits economic opportunities.

Table 3: Population in EU Member States in 2016

Country	Population (in mln)	Country	Population (in mln)	Country	Population (in mln)
Belgium	11.3	France	66.7	Netherlands	16.9
Bulgaria	7.1	Croatia	4.3	Austria	
Czech Republic	10.5	Italy	60.6	Poland	37.9
Denmark	5.7	Cyprus	0.8	Portugal	10.3
Germany	82.1	Latvia	1.9	Romania	19.7
Estonia	1.3	Lithuania	2.8	Slovenia	2.0
Ireland	4.7	Luxemburg	0.5	Slovak Republic	5.4
Greece	10.7	Hungary	9.8	Finland	5.4
Spain	46.4	Malta	0.4	Sweden	9.8
Great Britain	65.3				

Source: own study based on Eurostat Regional Yearbook 2018.

A total of 356 million inhabitants live in the six most populous EU countries, which is 69% of the overall population. Particularly noteworthy is the increase in the population of France, which is growing due to the relatively high number of births, but also the influx of immigrants.

As in other countries of the prosperous North, the number of live births for several decades does not guarantee a level of simple replacement of generations. The aggregate fertility rate for the EU for the last time above two children per woman of reproductive age exceeded in 1976, while the lowest level (1.45) was achieved in 1995. In subsequent years there was a slow improvement and now it is 1.6 of a child per a woman of reproductive age⁷.

Table 4: Fertility rate in the EU Member States in 2016

Country	Fertility rate	Country	Fertility rate	Country	Fertility rate
Belgium	1.68	France	1.92	Netherlands	1.66
Butgaria	1.54	Croatia	1.42	Austria	1.53

⁶ Data for 28 Member States, 2016 year (see: Rządowa Rada Ludnościowa 2017: p. 17, 72; Eurostat Regional Yearbook 2018).

⁷ The lowest is in Spain (1.32) and the highest in France (1.92). (Own study based on data.wordbank.org)

Czech Republic	1.63	Italy	1.34	Poland	1.39
Denmark	1.79	Cyprus	1.37	Portugal	1.36
Germany	1.60	Latvia	1.74	Romania	1.64
Estonia	1.60	Lithuania	1.69	Slovenia	1.58
Irland	1.81	Luxemburg	1.41	Slovak Republic	1.48
Greece	1.38	Hungary	1.53	Finland	1.57
Spain	1.34	Malta	1.37	Sweden	1.85
Great Britain	1.79				

Source: own study based on Eurostat Regional Yearbook 2018

Another important factor influencing the number of births in particular countries is the late age of a woman while giving birth to the first child. Although, the issue of teenage pregnancy is often raised in the media, it has a negligible share in the total number of births. The statistical EU citizen giving birth to a child is a 29-years-old woman⁸.

Certainly, social, cultural and economic changes that took place in the mid-1970s had an impact on attitudes to reproduction in the EU. During this time, the wealth and well-being of many Western European households increased significantly. Public institutions have taken over some of the responsibilities already assigned to family members. The development of welfare state and social security has changed the lifestyle and interpersonal relations. In the former Eastern Bloc countries, which joined the EU after 2004, these processes have been delayed since 1990, but also it happened rapidly.

Partnerships should be considered as a manifestation of new interpersonal relationships. In the most EU countries they are legally permitted. However, the scope of the rights arising from the conclusion of a partnership (e.g. social security coverage, inheritance, medical information) varies. It is difficult to assess the effects of this form of relationship on the population situation, as in many countries there is a high number of births outside marriage. In 2016, such births were over 40% of all live births in the EU.

Table 5: Births outside marriage in the EU Member States in 2016

Country	Share in the total number of births (%)	Country	Share in the total number of births (%)	Country	Share in the total number of births (%)
Belgium	49	France	59	Netherlands	50
Bulgaria	58	Croatia	18	Austria	37
Czech Republic	48	Italy	28	Poland	25
Denmark	54	Cyprus	19	Portugal	52
Germany	35	Latvia	40	Romania	31

⁸ The earliest the birth is given in Bulgaria (when a woman is 26 years old) and the latest is in Italy (when a woman is 31 years old).

Estonia	56	Lithuania	27	Slovenia	58
Ireland	36	Luxemburg	40	Slovak Republic	40
Greece	9	Hungary	46	Finland	44
Spain	45	Malta	31	Sweden	54
Great Britain	47				

Source: own study based on Eurostat Regional Yearbook 2018.

In the light of the above demonstrated data, it can be concluded that the phenomenon of births outside marriage are more characteristic for the countries located in the northern part of the EU. This assessment is also confirmed by the fact that births outside marriage reach high proportions in Norway (56%) and in Iceland (70%).

Another indicator that allows to characterise the population situation of a given country is the infant death rate per 1,000 of live births. It should be emphasised that it is very diverse in the world. Currently, it reaches the highest dimensions in the poor countries of the South. In Angola it is as much as 180, in Sierra Leone and Afghanistan it is above 150. This is a result of generally difficult living conditions in these countries and limited possibilities of receiving medical care. For the EU, this factor is 3.6.

Table 6: Infant mortality rates in the EU Member States in 2016

Country	Infant deaths per 1,000 of live births	Country	Infant deaths per 1,000 of live births	Country	Infant deaths per 1,000 of live births
Belgium	3.2	France	3.7	Netherlands	3.5
Bulgaria	6.5	Croatia	4.3	Austria	3.1
Czech Republic	2.8	Italy	2.8	Poland	4.0
Denmark	3.1	Cyprus	2.6	Portugal	3.2
Germany	3.4	Latvia	3.7	Romania	7.0
Estonia	2.3	Lithuania	4.5	Slovenia	2.0
Ireland	3.0	Luxemburg	3.8	Slovak Republic	5.4
Greece	4.2	Hungary	3.9	Finland	1.9
Spain	2.7	Malta	7.4	Sweden	2.5
Great Britain	3.8				

Source: own study based on Eurostat Regional Yearbook 2018.

Limitation of infant deaths is considered as one of the key indicators determining the level of development of a particular country. It is worth emphasising that, although, in Poland it exceeds the EU average, nevertheless, there has been a remarkable improvement in the recent decades – in 1990 it amounted to 20 infant deaths per 1 thousand of live births (in 2000, there were about 7 infant deaths per 1,000 of live births (Rządowa Rada Ludnościowa 2018).

A healthy lifestyle, availability of food and medical assistance, work that does not require physical effort and care for the natural environment cause a statistical increase in the average life length in the EU. It currently stands at an average of 81 years for the EU, with a clear difference in the length of this indicator for women (83 years) and men (78 years).

Table 7: Life expectancy in the EU Member States in 2016

Country	Number of years	Country	Number of years	Country	Number of years
Belgium	84	France	85	Netherlands	83
Bulgaria	78	Croatia	81	Austria	84
Czech Republic	82	Italy	85	Poland	82
Denmark	82	Cyprus	84	Portugal	84
Germany	83	Latvia	79	Romania	79
Estonia	82	Lithuania	80	Slovenia	84
Ireland	83	Luxemburg	85	Slovak Republic	80
Greece	84	Hungary	79	Finland	84
Spain	86	Malta	84	Sweden	84
Great Britain	83				

Source: own study based on Eurostat Regional Yearbook 2018.

The above data demonstrates statistical average life length in the EU countries, however, as mentioned, these are average data for both sexes, and there is also diversity in terms of place of residence. A statistical resident of non-urbanised areas may have less opportunities to benefit from the advanced medical assistance, nevertheless, the natural conditions, in which a person lives, result in a better overall health and, hence, a longer average life length.

Another issue is the fact that the above list does not take into account the health of living persons. There is a very large group of people in the EU who are unable to live independently (e.g. memory problems, mobility problems) and who require constant care. This is a significant change not previously noted due to statistically insignificant dimensions. The existence of a growing group of such people causes recurring discussions about ethically problematic euthanasia⁹.

The EU population situation is a major challenge for the Member States' governments. Low fertility rate, delaying the birth of the first child and the growing number of people in retirement age¹⁰ require taking various actions for the functioning of the state.

⁹ In the EU 'Active euthanasia' is legal in the Netherlands, Belgium and Luxembourg; outside the EU in: Switzerland, Canada, Columbia and Japan. In the EU "Passive euthanasia" is legal in: Portugal, Spain, France, Great Britain, Germany, Ireland, Sweden and Italy; outside the EU in India and Argentina. In the US, regulations vary from state to state.

¹⁰ In Poland, the post-working age is 60 years old for women and 65 years old for men.

The key issue is the efficiency of the social security systems. In the 19th century, when their development took place in Germany, the proportion between the number of people entitled to benefits and the number of employed was much more favorable. The effect of the demographic age of the societies of the EU countries are the discussions that arise from time to time to delay the retirement age and to launch mass immigration processes from overpopulated areas of the world.

Population situation in Poland

Poland is one of the most populous EU countries¹¹. The structure of the Polish population has changed significantly over the recent 25 years. It is worth mentioning that, according to the research conducted by the Central Statistics Office in Warsaw in the 1970s and 1980s, before 2000 the population of Poland was to exceed by 40 million residents. As a result of deep social and economic changes that took place in 1989/1990, the current trends regarding the number of births have been stopped. Over the last 25 years, not only the fertility rate of women has declined dramatically, but there also has been a massive process of economic emigration of people of working age – including women of reproductive age. Only these two negative processes from a demographic perspective had to be reflected in the structure of the Polish population. It is worth underlying that one of the measures is the proportion between the number of children (0–14 years old) in relation to the number of people in post-working age. In 2005, there were 820 people in post-working age per 1000 children, however, in 2015 there were already 1092 people in post-working age per 1000 children. At the same time, two very favorable phenomena were noted in the discussed period. These include a 6 years increase of average life length (both for women and men), as well as a 5-times decrease of the infant mortality rate.

Mass internal migrations are characteristic features of the recent years. This migration flows include a large group of people leaving their hometowns for educational and work purposes. According to the forecasts, while maintaining current migration trends the population in the following cities: Warsaw, Cracow, Gdansk and Poznan, will increase. In the other Polish cities the population decreases. The challenge for the central and local authorities is the population decline in some regions of Poland.

Table 8: Population in voivodships in 2016.

Voivodship	Population (mln)	Voivodship	Population (mln)	Voivodship	Population (mln)
Masovian	5,5	Pomeranian	2,3	Swietokrzyskie	1,2
Silesian	4,5	Lublin	2,1	Podlaskie	1,1
Greater Poland	3,4	Subkarpatian	2,1	Lubusz	1,0

¹¹ In terms of population, Poland is on the 6th position.

Lesser Poland	3,3	Kuyavian-Pomeranian	2,0	Opole	0,9
Lower Silesian	2,9	West Pomeranian	1,7		
Lodz	2,4	Warmian-Masurian	1,4		

Source: own study based on reports: *Sytuacja demograficzna Polski* (see: Rządowa Rada Ludnościowa 2017, 2018)

The population structure in demographic studies is presented in the form of a pyramid (see: GUS 2018: p.24). The youngest years are placed at the bottom of the pyramid, while the oldest years are situated at the top of it. On the both sides of the vertical axis, the number of subsequent years is marked, separated by the gender. In the progressive model, the pyramid has a wide bottom part and a narrow apex. In the recessive model, the base is narrower than the middle part; the top is also wide. The pyramid prepared in the Central Statistical Office (see: GUS 2018: p.24) for the Polish population has an average bottom part, it is wide in the central part (people of mobile age), but its top part has also widened in the recent decades. A characteristic feature is the clearly marked demographic waving, presented by the widening of the pyramid for two high-pressure waves: the first from the 1950s and the second one – from the 80s of the last century¹². Currently, people born in the years of the so-called "post-war birth boom" are finishing their professional activities. However, a significant proportion of people who were born in the first half of the 1980s still remain on the labor market. Another special phenomenon is the number of male children and young men in the population structure up to 45 years old. After this period, the dominance of women is growing in subsequent years. As a result, a larger number of women (51.6%) than men are registered in the overall structure of the Polish population. In the cities, the share of women in the population structure is even higher and amounts to 52.6%. More balanced proportions of both sexes occur in the countryside.

As mentioned above, changes in marital status are also included in demographic analyses. Poland is a state where its legal system understands the institution of marriage only as a relationship between a woman and a man,¹³ in addition separations and divorces are also possible. After the changes of 1989/1990, the delay in getting married was clearly marked. Even in 1990, women entering their first marriage were on average 23 years old, while in 2016 it was 27 years old. Similarly, men entering into marriage at that time were almost 25 years old, and currently almost 30. There is also a noticeable tendency that in 1990–2016 the proportion of divorced persons entering into marriages increased – both among women and men. Another noticeable phenomenon is the decreasing share of denominational marriages in the overall structure of marriages concluded each year. Believers of 11 churches and religious associations have been

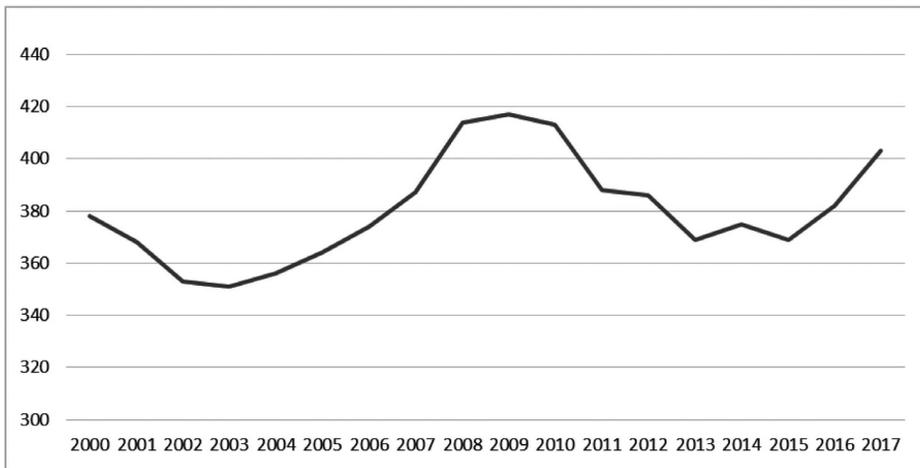
¹² Some of these people, after opening selected labour markets in the EU, decided to emigrate and to settle down abroad.

¹³ A big challenge for the national administration system is the situation of the Polish citizens who have formally married people of the same sex abroad. In the extreme left movements, the issue of introducing both same-sex marriages and partnerships into the national legal system is also raised.

able to enter into marriage having civil law effects only before a priest since 1999. At the beginning of the 90s, as many as 73% of newlyweds decided on such a ceremony, in 2016 only 63%. The number of divorces has also increased since 1990. In 1990 there were 42,000 divorces per year, and in 2016 – already 63,000 (the most divorces were made in 2004–2006 – around 70,000 divorces a year). In 1999, the institution of separation was also introduced into the legal system. Most separations were issued in the mid–2000s, currently the number of such decisions does not exceed 2,000 a year.

Over the past two decades there has been no expected boom echo from the 1980s. In 2000–2017, the fewest children were born in 2003 (351,000), and the most in 2009 (417,000). In 2017, respectively, 403,000 children were born, and this was an increase by 13,000 births in comparison to year 2016. These numbers, however, do not provide simple generational replacement.

Figure 3: Number of live births in Poland in 2000–2017 (thousands)



Source: own study based on reports: *Sytuacja demograficzna Polski* (see: Rządowa Rada Ludnościowa 2017, 2018)

It can be assumed with high probability that the processes described above will directly affect the future structure of the Polish population. According to the optimistic forecast of the Central Statistical Office (see: GUS 2014), it was expected that in 2030 over 37 million of people will live in Poland (including 21 million in cities, and 15 million in the countryside). A decade later, over 35 million (respectively: 20 million and 15 million), while in 2050 year – 33.9 million people, including 18.8 million in the cities and 15 million in the countryside.

Forecasting changes in the population structure is a huge challenge because it should take into account various factors directly and indirectly affecting population processes. The most difficult element is the assessment of the size and period of inflow

or outflow of migrants. As mentioned, in Poland and in the other EU Member States, the fertility rate does not guarantee simple generational replacement. In this situation, it was recognised that the solution to population problems could be the process of mass immigration from the third countries – including the culturally distant African and Asian countries.

Migration and migrants in the European Union

In the traditional EU immigration countries, the fourth generation of immigrants is already entering adulthood, whose connections with their countries of origin are limited to family transfers and religion. The specificity of immigration to the EU has changed dramatically within recent 70 years. In recent years, migrations and migrants have become the axis of public debate in the EU countries. The process of mass migrations, which began at the end of the World War II, never actually ended in Europe. Only the countries of origin of the immigrants changed. It is worth underlying that thousands of Central and Eastern Europeans resided in the West after the war. Another mass wave of immigrants came as a result of the decolonisation of African and Asian countries. Contract workers from developing countries began to come to Europe in the late 1960s. This picture of European migration can also be complemented by the constant outflow of people from the Eastern Bloc who chose to live in the West.

The territorial movement of the population describes migration as an element of shaping the structure of the population and it means the movement of a person or persons, for various reasons, from the current place of stay to another place of stay. It can take place in a legal or illegal manner, and it can be planned or spontaneous manner, as well as voluntary or forced. There is a number of migration typologies in which various circumstances are taken into account, such as: direction, area, duration, purpose (Hut 2016: p. 241).

The state on whose territory the most numerous group of immigrants residing in the Russian Federation (11 million). It is a remnant of dependence from the times of the Soviet Union, when the citizens of individual republics moved – also for professional reasons – to the other parts of the state. In contrast, in the EU, the largest immigrant groups have settled in the most developed and the most populous Member States. In the global list of countries that have accepted the most numerous groups of immigrants in the EU are: Germany (the 3rd position), Great Britain (the 5th position) and France (the 7th position).

Table 9: Immigrants in the EU Member States in 2013–2017 (in millions)

Country	Immigrants (mln)	Country	Immigrants (mln)	Country	Immigrants (mln)
Belgium	1.1	France	7.9	Netherlands	1.9
Bulgaria	0.08	Croatia	0.7	Austria	1.3
Czech Republic	0.4	Italy	5.7	Poland	1.1

Denmark	0.5	Cyprus	0.2	Portugal	0.8
Germany	12.2	Latvia	0.2	Romania	0.2
Estonia	0.2	Lithuania	0.1	Slovenia	0.2
Ireland	0.7	Luxemburg	0.2	Slovak Republic	0.04
Greece	0.9	Hungary	0.4	Finland	0.4
Spain	5.8	Malta	no data	Sweden	1.1
Great Britain	8.8				

Source: own study based on www.data.worldbank.org, *International Migration, International migrant stock 2017*, Population Division, UN 2018.

The above data do not provide a full picture of immigration to the EU, as they only concern people who do not have citizenship of the country of stay. There is, however – a group of thousands, difficult to estimate, who, after meeting the statutory requirements, have obtained the citizenship of one of the EU countries, and at the same time possess the citizenship of the country of origin and are culturally associated with it.

The most populous EU countries are among the countries where the largest number of immigrants resides. It is important to mention, that immigrants usually live in the cities, while in countries where there are numerous clusters of immigrants from the same country, they create very strong and able to defend their environmental goals.

Due to the process of marginalisation of immigrants that is difficult to overcome in new countries of residence, an importance of the integration of foreigners is increasing. Social services organize activities in the field of counseling, support on the labor market and social problems overcoming. Governmental institutions and non-governmental organisations run diverse programs addressed to children and adults. Increasingly, representatives of the majority group (indigenous people) are invited to learn about the culture of immigrants, through culinary meetings, presentations of artistic creativity from countries of origin of immigrants or overcoming problems in a given place, when their inhabitants are forced to act together for the good of the local community.

Immigrants in Poland

The number of immigrants legally residing in Poland is relatively small. Due to the modern means and communication possibilities, the number of migration flows will probably increase, but they will depend on political, social and economic factors. The labour markets of the individual EU Member States suffer from a labour deficit. Discussion about opening labour markets and liberalisation of the employment policies are on in contrast to the 1990s. This applies especially to the best and the least educated immigrants. Temporary stay is the first phase that can lead to stay in Poland. People often come for work or family purposes. They take up a job, obtain additional education, run their own business. The opportunity to live in Poland is attractive above all for the Ukrainian citizens. The existing migration network is probably the decisive factor, which allows this group of foreigners to enter the labor market and find themselves in a new reality.

After three decades, since the beginning of the transformation of the early 90s, Poland has become an increasingly attractive place for foreigners. Initially, due to significant differences in the standard of living, few immigrants tried to settle in Poland. However, the economic growth and successes of Polish business entities mean that the standard of living is increasing. At the same time, the sphere of various social services is expanding, which are important for foreigners. In accordance with the applicable regulations, a foreigner may stay in Poland legally after fulfilling certain conditions. There are two legal institutions regulating the rules of staying on the territory of the Republic of Poland. These are temporary stay and permanent stay.

In the years 2014–2016, each year the number of foreigners temporarily staying in Poland increased and it is worth emphasising that this group doubled in such a short period. First of all, this situation was the result of numerous immigration of the Ukrainian citizens, who after several months of paid work decided to stay in Poland. The stay in Poland is also attractive for immigrants from Asia who undertake economic activity (services, trade). For citizens of wealthy EU and EEA countries, coming to Poland is rarely attractive.

Table 10: Persons who have been granted a temporary residence permit in Poland, taking citizenship into account(in 2010–2016)

Year	Citizenship						Total
	Ukraine	China	India	Vietnam	Russian Federation	Others	
2010	8 428	2 236	1 138	2 198	1 379	15 071	30 450
2011	8 075	2 690	993	1 868	1 308	14 284	29 218
2012	9 845	2 794	1 045	3 813	1 604	15 142	34 243
2013	9 642	2 786	1 048	1 986	1 577	14 581	31 620
2014	17 103	2 962	1 398	2 962	1 894	16 228	42 547
2015	37 835	3 447	1 713	2 793	2 041	17 109	64 938
2016	57 247	3 583	2 691	2 689	2 189	18 210	86 609

Source: own study based on www.udsc.gov.pl.

Temporary stay often transforms into permanent stay in Poland for people who have their life center in Poland. Temporary stay is often associated with the need to complete all formalities, and very often foreigners who have been legally residents in Poland for several years, try to obtain permanent residence permit. In the light of the statistical data of the Office for Foreigners, similarly to the first institution of stay, Ukrainian citizens dominate in terms of the number of permits granted for permanent residence. The second group of interested people are Belarusian citizens. This is probably the result of marriages of Polish citizens with citizens of the post-Soviet area concluded by Polish citizens. Newlyweds most often decide to settle down permanently in Poland.

Table 11: Persons who have been granted a permanent residence permit, taking citizenship into account (in 2007–2017)

Year	Ukraine	Biellarus	Russian Federation	Vietnam	Turkey	Others	Total
2010	1 564	629	146	100	58	802	3 299
2011	1 688	625	232	78	71	970	3 664
2012	1 658	703	205	76	53	988	3 683
2013	1 711	640	204	82	55	977	3 669
2014	3 484	1 147	393	338	99	1 198	6 659
2015	6 730	1 389	351	206	81	1 123	9 880
2016	5 920	1 628	327	196	77	897	9 045

Source: own study based on www.udsc.gov.pl.

It should be emphasised, however, that in general the number of foreigners who have been granted a permanent residence permit is many times lower than in the case of temporary residents. For many foreigners, proving that their actual "life center" is in Poland is not an easy task. Nevertheless, an upward trend can be observed and the number of foreigners who have been granted permission for permanent residence in Poland is growing.

Statistical data collected by individual entities dealing with the examination of foreigners' cases clearly indicate a growing immigration to Poland. Our country is an attractive destination for citizens of other countries for various reasons. The example of mass immigration from Ukraine indicates a growing demand for low-skilled workers, which is partly the result of mass post-accession emigration of Polish citizens to the Western EU countries. Economic reasons (including demand for labour, demand for services, money for nothing) allow us to believe that in the upcoming years Poland will also be a country to which mainly immigrants will be arriving.

Refugees in the European Union

The problem of people who are at risk in their country of citizenship was already recognised in the pre-war period. At that time, work began on developing an institution that would protect people whose safety and well-being could be violated by the authorities of their country of citizenship. This mainly concerned representatives of minority groups who, for unrelated reasons, were subject to persecution.

In the post-war period, the number of people who would be at risk of returning to the country of citizenship would increase sharply – this mainly concerned citizens of the Eastern Bloc. However, first of all, the Poles, who (as a result of hostilities) found themselves in the West and additionally lost their homes as a result of territorial changes remained in Western European countries.

The problem of refugees put a shadow over intra-European relations for all decades of the Cold War. The first post-war international act was the Geneva Convention relating to the Status of Refugees of 1951. Already in the first article the reasons for granting international protection to a citizen of another country were indicated; threats arising from: political views, religion, racial affiliation or social group. Later, the Convention was extended to include the New York Protocol of 1967. On the basis of both these legal acts, refugee status is granted in the States who are parties to the Convention.

In the early years, this form of protection was primarily used by citizens of the Eastern Bloc. It has only been since the 1980s that foreign arrivals from other continents have been reported on a larger scale. However, this was not a major challenge due to the huge absorption of labour markets of affluent Western countries and the relatively low threshold of newcomers' expectations. Another factor affecting the reception of refugees was the widespread belief that asylum-seekers are indeed at risk in their countries of origin.

In 2006 year, 200,000 applications for international protection were deposited in the EU. Since then, the number of applicants has been increasing steadily. In 2010 year, it exceeded 300,000. Three years later it was already 431,000. In 2014 year, 627,000 foreigners sought international protection in the EU. During the "migration crisis" in 2015 year, foreigners deposited as much as 1.3 million applications for refugee status in individual EU countries. A similar number of applications were submitted in 2016 year. The number of applications for refugee status began to decrease to approximately 700,000 from 2017 year (Eurostat Regional Yearbook 2018).

What is important, young people (including children) usually apply for refugee status. Only in the Czech Republic and Estonia foreigners seeking protection who are over 35 years old constitute 30–40% of immigrants. In contrast, in Italy and Slovenia, their share is about 10% in the group of immigrants. Based on this data, it is evident that people aged over 34 years old decide to migrate. In addition, in Poland and Austria, the share of children in the refugee structure is over 40% (Eurostat Regional Yearbook 2018). This is a very favorable situation that gives great opportunities in shaping social attitudes and facilitates the integration of foreigners into society. From the labor market perspective, it is important that as many as 65% of the refugee population is male. Taking into account the needs of the labor markets of individual EU countries and difficulties in recruiting employees to professions that do not require qualifications; this is also a premise that should affect the effectiveness of the integration process.

It is also worth emphasising that the mere submission of an application for refugee status does not automatically lead to the recognition of a person as a refugee. It often happens that persons who have been refused refugee status legally or illegally remain on the territory of the country. In special cases that do not meet the requirements of the 1951 Geneva Convention, other forms of international protection are granted (e.g. consent for a tolerated stay, subsidiary protection) that enable long-term residence and normal functioning in the host country, with an important element that these decisions are for the good of the child.

Many leftist European communities operate for the benefit of refugees, which through associations and organisations help in arriving in the EU countries. They support

foreigners during the procedure for granting refugee status, as well as when arranging the necessary formalities in the host country – in finding a flat, working and learning a language, as well as in raising children. The integration of refugees is a huge challenge for themselves, for host societies and the state institutions. The effects of integration are assessed differently - depending on the political context. In fact, there is ample evidence of successful integration of refugees, but also of their confinement within their own group and dislike of European values. Undoubtedly, this is a very important task for decision makers responsible for the public policies of the host countries.

Refugees in Poland

Only in 1991 Poland joined the Geneva Convention of 1951 and assumed the obligation to provide support to persons whose safety was threatened in their country of origin. In the 90s, mainly foreigners came to Poland from the states formed after the collapse of the USSR: from the Russian Federation (Caucasus region), from Armenia, Ukraine or Belarus, as well as from the Baltic States. However, in the face of relatively more modest material assistance than in Western Europe, virtually all refugees from that period left Poland.¹⁴ In subsequent years, a stream of people from post-Soviet countries continued to flow to Poland. In the years 2010–2018, the largest group of people applying for refugee status arrived in 2013, and in large part they were the Chechens¹⁵ (Hut 2007: p.76).

Table 12: Number of persons applying for international protection in Poland, taking citizenship into account, in 2013–2016

Citizenship	Year			
	2013	2014	2015	2016
Russian Federation	12849	4 112	7 989	8 994
Georgia	1245	726	394	124
Ukraine	46	2 318	2 305	1 306
Armenia	206	135	195	344
Tadjikistan	5	107	541	882
Others	902	797	901	672
Total	15253	8 195	12325	12322

Source: own study based on www.udsc.gov.pl.

¹⁴ Under the provisions of the time, foreigners could apply for international protection in another country; it was before the introduction of "Dublin procedure".

¹⁵ This statement results from the analysis of detailed data of foreigners applying for refugee status, including those appealing against the decisions of the President of the Office for Repatriation and Foreigners, and then the Head of the Office for Foreigners, for which the Refugee Board was a higher level office.

However, these people could no longer move freely to Germany or France, and attempts to lodge applications for protection there generally ended in deportation to Poland. The conviction popular among refugees about a sudden and significant improvement in their financial situation ended when they crossed the gate of the refugee centre. Modest conditions, small pocket money, difficulties in dealing with the Poles and the foreign environment of refugees from other countries made it difficult to adapt to new conditions. Another factor inhibiting finding yourself in a new place was the lack of professional preparation. Only subsequent generations of refugees – children who have benefited from education in Poland and mastered the language – are able to cope on the labour market.

Table 13: Number of persons granted refugee status in Poland, taking citizenship into account, in 2013–2016

Citizenship	2013	2014	2015	2016
Russian Federation	26	13	21	10
Syria	70	115	203	40
Belarus	21	14	14	4
Irak	2	8	24	3
Ukraine	2	0	0	16
Others	87	112	86	35
Total	208	262	348	108

Source: own study based on www.udsc.gov.pl

In common understanding, a refugee is a person who left the country of origin in fear of danger. In fact, a refugee is a person in relation to whom the authorities have decided to grant refugee status.¹⁶ Such a ruling is issued after a detailed verification and checking of all relevant circumstances in the proceedings. Many foreigners are disappointed that they have been refused refugee status. Some of them may be covered by another form of protection – subsidiary protection. It has a slightly more limited dimension however; it effectively protects the security of foreigners, and also allows them to stay legally on Polish territory.

Table 14: Number of persons who received subsidiary protection in Poland, taking citizenship into account, in the years 2013–2016

Citizenship	Year			
	2013	2014	2015	2016
Russian Federation	85	107	104	57
Ukraine	5	6	6	51

¹⁶ In the Polish legal system, refugee status may be granted by the Head of the Office for Foreigners and the Refugee Board.

Irak	0	15	24	15
Syria	20	17	3	3
Somalia	19	3	2	1
Others	2	22	28	23
Total	131	170	167	150

Source: own study based on www.udsc.gov.pl

Another form of protection that is currently disappearing in the jurisprudence of the authorities of both instances is consent for tolerated stay. Similarly to subsidiary protection, it results from somewhat different reasons than refugee status, but it allows foreigners who have been refused refugee status to stay safely in Poland.

Table 15: Number of persons granted permission for tolerated stay in Poland, taking citizenship into account, in the years 2013–2016

Citizenship	2013	2014	2015	2016
Russian Federation	282	202	91	35
Georgia	65	39	6	0
Armenia	22	13	10	5
Ukraine	8	11	6	1
Belarus	3	2	0	3
Others	25	28	9	5
Total	405	295	122	49

Source: own study based on www.udsc.gov.pl

According to statistical data, a small group of people can count on one of the forms of international protection in Poland. However, it should be remembered that the statements of foreigners about their persecution and situation in the country of origin are verified in detail, and the refugee status granting procedure itself lasts several months. At the time, some applicants try to settle their lives outside the centre, take up work, their children attend school, but there are also those who very quickly move to Germany or France to join relatives or friends and actually improve their economic status. It should be emphasised once again that the procedure for granting refugee status is not an ordinary procedure for legalisation of the stay, but applies to persons whose continued stay in their countries of citizenship constitutes a threat to their security.

Since 1991, the Polish authorities have been providing shelter to all persons at risk in their countries. Poland is a party to the 1951 Geneva Convention. After the 2015 election, the Polish government refused to fulfil its obligations regarding the admission of immigrants from Greece and Italy. The European Commission has finally withdrawn from this project. This does not change the fact that there is currently growing opposition

in the EU to the mass reception of people applying for refugee status. The arguments indicate the possibility of assistance in foreign citizenship countries or in safe countries neighbouring countries affected by conflicts. An example would be financial support for Turkey in exchange for organising living conditions for refugees on its territory. However, it seems that in Europe, the discussion on organising a comprehensive and effective system of admission and integration of refugees has entered a new qualitative phase and requires the adoption of new institutional and legal solutions.

Foreign students in Poland

In many cases, it is studying in Poland – especially in large academic centres – that makes foreigners have no problems entering the domestic labour market: they know the language, have friends, and are able to complete the necessary formalities. Finding livelihoods, contacts with Polish colleagues and facilitating contacts with relatives in the country of origin result in the decision to stay in Poland. Initially only temporarily, then permanently.

Table 16: Number of foreign students in Poland in 2010/2011–2017/2018

Academic year	Number of students
2010/2011	21 474
2011/2012	24 253
2012/2013	29 172
2013/2014	35 983
2014/2015	46 101
2015/2016	57 119
2016/2017	65 739
2017/2018	72 743

Source: own study based on unpublished typescript the Ministry of Science and Higher Education.

On the basis of statistical data, there is a clear trend to increase the number of foreign students. They study in both public and private universities. If they do not have a Pole's Card, they are obliged to bear the costs of education. Studying in Poland in general is attractive primarily for young people from the post-Soviet space. Students from the western part of the EU or South-East Asia rarely choose to study in Poland. This situation has not changed by the Erasmus program.

Repatriation to Poland in 2010–2017

In the light of applicable regulations, a privileged group of foreigners who can count on significant support from the Polish authorities and acquire citizenship are persons of Polish origin who, based on the Repatriation Act of 2000, settle in Poland. Contrary to

popular belief, the repatriate group is not large. After arriving in Poland, repatriates face similar problems as other foreigners. They often do not know the language and have difficulties entering the domestic labour market. There are known cases of re-patriation – in a situation where people after a certain time of stay in Poland decided to go back to Kazakhstan (Hut 2002: p. 235).

In its assumptions, repatriation was to be the answer to the expectations of thousands of Poles who could not leave the USSR in the post-war period. Unfortunately, this intention could not be implemented. Initially, the provisions in force transferred virtually all obligations related to the adaptation of repatriates to local governments. Only in 2017 a decision was made to increase the involvement of state institutions and better social assistance

Table 17: Number of repatriates settled in Poland in 2010–2017

Year	Number of repatriates
2010	147
2011	193
2012	123
2013	163
2014	165
2015	200
2016	282
2017	260

Source: own study based on unpublished typescript of the Ministry of Interior and Administration and the Council for Repatriation.

It is worth noting that the group of repatriates who have permanently arrived in Poland is many times lower than the number of the Pole's Card holders. In 2007–2017, Polish consular offices issued over 210,000 Pole's Cards, most often received by the Belarusian and the Ukrainian citizens (over 90,000 in each of these countries).

Assessing the repatriation process from the perspective of three decades, it should be emphasised that it was not possible to adequately respond to the expectations of Polish communities in the former Soviet Union. Due to the lengthy procedure, many Poles did not have the opportunity to settle down in Poland. Others were disappointed with the cold reception by their Polish neighbours. Adaptation and integration of foreigners – regardless of whether they are repatriates or refugees – is always a lengthy process that requires the involvement of all parties.

Conclusions

Contemporary population processes in Poland that have a direct impact on the demographic structure indicate the occurrence of negative trends. Overcoming them seems to be one of the most important challenges facing the Polish authorities.

1. The deepest changes were caused (and still are) by the mass post-accession emigration of Polish citizens to western EU countries. This group is estimated differently: from 1.5 million people up to 3 million people. Different numbers are given due to the diverse status of Polish emigrants who do not always complete the required formalities in individual countries of stay. Some migrants often change their place of residence – it depends on the needs of the labour market, the changeability of seasons in the economy, the competition of employers for an employee, etc. For 15 years, the Polish authorities have not prepared any effective programme that could encourage the re-emigration of people from this group. In some cases, the effectiveness of such a programme would be questionable because of the offspring of hetero-ethnic marriages, born abroad and not using the Polish language. The scale of this phenomenon escapes statistical summaries, but undoubtedly has a large dimension. At the same time, the economic and labour market situation changed significantly between 2004 and 2019. The increase in real employee wages, social programmes and the lowest registered unemployment rate since 1989 could be an incentive to return to Poland.

2. The Polish society is entering the phase of demographic old age. A low fertility rate, postponing the decision to give birth and internal migrations will pose a number of challenges in the near future related to people over 60. These challenges include both an increase in expenditure from the state budget for the payment of retirement benefits, as well as health benefits and finally organized forms of spending free time (e.g. Universities of the Third Age).

3. Immigration to Poland is temporary and economic, with a high probability that this trend will change in the near future in favour of long stays and settlements. Foreigners, due to a number of administrative barriers (visa system, legalisation of stay) adopted strategies based on short-term, several-month stays related to their paid work. This was caused by the need to compete to entrust work with Polish employees. Due to the deepening employee deficits on the domestic labour market, labour immigrants no longer have to compete for a job with Polish citizens. A special example is the service sector and the construction industry. As a result, employers are worried about the possible outflow of employees to wealthier EU countries.

The above conclusions regarding the demographic situation of Poland allow to state that similar problems affect all EU Member States. Probably over time, a number of programmes and activities will also be implemented in Poland to counteract the negative consequences of population processes that have been introduced in the other EU countries.

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The question of an alternative to the EU membership of Bosnia and Herzegovina

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Abstract

In a recent survey conducted by the Directorate for European Integration in Bosnia and Herzegovina, it appears that 43.6% of respondents believe that there is an alternative to the European Union (EU) membership. The survey was conducted by using the Computer-assisted telephone interviewing (CATI) method, on a sample that is representative for the entire country. Therefore, this article will explore the possibility of pursuing foreign policy that is geared towards several geopolitical centres and implications for the country. Primarily, this refers to alternative development models offered by international actors such as China, Russia, Turkey and Saudi Arabia. Although the EU often emphasises commitment to the Western Balkan region, both internal and external processes are becoming heavily politicised. In this regard, the author will also attempt to examine some of these processes and the main stakeholders (both in Bosnia and Herzegovina and the European Union), who could stall the future European integration.

Keywords: alternative to the membership, European Union, public opinion, development, Bosnia and Herzegovina

Kwestia alternatywy dla członkostwa w UE Bośni i Hercegowiny

Streszczenie

W ostatnim badaniu przeprowadzonym przez Dyрекcję ds. Integracji Europejskiej w Bośni i Hercegowinie, prawie 43,6% respondentów uważa, że istnieje alternatywa dla członkostwa w Unii Europejskiej (UE). Badanie przeprowadzono metodą wywiadu telefonicznego wspomaganego komputerowo (CATI) na próbie reprezentatywnej dla całego kraju. W związku z tym, w niniejszym artykule zbadana zostanie możliwość prowadzenia polityki zagranicznej ukierunkowanej na kilka centrów geopolitycznych oraz jej implikacje dla kraju. Dotyczy to przede wszystkim alternatywnych modeli rozwoju oferowanych przez takie podmioty areny międzynarodowej, jak Chiny, Rosja, Turcja i Arabia Saudyjska. Chociaż UE często kładzie nacisk na zaangażowanie w regionie Bałkanów Zachodnich, zarówno procesy wewnętrzne, jak i zewnętrzne stają się mocno upolitycznione. W związku z tym, w artykule podjęto również próbę zbadania niektórych z tych procesów oraz głównych

zainteresowanych stron (zarówno w Bośni i Hercegowinie, jak i w Unii Europejskiej), które mogłyby opóźnić przyszłą integrację europejską.

Słowa kluczowe: alternatywa dla członkostwa, Unia Europejska, opinia publiczna, rozwój, Bośnia i Hercegowina

The *European Union – Western Balkans Summit* in Sofia in 2018 confirmed EU perspective for the Western Balkans (WB) countries, but even the most optimistic forecasts did not predict the accession of Bosnia and Herzegovina (BiH) to the EU near future. Directorate for European Integration's public opinion polls from 2019 demonstrate that 43.6% of respondents believe, that there is an alternative to the European Union membership of Bosnia and Herzegovina. The survey was carried out using the computer-assisted telephone interviewing (CATI) method, on a sample of 1201 respondents, which is representative for the entire country. The issue of "alternative" is seldom considered analytically, since political elites from BiH, the EU delegation and the Office of the High Representative see the European path of BiH as the only development model. The new EU strategy for the Western Balkans confirms the EU's involvement in this region, but the rise of euroscepticism and the different standings of countries on the EU path could stall the future integration process. Therefore, due to its internal structure, BiH could pursue a policy that is geared towards several geopolitical centres, not only the EU. Chinese projects such as 17+1, together with Russian and Turkish expansion of influence, could become alternative development models in the Balkans. Similarly, actors from the Middle East (such as Saudi Arabia) have been trying to generate more influence through the mechanisms of soft power.

Between the EU and neutrality

Though Bosnia and Herzegovina (BiH) still has no law on foreign affairs, but the *Foreign Policy Strategy of BiH 2018-2023* adopted in March 2018 emphasises the country's commitment to pursue the accession to the European Union and NATO. Leaving aside quality and structure, compared to the three-page General Directions, the new *Strategy* with its 11 pages has more to say (Vuletić 2018: p.7). Nevertheless, this document represents a framework for the stable functioning of the state in the field of foreign affairs, and therefore, it is important to have it even in this form. BiH's decision makers devoted more attention to the new *Strategy* and took into account some of the global and regional changes: economic and political growth of the People's Republic of China, as well as strengthening of other developing countries; the challenges faced by the European Union, Croatia's accession to the EU, cooling of the Western forces – Russian Federation relations; the consequences of the so-called "Arab Spring", and others (see: Presidency of BiH 2018).

One of the key points of the *Foreign Policy Strategy of BiH 2018-2023* is that in the future BiH should actively follow the Common Foreign and Security Policy (CFSP) of the EU. Firstly, this refers to the support of the measures and the foreign policy moves that

the EU makes. Harmonisation, of course, is not a strict obligation that leads to the full membership, but an important message is then sent as to whether the state has the same values as the EU. In other words, the progress of each country would depend on its own ability and its own political will to accomplish the necessary and proclaimed reforms, as well as to implement and to respect the appropriate rules and standards (Hadžović, Vishinova 2018: p. 5). However, looking backwards, we see very few resolutions and measures that have been accepted by BiH, which in most cases remains neutral. The analysis of the the alignment of BiH in the period between 2014 and 2017 demonstrates, that BiH did not support any of the more than 20 EU declarations related to Moscow's actions in Ukraine and cyber-attacks directed to EU member states, for which the EU accuses Russia (Centre for Security Studies 2018). For example, during the Georgian War, Bosniak politicians supported the EU and Serbian supported Russia. A similar situation took place during the Syrian Civil War, the Ukrainian crisis, and the Palestinian–Israeli conflict. Additionally, there is no official position of BiH in regards to the status of Kosovo.

Public opinion and foreign policy ineffectiveness

Directorate for European Integration's (DEI) public opinion polls noted a sharp decline in the support for the accession of BiH to the EU from 2016 to 2018 (see: Direkcija za evropske integracije 2016, 2017, 2018). In 2016, 76% of respondents stated that they support BiH's EU membership. In 2017 the number dropped to 69.2%, and in 2018 it dropped further to 56.5%. However, in the most recent survey published in July 2019, the overall support for EU membership has increased by 20% compared to the previous year (Direkcija za evropske integracije 2019). False political promises and a long lasting process are increasingly moving away BiH citizens from the EU idea. One of the key findings from 2019 is that 43.6% of the respondents considered, that there was an alternative to the European path, but the issue of alternative is seldom approached analytically in the country.

Due to its internal arrangements, Bosnia and Herzegovina is in the worst position out of all remaining countries on the EU path. Although the process of accession began at the same time as for Serbia, Montenegro and Croatia, BiH is at the bottom of the waiting list. Friedrich-Ebert-Stiftung's analyst Tanja Topić believes that the reason, why the support of BiH citizens for European integration is relatively low, is because the process of integrations is too long (Katana 2018). Although one of the few issues, for which the internal consensus of the political elite of all three constituent peoples exists is BiH's EU path, the *Report of the European Commission on Bosnia and Herzegovina in 2018* once again pointed to the complicated arrangement of the state and large decentralisation. As a direct result of this, the functioning of the Presidency of Bosnia and Herzegovina was affected by the expression of divergent positions by its individual members on a number of issues under its competence over foreign policy (European Commission 2018a). Impossibility of harmonisation stretches through other sectors, such as environment, energy and rural development. Little progress has been made in the area of public

administration, the fight against corruption and the judicial system, where large fragmentation leads to the politicisation of all important processes. Despite the fact that Bosnian politicians claim, that the strategic goal of the country is Euro-Atlantic integration, few of them are attempting to make this happen (Brljavac 2011: p. 404). Citizens also see politicisation as a stumbling stone, where political elites are only declaratively pushing for initiatives. The conclusion reached at the Commission is devastating for BiH, because it is stressed that every politician in Bosnia and Herzegovina has "about seven sentences" about the EU, which repeats as needed, but their commitment does not go deeper than that (Mulaosmanović 2019). The Reform Agenda has been effectively implemented only when the state level and entity levels have cooperated in a coordinated manner (European Commission 2018a). A mixture of post-conflict reality, ethnic fragmentation and social disparity is jeopardising the BiH society from undertaking the right path towards EU (Stefano 2018a: p.7). The analytical report of the European Commission on BiH, published in May 2019, although the first of its kind, did not provide any new information about the overall situation in the country. The mandatory reforms and monitoring of trends within the EU are still underlined as the main objective, with a special focus on protection of the fundamental rights, the public administration reform and the fight against corruption. Speaking of economic criteria, the need for improvements of the business environment for investments and the quality of education are highlighted as the main objectives. In general, the EU acts only suggestively towards BiH, without taking a substantial or leading role. Even when BiH was late in answering additional questions from the Questionnaire of the European Commission, no sanction was imposed.

History of animosity

In 1995, an agreement that marked the end of the bloody war in Bosnia and Herzegovina was signed. Although Europeans have proclaimed that the crisis in Bosnia represents "the hour of Europe", the Dayton agreement was eventually signed because of the U.S. mediation. Indecisiveness and apathy of large European countries, fuelled by the lack of adequate response in their own backyard, eventually produced bitterness not only in the Bosnian civil society, but also around the world. The Europeans played a marginal role most of the time, when international community was involved in conflict resolution. After the war, animosity was felt towards many European countries, such as the Netherlands, whose soldiers, members of the UN battalion, did not prevent the genocide in Srebrenica. Likewise, former French President François Mitterrand faced a major public criticism over his controversial policies, as did former British Prime Minister John Major.

For BiH, the *Stabilisation and Association Process (SAP)* started in 1999. Soon after, the September 11, 2001 events completely shifted the public's focus to the other side of the world. The U.S. has radically altered its foreign policy, prioritising other world regions over the Western Balkans, which has left a significant power vacuum, making it difficult for other global powers such as the EU, Russia, China, and even Turkey to exert more influence in this highly problematic region (Brljavac 2011: p. 413). The EU, on the other hand,

took care of the region after 2001, but upcoming issues shifted their focus from it as well. First, there was an enlargement process for Central and Eastern European countries, then the 2008 financial crisis and finally the refugee crisis. For years, there was a vacuum, that somebody had to fill in.

Euroscepticism and Christian Europe

The European Commission's new *Strategy for the Western Balkans* confirmed a perspective of membership in 2025 for Montenegro and Serbia. Additionally, the strategy says, that the Western Balkan countries now have a historic window of opportunity to firmly and unequivocally bind their future to the European Union (see: European Commission 2018b). BiH is hoping to get a candidate status in 2019, but several obstacles could slow down its momentum towards the EU. For years, the right-wing parties in France, Germany, Finland, Austria, Hungary and other countries have gained strength and increased in scope. Before the 2019 European Parliament elections, there was a justifiable fear, that the Eurosceptics could win, and that the issues of European integration will be completely removed from the agenda. The European elections have confirmed these fears to some extent. The results of the elections demonstrated significant growth of right-wing parties, liberals and Greens, while significantly smaller number of seats was reserved for traditionally large centrist parties.

Disharmony within the EU directly affects the EU identity, which has become an intangible notion. First, Eurosceptics like to claim, that European integration represents nothing short of the wholesale handover of national sovereignty to an overbearing EU bureaucracy that regulates every aspect of life (Grabow, Hartleb 2014: p. 26). Second, growing support for populism and far-right political movements in EU member states makes the decision-making process regarding accession of the Western Balkan countries more unpredictable, considering the fact, that accession decisions are taken by unanimity in the EU (Gözübenli, Tekeshanoska 2018, p.7). Additionally, the anti-Islamic rhetoric, that many EU countries with strong right-wing parties are propagating, could endanger the EU perspective for BiH, Albania and Kosovo, which all have a majority Muslim population. Previously, Hungarian Prime Minister Viktor Orbán has openly blamed immigrants for undermining Christian Europe and so-called "Christian revival" spread across other EU countries as well.

Foreign influence and alternative development models

The strategic change of the alliance is not new in international relations. Especially in the 21st century, a quality foreign policy requires permanent "field tests" and monitoring of global movements. The Diplomatic Revolution of 1756 launched the avalanche in the shape of the alliance pattern changes, which ultimately led to a greater focus on preserving the European balance of power. The same concept of power balance after two world wars acquired global characteristics. In World War II, Romania sought its

ideal position through the alliance with both Allied and Axis powers. On the other hand, Somalia fell between two stools, when they used the benefits of the Cold War logic and the U.S.–Soviet rivalry. For the region of the Western Balkans, the most recent example is “the game” of Yugoslavia, which found its alternative in the Non-Aligned Movement. In contemporary international relations, alternatives can generally be described as “shifts in foreign policy” or strategic pivots. For instance, Philippine President Rodrigo Duterte made one such move by turning to China and a large number of investments. This way, smaller powers have sought to preserve a measure of autonomy, avoid overdependence on any external actor, extricate themselves from great power rivalries in periods of conflict, and, if necessary, play bigger powers against each other for leverage and strategic benefits (Heydarian 2018). Essentially, the leading factor in selecting strategic allies becomes a stable and peaceful economic (and every other) development in an unpredictable international environment.

The rapid development of Japan and South Korea in the 20th century, and the growth of China and India in the 21st century have shifted the traditional American notion of “going westward for prosperity.” In the world, that is increasingly inclined towards multipolarity, the West is no longer seen as the sole carrier of development. The East is increasingly becoming an alternative to many countries, especially those with less economic and political power. The cumulative effect of these events is to make self-evident a new geopolitical reality: the consequential shift in the “centre of gravity” of global power and of economic dynamism from the Atlantic towards the Pacific, from the West towards the East (Brzezinski 2013: p. 12). Changes in global flows are also evident in the Western Balkans, which is gradually becoming a geostrategic location, where the presence and influence of other countries, outside the EU framework, is felt. The EU’s hesitance to develop a clear perspective for the Western Balkans gives an opportunity to other important international actors, such as Russia, Turkey and China, to get more space to spread their interests (Hadžović, Vishinova 2018: p. 6). In the WB, Russia, Turkey and China are displaying development models decoupled from political conditionality or based on alternative values, that can qualify as alternatives to the model that the EU champions. A fading EU commitment is what could strengthen alternative development models (Tafuro Ambrosetti 2018).

Russia’s use of ethnic cleavages

Russia has been playing an increasingly assertive role in the Western Balkans region since the outbreak of the world economic and financial crisis in 2008 (Belloni 2016: p. 12). The EU’s renewed interest in its southern backyard has been prompted partly by fears about Moscow’s role there – from giving fighter jets to Serbia to an alleged role in a coup attempt in Montenegro (Weise 2018). In BiH, the closest force to Russia is represented by Republika Srpska (RS), more specifically Moscow’s fruitful relation with the Bosnian Serb member of the Presidency of BiH – Milorad Dodik – a long lasting relation, considered in the international political arena as destabilising for BiH stability and integration (Stefano 2018b: p. 8). The foreign policy activities with Russia are solely left to the Republika Srpska

(RS) entity, which hosted the last visit of Russian Foreign Minister Sergey Lavrov. The absence of presidential visits to/from Russia in the period after the *Dayton Peace Agreement* reveals the unsuccessful channelling of foreign policy, which operates exclusively on the basis of ethno-religious ties. Moreover, the lack of BiH Presidency's appearances as a whole takes away important strategic alternatives, where approaching Russia can be used as a mechanism to draw attention of EU and NATO to BiH.

Russia supplies one hundred per cent of gas demand in Bosnia and Herzegovina, Northern Macedonia and Serbia. This gives them the opportunity to project the power through the politics of energy. Russia is also actively working to maintain and expand the Eurasian Economic Union (EAEU), whereas "formalising" BRICS as a union could open up a new vacuum, which states such as BiH could fill. After the scandal involving the largest privately owned company in Croatia – Agrokor, which is in the hands of Russian state-owned Sberbank and VTB Bank, Russia has been given the opportunity to slowly build its influence in this country as well. This can spill over in BiH, where the strongest Bosnian Croat party *HDZ BiH*, follows the same policies as its larger counterpart in Croatia (*HDZ Croatia*). Additionally, Russia is in the UN Security Council and the Peace Implementation Council (PIC), which aims to implement the Dayton Agreement in BiH. Russian President Vladimir Putin has taken full advantage of national cleavages and socioeconomic weaknesses to revive his country's traditional Balkan sphere of influence (Skrpec 2017).

China's great puzzle

China is becoming an important actor in the WB, especially through the 17+1 Initiative (also known as China-CEE), which includes sixteen Central and Eastern European Countries. In the past three years, EU officials have lambasted China for allegedly undermining the European integration process by turning the CEE countries into "Trojan horses" and sowing division in the continent (Kavalski 2019). Chinese investors have already entered BiH and invested EUR 550 million in the construction of the Stanari Thermal Power Plant, which has been described as the first successful project of the 17+1 Initiative. The largest Bosnian public electric utility company *Elektroprivreda BiH* recently received a government guarantee for CEXIM bank loan of approximately EUR 640 million for the largest infrastructure project in BiH – the construction of a thermal power plant in Tuzla. The latest agreed project is the construction of the Banja Luka – Prijedor highway, whose value should reach EUR 300 million. For the small states of the relatively poor region, such investments represent important step forward for their economy. BiH lacks the alternative sources for financing infrastructure, and Chinese investors are looking for similar trading partners.

In the aforementioned research of the Directorate for European Integrations, the majority of respondents said, that they expect better infrastructure once BiH enters the EU (Direkcija za evropske integracije 2018). In the Balkans, many Chinese deals are focused on infrastructure, including railways, that host states feel western European nations have been reluctant to fund (Kynge et al. 2018). These kinds of alternative models and funding channels for projects are becoming widely accepted by politically and economically

weak countries. Although financial experts warn of the so-called "China's debt-trap", it is clear that small states do not want to wait for the benevolence of the Western powers, but rather attempt to produce gains for themselves. China has already agreed to finance the construction of a railroad in Serbia and a highway in Montenegro. China invests in energy, infrastructure, real estate, and thus, puts economic influence ahead of the political. The most of the money within the 17+1 Initiative actually goes to non-EU countries.

The Balkans can serve as a transit route for Chinese goods, which can continue their journey to Central and Northern Europe through Piraeus, Thessaloniki and Bar. However, there is a fear that countries of the Western Balkans will not be able to repay debts, and that economic impact could grow into a political one. In July 2016, several EU countries, among them Hungary, Croatia, Slovenia, and Greece, refrained from supporting the EU's statement after the international court in The Hague had condemned China's mischief-making in the South China Sea (Pepermans 2018: p.16). In 2017, Greece, which also heavily depends on Chinese investments, blocked the EU's condemnation of China for violating human rights. The majority thinks that China saw cooperation with the Western Balkans as a long-term investment in the countries that will one day be part of the EU, which will lead one day to the having six pro-Chinese countries represented in EU institutions lobbying for Chinese political interests (Mulaosmanović 2019).

Islamic world and the Western Balkans

Another regional actor is trying to expand its influence in BiH, aligning itself with the interests of Bosniak Muslim population – Turkey (European Western Balkans 2018). The leading Bosniak party in BiH – *SDA*, and the Turkish *AK Parti* foster friendly relations and the leaders of these two parties, former member of the BiH Presidency Bakir Izetbegović and Turkish President Recep Tayyip Erdoğan constantly emphasise this. Last year, there were indications that *AK Parti* is planning to open the office in Bosnia and Herzegovina, which caused negative reactions and fears that *AK Parti* could interfere in political issues in BiH. After several European states, among them Austria and Germany, banned pre-election rallies of the Turkish president, he (with the help of *SDA*) organised a joint pre-election assembly of the *AK Parti* and *SDA* in May 2018 in Sarajevo. The same year, the pro-Turkish lobby group – the Union of European Balkan Democrats (*UEBD*) was founded. This group designed promotional materials, in which the local population demonstrates its support to Turkish military operations in Syria.

French president Emanuel Macron said in the past, that he does not want the Balkans to "turn towards Turkey or Russia." Brussels is not worried about economic co-operation, but rather about the spread of political influence in the countries of the Western Balkans. With Ankara, Moscow, China and the Gulf States all showing economic and political interest in the region, Western Balkan governments can form close relations with partners less interested in democratic standards than the EU (Weise 2018). Although Turkey has been trying to become part of the EU for decades, the European Parliament and its member states have been trying to suspend accession talks. This has led to the adoption of the term "Turkish scenario", which denotes inability of the state to become a part of

the EU. According to Petkovski, nearly half of the Macedonian population believed that its political elite should seek an alternative basis for political development outside the EU. In particular, local media frequently depict Turkey as a symbol of success without EU integration (Petkovski 2014)

Turkey is currently working on a EUR 3 billion highway construction project that should connect BiH and Serbia. The agreement was made through mechanism of tri-lateral consultations between these three countries. However, according to all relevant indicators, Turkey still does not invest significant amounts of money in BiH. Certainly, the idea of the Ottoman legacy is present and Turkey wants to be involved in countries that were once part of the Ottoman Empire.

The Gulf States are strongly and conspicuously represented in the Federation of Bosnia and Herzegovina (FBiH) entity in the areas of religion, culture, economy (medium-sized businesses), tourism (visa-free entry) and consumption (Dümmel 2018: p. 15). The leader in this segment is Saudi Arabia, which has invested money in cultural and religious institutions such as libraries, schools, museums and mosques. A big chunk of the aid was dedicated to building and reconstructing mosques and Islamic schools (*madrassas*), but was not limited to this; efforts also focused on fighting poverty, improving the health system, and investing in education and culture (European Parliament Think Tank 2017). They currently provide free education in their cultural centres in Sarajevo and Mostar. After the Arab Spring, which led to a reduced interest in traditional tourist destinations in Egypt, Libya and Tunisia, BiH became the new hotspot. In addition to the high number of tourists, there was also an increase in the purchase of real estate and land by investors from the Gulf region. This economic interest produced mixed reactions among civil society and political elites.

Alternative channels

Currently, BiH faces the so-called "brain drain" issue, where many young people choose to go to EU countries. In this way, they are searching for their own alternative to the EU membership of BiH, which is leaving the country and not waiting for it to become part of the EU. The paradoxical situation in the country is also reflected in the passport issues. Namely, once Croatia entered into the European Union, a large number of Bosnian Croats with a dual passport had the opportunity to be part of the European family. If Serbia joins the EU, Bosnian Serbs could also get a great chance to become part of the EU in the same way. This fact leaves the Bosniaks in a situation, where they become isolated in relation to other peoples in BiH.

The foreign policy of each country is a reflection of its domestic policy and as such is subject to adjustments and changes. These changes can occur due to geostrategic and geopolitical opportunities, global movements and regional occurrences. BiH's foreign policy has not been able to produce a professional diplomatic service that would pursue policies towards more geopolitical centres in the name of the whole country. Seeking other alternatives, does not necessarily mean searching for an identical option.

Furthermore, it is impossible to find anything similar to supranational character that the European Union has, and therefore an identical replacement does not exist. Alternative development model can be defined as simple channelling of foreign policy objectives into several directions. The specificity of BiH and its demographic and religious diversity allows this. However, for this to happen, it is necessary that political will of all three constituent peoples exist in order to act outside as one.

Conclusions

The political elites are only declaratively pushing for BiH's European path and little real progress can be seen. Likewise, this state is not following the *Common Foreign and Security Policy (CFSP)* of the EU, but rather foreign policies of other countries. DEI's public opinion polls (Direkcija za evropske integracije 2016, 2017, 2018, 2019) from the last years demonstrate the importance of the question of alternative. BiH is in the worst position of all remaining non-EU Western Balkan countries, even though it began the process of integration together with all other countries. Some analysts believe, that the actual process is too long, and the European Commission's *Bosnia and Herzegovina 2018 Report* demonstrates, that the process of reforms is slow due to high decentralisation and divergent positions of different ethnic groups (see: European Commission 2018a).

The European Union is going through identity crisis, which has led to the strengthening of the euroscepticism. This occurrence could stall the integration process, and the so-called "Christian revival" in combination with anti-Islamic sentiment could pose a problem for the remaining non-EU states, that have a majority of Muslim population. Historically, alternatives were "shifts in foreign policy" or "strategic pivots". The power balance is gradually shifting from the West to the East, and therefore there is an emergence of alternative models of development. These models of development are the product of the mere channelling of foreign policy in many directions, which in the case of BiH is possible due to ethno-religious diversity.

Russia's foreign policy towards the Republika Srpska (RS) entity and Milorad Dodik is based on the use of ethnic cleavages and it is not directed at BiH as whole. Chinese projects and investments are currently generating economic influence. In the future, once (and if) BiH and similar states become the EU members, economic influence could turn into a political one. Turkey and Middle Eastern actors traditionally try to maintain strong ties with the Muslims in BiH. According to all relevant indicators, the Turkish influence is not economic, since it is not a significant investor in BiH. Actors from the Middle East, primarily Saudi Arabia, build mosques, education centres and cultural objects. After the Arab Spring, BiH has become an important tourist destination. The supranational framework of the EU is unique and it is impossible to find anything similar. However, the specificity of BiH allows it to steer its foreign policy in several directions, where all ethnic groups could have benefits. However, for this to happen, it is necessary that political elites start acting at the state level, without exclusively conducting foreign policy on the basis of "particular ethnic group – particular state".

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EUROPEAN IMPRESSIONS

Elegy of the basket of deplorables **book review:** **J. D. Vance (2016), *Hillbilly Elegy. A Memoir*** ***of a Family and Culture in Crisis,*** **London: William Collins, 272 pages**

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The best-selling 2016 book "Hillbilly Elegy. A Memoir of a Family and Culture in Crisis" by J. D. Vance is promoted as "the political book of the year", "a great insight into Trump and Brexit", and the triumphs of right wing populism. However, it does not offer this insight. While cementing class stereotypes, it simply tells another Disney story of American Dream.

Still, it is a story worth reading, as it gives voice and subjectivity to the inaudible share of our populations, thus filling in the gaps in our understanding of the social landscapes across the globe. After all, hillbillies live – and vote – not only in the US, but also in the UK, France, Poland, and other countries. Admittedly, for them, life has never been the bed of roses.

The author of "Hillbilly Elegy" is the epitome of a contemporary American Dream, having risen from what might be viewed as pathology to sufficient riches and – thanks to the book and Ivy League education at Yale – intellectual avowal. In "Hillbilly Elegy" he tells the story of his 30+ life and recounts the wider narrative of one particular social group within the American socio-demographic pot, one that is anything but melting. "Americans call them hillbillies, rednecks, or white trash", Vance recounts, but for the author, these people are above all "neighbors, friends, and family".

Vance's hillbillies are descendants of Scots-Irish immigrants that arrived in the New World in the 18th century and inhabited mostly the Appalachia mountains region. "To these folks, poverty is the family tradition". But not only poverty – also entanglement in the broader vicious circle of household violence, divorce, addiction, inferiority complex and "learned helplessness", as the author diagnoses.

The history starts with his grandparents – the most important figures in his life – whom he calls tenderly Papaw and Mamaw. They did not graduate from high school themselves, however, similarly to many other hillbillies they found another shortcut to escape poverty. They were transplanted from Jackson, Kentucky, to Middletown, Ohio where thanks to the local employer Armco Steel, "an economic savior", they rose "from the hills of Kentucky into America's middle class" (p. 55). Armco allowed them to live their

version of American Dream of upward economic mobility that guaranteed economic security, also to their children and grandchildren.

They needed it, since Vance's mother was not as lucky. She capitulated to a living of the hardest of hillbilly biographies – that of drug addiction, depression with suicidal attempts, physical and verbal violence, financial problems, and a parade of fleeting husbands and boyfriends that never fulfilled the promise of becoming real father figures to J.D. and his sister.

In these circumstances, the spirited grandparents' couple of the Papaw – a "*violent drunk*" and Mamaw – a socially self-isolated "*violent non-drunk*" offered to their grandkids much more than financial sustenance. They served as actual parents and offered a backdrop of sustainable love and care, nurturing – in their own rough ways – their self-confidence, while underlining the pre-eminence of education and work.

Therefore, it is the grandparents that most of all deserve credit for the self-fulfilling prophecy of J.D.'s Mamaw to spare him. And this one goes: "you can take the boy out of Kentucky, but you can't take Kentucky out of the boy". But you can take Kentucky out of your grandchildren, if you are fortunate.

Escaping from this vicious circle is rare but the author – due to a string of good choices aided by his grandmother's guidance – has managed to achieve it. Despite the situation of steel blue collar industry was not yet dire when he was growing up, it was obvious that the American Dream does not mean perpetuating the status quo. "To move up was to move on. That required college" (p. 56).

Still there was no pressure to take this path – neither from the families, nor from teachers, nor peers. The author was lucky enough to be pushed towards education by his grandparents, while most of his likes have not. In the end, some 1/5 of Middletown teens don't make it to the end of high school and virtually no one will make it to the college graduation, as J.D. Vance indicates.

At the same time, the situation of "Armcos of the world" has utterly changed – they have been going out of business, along with their employees who lack skills fitting the modern economy. And so, since 1980s, the heart of American industry situated in the Midwest and the Great Lakes region – including J.D. Vance's hometown of Middletown, Ohio – experienced deindustrialization, followed by unemployment, population impoverishment and loss, as well as the urban decay. Since then these areas have been symbolically referred to as the Rust Belt.

So, J.D.Vance's peers have no Armco Steel to save them, as it was the case with previous generations. J.D.'s grandparents had jobs and money to spend as well as places where to spend this money; today, none of the aforementioned is left. What remains is a hopeless vicious circle.

The author portrays the resulting Rust Belt's prevalence of "welfare queens" who are however neither black nor de facto even female. That's what the culture of hard work distorted into. He admits that the "welfare queen" has become an unfair label for "the lazy black mom living on the dole", while this existential paradigm of living is nothing reserved for this sociological category. Still "[p]eople talk about hard work all the time.

You can walk through a town where 30 percent of the young men work fewer than twenty hours a week and find not a single person aware of his own laziness", still harbouring resentment against the world.

The author was giving away similarly pessimistic potential, however, thanks to a good grandparental guidance he managed to transcend his hillbilly predestination and to graduate from Yale Law School, and then to become a successful Silicon Valley venture capitalist with a good loving marriage and two dogs.

All's well that ends well. Why then for him only?

The author does not attempt to provide rationalisation to most of his and statistical observations. Therefore, it is difficult to call the book anything close to a great insight into the successes of the right-wing populism. Still, it constitutes an important raw material that a perceptive reader might attempt at synthesizing. It is the book's disadvantage, even if the author forewarns the reader already in his introduction that "This book is not an academic study" (p. 8). Why a disadvantage? As the book provides a description of a very narrow segment of the society and despite it is portrayed with sympathy and kind understanding, now its class label is stamped. As not only "the limits of my *language* mean the limits of *my world*" to quote Ludwig Wittgenstein, but also labels limit perception, and also self-perception.

Provided bits and pieces of the "Hillbilly Elegy", we see the story of a tribe of people that learned that everything comes from the outside, like the aforementioned Armco-like companies that "built this fucking town" – to quote the author's Papaw. And its clone-firms have built so many other manufacturing cities of America in the golden ages of 20th century industrialization. Then, the opposite process of deindustrialization deprived manufacturers of their jobs leaving them empty-handed. Having been used to externalization of origins of their fortunes (God, America) and misfortunes (others), they willingly appropriated the scapegoating narrative of Donald Trump who searched for ones responsible for their misfortunes in anyone but themselves – i.e. in his predecessor, political opponents, (other than his) elites, and so on...

It is difficult to speak about Hillbillies' responsibility, indeed. The US has never been bed of roses to them, and lacking effective policies to offer them soft-landing and vocational training at the times of deindustrialization, they have been indeed orphaned by the state. Then sneered at by compatriots, with everyone telling them how they should live. No one likes being patronized, even if it is by Michele Obama (instructing the obvious, i.e. that junk food is unhealthy – which the author promptly reproaches her for).

Vance also does not offer guidance but more or less vaguely suggests few insider's policy solutions. In his view, social services system should not separate kids from their families (even if it separates them from parents), even if they were by most means dysfunctional. Such a move should be always a last-resort solution.

He also speaks against educational ghettoization, where children from impoverished neighbourhoods go to classes together separated from kids from better homes, while mixing them together might motivate some of them to rise up".

Still, in his view "Public policy can help, but there is no government that can fix these problems for us". That opinion would relieve authorities from responsibility for its most vulnerable people. Still, it is just an opinion of one lucky guy that managed to make it to the American Dream. Little surprise, taking the United States have always been about self-made individual attainment.

However, this approach has left behind too many of American people so far, giving excuses for socially-blind policies. Even the author admits that "the opportunity was not spread evenly over the whole country. [...] It was in the South, the Rust Belt, and Appalachia where poor kids really struggled" (p. 242). Consequently, no institution is more endowed to coordinate nation-wide policies disseminating upward mobility than central government?

Finally, the formal value of the book. As was already mentioned, the book – despite its deficiencies – offers a good raw material to work on. However, this raw material is not raw enough as it has been channelled mostly by a round, characterless non-language¹ of a corporate white collar. The page turner moments were juicy quotes from Vance's Mamaw who did not beat around the bush. On the other hand, there was too much moaning and going in circles of the author, who aptly mentions at the beginning, that what he has accomplished is "nothing that would justify a complete stranger paying money to read about it". As a reader I expected much more, starting from better editing that would spare me constant repetitions. Still, this book is worth reading, as Hillbilly is a worldwide universal category of people stuck in a negative spiral of bad or absent policies and misfortune, who however deserve our attention. So far, they have been voiceless, but they speak with their feet in elections, and they could really be heard thanks to Vance's book. Now, it is time to take them into account.

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¹ I refer to the Marc Augé concept of "non-places" which are anthropological spaces where people remain anonymous and anyone can feel "at home" there, regardless of their actual background. (see: Augé M. (1995), *Non-Places: Introduction to an Anthropology of Supermodernity*, New-York - London).

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