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The Financial Administration Act

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Abstract

The paper analyses the Financial Administration Act as for the objectives its legislator had originally intended to accomplish upon execution of the new enactment. It includes a short and brief historical excursion clarifying all the circumstances having led to the above mentioned statute being approved and those which directly resulted from the merger of the tax and customs administration in 2012 and establishment of the Financial administration of the Slovak Republic. The members of the Financial Administration consisting of customs officers as well as armed corps and civil servants had not been properly integrated until the adoption of the Financial Administration Act. The author deals with particular benefits the new Financial Administration Act is set to bring. Simultaneously author points to certain legal loopholes or drawbacks of the new enactment including transfer of civil servants into civil service in compliance with the above mentioned legislation. The author concludes the paper by assuming that there has been no adequate application of the new enactment and its full potential. In other words, the existing application problems have not been properly solved by the new legal enactment. In addition hereto, the author expresses her own opinions of „de lege ferenda“.

Keywords: Tax administration; Customs administration; Financial Administration; Financial Administration Act

1. Introduction and theoretical basis

The system of administration and collection of public revenues under the conditions of the Slovak Republic (hereinafter referred to as „Slovakia“) has been duly modified as of January 1, 2012 by establishment of the Slovak Financial Administration (hereinafter referred to as „Financial Administration“). The Financial Administration was set up upon merging of tax and customs administration in the framework of the former Tax Administration of the Slovak Republic (hereinafter referred to as „tax administration“) and the Customs Administration of the Slovak Republic (hereinafter referred to as „customs administration“) into the state organisation named the Financial Administration of the Slovak Republic (hereinafter referred to as „Financial Administration“). Its main objective was to reduce the number of tax and customs offices to eight seated in each of the counties besides Michalovce and its region having their corresponding customs office seated in Michalovce. In addition hereto, the former Customs criminal office was transformed into the corresponding organisation named – the Criminal Bureau of Financial Administration (Straka & Šimonová, 2014) with the Tax Office

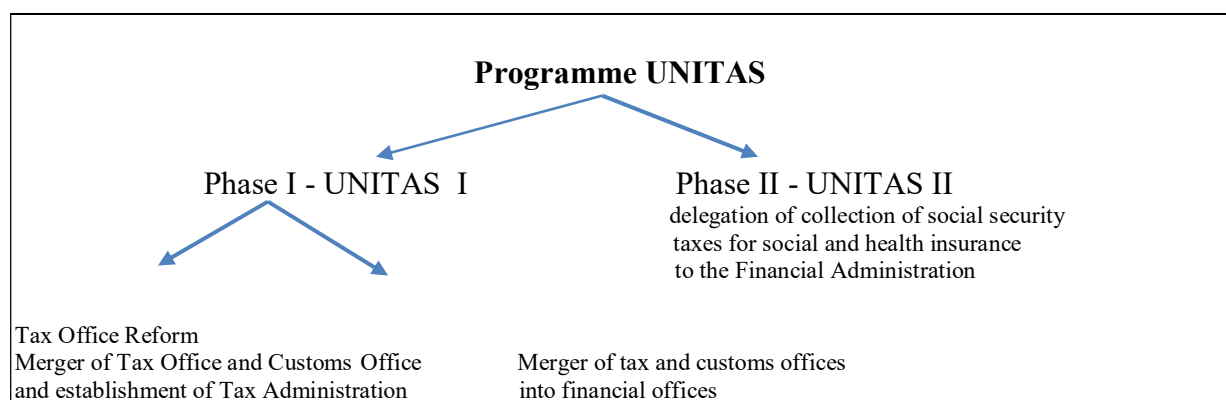
having been established for particular taxable entities. The new organisational structure of the Financial Administration along with its local and factual competence was constituted in compliance with the following legislation:

- the Act Nr. 652/2004 Coll. on customs state authorities as amended, supplemented or otherwise modified from time (hereinafter referred to as „the Act Nr. 652/2004 Coll.“);
- the Act Nr. 479/2009 Coll. on state authorities in the field of tax and fees administration (hereinafter referred to as „the Act Nr. 479/2009 Coll.“);
- the Act Nr. 333/2011 Coll. on state authorities in the field of taxes, fees and customs (hereinafter referred to as „the Act Nr. 333/2011 Coll.“).

1.1 Programme UNITAS

The above mentioned modifications have been implemented within the programme of the Ministry of Finance of the Slovak Republic named „UNITAS“. The programme „UNITAS“ regulates the reforming procedure of tax administration by engaging customs administration herein in order to unify the overall administration of tax collections, customs and levies into a single institution. The Ministry of Finance of the Slovak Republic launched the project in two phases as the businesses in question had not been duly prepared for single implementation of the procedure. The first phase „UNITAS I“ focused on establishment of the new Financial Administration. Other reforming steps under „UNITAS I“, e.g. merging tax and customs offices and establishment of financial offices, has been postponed (the Situation Report on the programme UNITAS 2012). The second phase named „UNITAS II“ originally dealt with unified collection of social security taxes for social and health insurance through the Financial Administration.

Figure 1: Programme UNITAS



Source: Situation report on the programme UNITAS 2012.

Further to the strategic document named „The concept of reform of tax and customs administration with regard to unified collection of taxes, customs and levies“, the main objective of the programme „UNITAS“ is to ensure unified collection of taxes, customs and levies by a single organisation consisting of former tax offices and customs authorities which is set to take over certain operations of the social and health insurance authorities dealing with collection of security taxes and levies. By implementing the abovementioned programme we

aim at modifying tax and customs administration and thus increase effectivity, reduce operational costs, improve collection of state revenues by optimising existing processes, eliminate administrative burden of taxpayers and establish proper customer service. The reform of tax administration is likely to provide methods to entities with good business record as well as pave the way for more effective detection and penalising of those businesses avoiding their tax obligations or perpetrating tax evasions or frauds.

2. Adoption of the Financial Administration Act

Unifying the financial administration workforce after the merger of the tax and customs administration back in 2012 as a result of the implementation of the programme „UNITAS“ shall be governed by the new Financial Administration Act as amended, supplemented or otherwise modified (hereinafter referred to as „the Financial Administration Act“). The Financial Administration Act was adopted by the National Assembly on December 5, 2018 on its 38th session with the president's approval to be expected upon publication of this paper. Enacting the abovementioned proposal of the Act is regarded as fulfillment of the Government's mission statement for 2016 - 2020. In accordance with the aforementioned, the Slovak government was bound to create the legislation which determines the unified rules of state service in the financial administration for all its specialists as well as unified codification of competences of financial authorities (the Government's Declaration and Programme of Action 2016-2020). Employment relations in state service may be divided into three main groups. These are state employment relations for the execution of public service by civil servants in the framework of state employment agreements, employment relations and work duties in the public interest based upon a contractual relation (public service) and employment relations with specific groups of state employees, e.g. police officers, members of the Corps of Prison and Judicial Guard, members of the Fire Brigade, customs officers or professional soldiers of the armed forces. From July 1, 2019 the law is set to cover the Financial Administration service as well. The Financial Administration Act shall adapt the legal status of civil servants under the Financial Administration to that of customs officers within the armed corps and create a new category of employees to be derived from the former structure of civil servants, i.e. the category of armed and non-armed members of the Financial Administration (the Explanatory Report to the Financial Administration Act 2018). Besides the integration of the two formerly independent groups of employees of the Financial Administration, the Act meets the Government's mission statement for 2016 - 2020 by transforming the former Tax Office for specific taxable entities into the Office for specific business entities. Simultaneously, the Financial Administration Act is set to abolish any former competence statutes and introduce new competences and the scope of powers of Slovak state authorities in the field of taxes, levies and customs.

As for its taxology, the Financial Administration Act is divided into twenty articles marked with Roman numerals with all the statutes governing corresponding social relations, i.e. fundamental principles and duties of the Financial Administration and its civil servants being stipulated in the Article I. The Article I is further divided into five subparagraphs. The first part sets forth the subject matter, the second part specifies the status, organisations, competences and powers of state authorities in the field of taxes, fees and customs, the third part refers to the status, duties and powers of civil servants in course of exercise of their duties, the fourth part governs state service of members of the Financial Administration and legal relations related to establishment, modification and termination of their civil service while the fifth part focuses on joint, transitional and final provisions.

3. Benefits and drawbacks of the Financial Administration Act

In relation to the competence part of the Financial Administration Act dealing with the status, organisations, competences and powers of state authorities in the field of taxes, fees and customs we may assume that this one was largely transferred from formerly valid statutes, i.e. the Act Nr. 652/2004 Coll., the Act Nr. 479/2009 Coll. and the Act Nr. 333/2011 Coll. As for further modifications, we may refer to transformation of the Tax Office for special taxable entities (§ 6 of the Act Nr. 479/2009 Coll.) entering into force as of July 1, 2019 and changing not only the name of the given tax office, but also extending its competences besides banks, branches of foreign banks, insurance companies, reinsurance companies and other taxable entities with an annual turnover of over 40,000 EUR as well as stock exchange dealers, pension funds, private pension funds, payment processing companies or branches of foreign payment processing companies and companies with the status of an approved business entity. The Financial Administration Act provides the Office for special taxable entities with a kind of hybrid character. Despite the § 6 subpar. 1 of the given Financial Administration Act expressly making reference to the tax office in the Article X governing any changes to the Act Nr. 199/2004 Coll., the above mentioned reasoning is not applied as for the Customs Administration Act. as amended, supplemented or otherwise modified. The Office for special taxable entities shall not only have a status of the tax office but also that of the customs office when ruling procedures on the status of an approved business entities and ensuring exchange of information with corresponding customs authorities of other EU member states and the European Commission in the given proceedings. As for its constitution, the character has not been changed as it operates as an allowance organisation depending upon the budget of the Financial Administration of the Slovak Republic. The Chairman of the Office for special taxable entities shall be appointed and revoked by the President of the Financial Administration.

In comparison to the provisions of § 5 of the Act Nr. 333/2011 Coll. and the provisions of § 9 of the Financial Administration Act we may assume that some changes, even though the minor ones, shall also be applicable to the Criminal Office of the Financial Administration as of July 1, 2019 (hereinafter referred to as „the Criminal Office“). As for its organisation, the Criminal Office shall cover only its individual branches and exclude any of its stations. Criminal Office branches shall be established and closed by the President of the Financial Administration without the consent being granted by the Minister of Finance of the Slovak Republic as these days. Due to the extent of its competences, the Criminal Office shall not exercise those operations falling into tax or customs authorities in case it will be necessary to verify customs supervision by a particular customs office. Simultaneously, the Criminal Office shall not provide assistance to the Criminal Office in Žilina (§ 10a of the Act Nr. 652/2004 Coll.) when verifying compliance with the conditions for granting the status of an approved business entity as amended hereby because on July 1, 2019 this competence shall be transferred from the Customs Office in Žilina to the above mentioned Office for special taxable entities. Moreover, the new enactment will not specify who will be in charge and administrate the activity of the branch of the Criminal Office. However, we may logically assume that the Head of the branch of the Criminal Office shall be in charge hereof as stipulated in the Annex Nr. 4 to the Financial Administration Act providing an extra pay to the Head of the branch of the Criminal Office for any managing and administration activities related hereto.

Besides introducing new terms such as „an armed officer of the Financial Administration“ referring automatically to each new customs officer exercising their duties as amended by the Act Nr. 200/1998 Coll. on the state service of customs officers as amended,

supplemented or otherwise modified (hereinafter referred to as „the Act Nr. 200/1998 Coll.“) and „a non-armed officer of the Financial Administration“ referring to employees of the Financial Administration, the new enactment shall bring other changes as well. Ultimate allocation of armed work positions within the Financial Administration shall be decided by the President of the Financial Administration. The age of 33, which had previously qualified for a five-week long holiday entitlement, shall not be effective any more. All financial administration officers shall be entitled to a six-weeks' holiday. As for remuneration, an extra pay for the number of year of active service shall be determined by a fixed percentage from the wage taking into consideration experience and practice prior to the starting date of employment in another work position which may be considered relevant for the state service, max. two thirds. Financial administration officers shall generally have a pay rise. One of the greatest benefits for tax officers are as follows: a pay rise, an increase in the minimum rate of an extra pay from €33.50 to €50 as well as the maximum rate of an extra pay rising from €166 to €300 per month. In relation to customs officers, the rate of an extra pay for state service overtime shall increase by 10% in a week; for each hour of service overtime they shall be granted an extra pay to their basic wages of 30% instead of 20% per working day and 60% instead of 50% per public holiday. The Financial Administration Act also governs replacing of an employee on maternity leave or the option of transfer to the non-armed category of financial administration officers.

As for civil servants it is important to note that the Act Nr. 200/1998 Coll. has become a basis for governing employment relations as the former enactment by the Act Nr. 55/2017 Coll. on civil service as amended, supplemented or otherwise modified (hereinafter referred to as „the Act Nr. 55/2017 Coll.“) has been taken into consideration by incorporating some of institutes applied on state employment. The Act forecasts the change of a monthly pay for each particular category of which there will be seven in contrast to the current wording of the Act Nr. 55/2017 Coll. which determines nine payment categories. The lowest payment category starts at a monthly salary of €690.00 in contrast to €419.50 these days (the Annex Nr. 3 to the Act Nr. 55/2017 Coll.). The Financial Administration Act also governs the payment of an extra allowance to a non-armed employee of the Financial Administration for purchasing civilian clothing, which is calculated as a percentage from the price of a working uniform.

Nevertheless, it is necessary to state that despite the main objective of the Financial Administration Act, which should have been establishing equality among customs officers and civil servants, their social security shall not be the same even after the implementation of the new enactment. In relation to customs officers as armed members of the Financial Administration, the Act Nr. 328/2002 Coll. on social security of soldiers and police officers as amended, supplemented or otherwise modified shall be applied (hereinafter referred to as the Act Nr. 328/2002 Coll.). The Act Nr. 328/2002 Coll. shall not be applied to non-armed officers of the Financial Administration. Based upon the aforementioned, we may assume that civil servants or non-armed officers of the Financial Administration shall not be entitled to e.g. a pension allowance or armed forces pension as shall be an armed officer of the Financial Administration after 25 years of service. The overall objective of the Financial Administration Act seems to be rather inconsistent as on the one hand it aims at unifying the workforce but on the other one the differences among its officers in the field of social security persist. As amended by the Act Nr. 328/2002 Coll., civil servants would have not been able to receive an armed forces pension as they would have needed to „serve“ 25 years in active service, which is effective of July 1, 2019.

However, this may not be considered as a relevant reasoning or an obstacle as for the purpose of entitlement to an armed forces pension, the legislators could have taken into account

not only the duration of employment of a non-armed forces member pursuant to the Financial Administration Act, but also the previous duration of state employment as amended by the Act Nr. 55/2017 Coll. or any former Acts on state service or any employment within a state office in case this one was directly linked to formation of employment under the Act Nr. 312/2001 Coll. There is a question, however, whether we may speak about accomplishment of the declared objective of the Financial Administration Act – despite the implementation of a new terminology „a financial administration officer“ replacing the term of a customs officer and a civil servant, there are still obvious differences between an armed and a non-armed member of the Financial Administration when it comes to social security taxes or social security in general. The special enactment of the Act Nr. 327/2002 Coll. is applied on armed officers of the Financial Administration while social security of non-armed officers will still be governed by those statutes related to other civil servants, i.e. the provisions of the Act Nr. 55/2017 Coll. It may seem rather paradoxical as a new typ of state service has been created upon adoption of the Financial Administration Act to be in line with the former legislation, i.e. the Act Nr. 55/2017 Coll., the Act Nr. 171/1993 Coll. on the Police Corps, the Act Nr. 315/2001 Coll. on Fire Brigade and Emergency or the Act Nr. 281/2015 Coll. on state service of professional soldiers as amended, supplemented or otherwise modified. As the main role of the newly adopted Act was to grant equal rights to both customs officers and civil servants within the Financial Administration, we allege that this objective has only been partially accomplished.

4. Transfer of customs officers and civil servants into state service as amended by the Financial Administration Act

Transition provisions of the Part 5, the Article I of the Financial Administration Act govern transfer of former categories of financial administration employees, i.e. customs officers and civil servants, into state service as amended by the Financial Administration Act. Customs officers will see no considerable changes after July 1, 2019. As of July 1 and pursuant to the Act Nr. 200/1998 Coll. the employment of customs officers shall be any employment of an armed officer within the financial administration. The fundamental systematic change shall apply to civil servants. The new legislation will regard them as former customs officers, i.e. armed officers of the financial administration while demonstrating a subordination relation to these non-armed employees of the Financial Administration. Such subordination of non-armed employees of the Financial Administration or former civil servants demonstrates through starting of their employment when their former employment relation based upon a mutual legal act, which is a civil service agreement, shall be replaced by a completely new legal relation – civil service derived from an employer’s unilateral decision on appointment to a particular work position (§ 325 subpar. 2 of the Financial Administration Act).

The transfer of former „contractual“ civil servants into service as amended by the Financial Administration Act as of July 1, 2019 is based upon three basic assumptions and these are as follows:

- a) as of June 30, 2019 the Financial Administration is a state office of a civil servant as amended by the Act Nr. 55/2017 Coll.,
- b) by 31 May, 2019 a civil servant will have not notified the state office – the Financial Administration - of not entering the civil service as amended hereby,
- c) an employee will have taken an official oath further to the employer’s decision on appointment to a function by July 31, 2019.

The key point is to take into consideration how such an employment relation may be modified or amended upon the decision of superior officers as it is based upon employment agreement as a bilateral legal act requiring two mutual and concurring expressions of a free will of the parties (Švestka et al. 2008) and the modification of which, apart from the exceptions as stated herein (§ 55 subpar. 5 of the Act Nr. 55/2017 Coll. – a work position off the active civil service including suspension hereof or repetitive employment after termination of the active civil service, termination of a specific mandate or substitution of an executive, removal from an executive work position, termination of temporary employment, removal from employment, leaving a work position or termination of the employment duration as amended by § 48 subpar. 1 b) or c) of the Act Nr. 55/2017 Coll.), shall only be subject to a mutual agreement between a state authority and a civil servant whereas all such amendments to the civil service agreement shall only be made in writing.

The decision of a superior is regarded as an unilateral and specific expression of a will on employment of „a civil servant“ as amended by the Financial Administration Act. Besides non-compliance with the Act Nr. 55/2017 Coll. regarding a presumed manner of change of employment, the Article XIX of the Financial Administration Act does not stipulate any major modifications of the provision § 55 subpar. 5 of the Act Nr. 55/2017 Coll. enabling any change of employment in an unilateral form – upon a decision of a superior on appointment to a particular work position.

Instead of maintaining continuity of a former employment relation in civil service under the Act Nr. 55/2017 Coll. e.g. by changing the former state employment into civil service as amended by the Financial Administration Act, this enactment has resulted in cessation of civil service pursuant to the Act Nr. 55/2017 Coll. and chronological formation of civil service employment pursuant to the Financial Administration Act (§ 325 subpar. 16 of the Financial Administration Act). The history knows that the Slovak Republic has already encountered a similar systematic change when employees exercising their duties for the benefit of the state and based upon employment agreements were being transferred into civil service as a result of adoption of the first specific law on civil service under the conditions of the Slovak Republic, which was the Act Nr. 312/2001 Coll. on civil service as amended, supplemented or otherwise modified (hereinafter referred to as „the Act Nr. 312/2001 Coll.“). Such transfer of contractual employees into civil service was not automatic, though. It was linked to an act of commission from the part of an employee who could have applied for a civil service position within a two-month deadline in compliance with the Act Nr. 312/2001 Coll. These days, as amended by the Act Nr. 55/2017 Coll., a civil servant is not required to apply actively for a work position as amended by the Financial Administration Act; an employee is only expected not to reject the offer, i.e. not to obstruct the employment and to take an oath. The oath may be taken even after the effectivity of the given Act, on July 31, 2019 at the latest.

The Financial Administration Act will not be directly linked to that type of civil service which has only recently been adopted by the Act Nr. 55/2017 Coll. having entered into force on June 1, 2017. This new type of civil service governed by a specific legal regime shall not imply any subsidiary application of the Act Nr. 55/2017 Coll. as a general enactment on civil service. As of July 1, 2019 the aforementioned will prevent financial administration officers from being either temporarily or permanently transferred into another civil service (§56 subpar. 1 of the Act Nr. 55/2017 Coll.). It is of no exception that civil service officers would conclude a written agreement on transfer of a civil servant when these used to be transferred into the Ministry of Finance of the Slovak Republic as the Financial Administration funds are directly allocated from the state budget. This procedure shall not be permitted after July 1, 2019. Despite the fact that the Ministry of Finance of the Slovak Republic along with the Financial

Administration, tax, customs and criminal offices are all state authorities in the field of taxes, fees and customs, their employees shall exercise their work duties as civil servants under the Act Nr. 55/2017 Coll. and will not be affected by any transfer into civil service, which is a paradox of the new enactment.

5. A failure to use potential of the Financial Administration Act to eliminate application problems in the practice

After having studied the provisions of § 74 of the Financial Administration Act, we may understand that this refers to systemizing of civil service positions rather than work positions in the Financial Administration. However, the Financial Administration is also an employer of workers performing tasks in the public interest, i.e. in an employment relation pursuant to the Act Nr. 552/2003 Coll. With regard to the aforementioned and besides systemizing of work positions of armed and non-armed officers of the Financial Administration, there shall be another systemizing of work positions of employees performing work in the public interest. The wording „systemizing of work positions“ has been taken over from the provision of § 5 of the Act Nr. 200/1998 Coll., without any drawbacks having been resolved and therefore these have been seen as problematic in the application practice. One area which has failed to be changed is that the proposal of systemizing representing the number of work positions of financial administration officers in line with competences of the Financial Administration authorities, including the amount of funds for their civil service income, is prepared by the Ministry of Finance of the Slovak Republic and approved by the Slovak Government when negotiating the law on state budget for the ensuing year. The Ministry of Finance of the Slovak Republic is responsible for any amendments to systemizing further to the act on state budget for the ensuing year. In course of the year, systemizing may be amended by the government or the Minister on the basis of the power of attorney. The number of financial administration officers and their classification into payment categories within financial authorities in line with their competences and organisational structure is determined by a special statute issue by the President of the Financial Administration. The appointment of financial administration officers to all types of civil service may only be executed providing this function has been created on the basis of systemizing defined by the Minister of Finance of the Slovak Republic and is vacant.

As for the practical application, it occurs that the President of the Financial Administration issues a personal order in course of the calendar year for the purpose of more effective work performance of customs officers in order to execute organisational and systematic changes by the categories and numbers of customs officers under the Financial Administration. Upon the decision on transfer issued by a corresponding head of office, employment of customs officers involved could have been duly terminated. Customs officers used to be transferred even to such work positions which were linked to another place of work or within another state authority in the field of customs administration. However, current rulings of Slovak courts state that employment shall not be terminated exclusively on the basis of a personal order of the President of the Financial Administration without applying necessary changes to systemizing which shall only be performed in line with the Act on state budget. The given legal opinion was based on the grounds that work positions of customs officers in all types of civil service shall only be occupied on the condition that such a work position has been created according to the approved systemizing and it is vacant. Slovak courts reason that the approved systemizing shall be binding if such a change has been applied in a lawful and regular manner and has been subject to consent of the Slovak Government or its Deputy Prime Minister

– the Minister of Finance of the Slovak Republic. This procedure shall be binding for all parties in the above mentioned case. It is obvious that courts did not understand the statutory provision of § 5 of the Act Nr. 200/1998 Coll. in a way that the President of the Financial Administration shall be entitled to modify the number of customs officers within payment categories through a personal order in contrast to execution of operative duties (the need for reinforcement of the personnel on the Eastern Schengen border) within the currently determined number of work positions of customs officers. Slovak courts state that each such a work position shall be considered through systemizing and therefore and as amended by the § 5 subpar. 3 of the Act Nr. 200/1998 Coll. any modification and organisation changes hereof shall be subject to consent of the Slovak government pursuant to the Act on state budget (the ruling of the District Court in Košice 2015). Despite the above mentioned explication precluding the Financial Administration and its President from reacting operatively and promptly to specific situations which may possibly require customs officers as members of the armed corps to be involved in other tasks than usual, the particular wording of this enactment on systemizing of civil service positions has been mostly taken over from the former Act Nr. 200/1998 Coll. and transferred into the Financial Administration Act. Generally speaking, it is obvious that the legislator has not specified the possibility of occupancy of work positions by customs officers of the Financial Administration. We may allege, however, that due to the intagibility of the whole systemizing of the number of civil service work positions and wages and labour costs as amended by the latest Act on state budget, the interpretation and application drawbacks as stated herein would persist. Systemizing shall depend on the approved budget for wages and labour costs which are allocated by the number, type („regular“ employees and „superiors/managers“) and payment categories of civil service work positions (Pichrt 2015). We may assume that the legislator would have not intended for all the systemizing changes to the content and number of civil service work positions within the Financial Administration to be subject to a legislative amendment process of the Act on state budget or the approval procedure by the Slovak Government or the Minister of Finance of the Slovak Republic based upon the mandate of the said Government.

The Financial Administration Act could have considerably modified a non-compete clause of financial administration officers after termination of employment. The Financial Administration Act does not include the term of „a non-compete clause“ or any further definition whatsoever in contrast to the Czech enactment on the civil service (§ 17, subpar. 1e) of the Act Nr. 234/2014 Coll. on civil service). When it comes to systemizing of civil service employment, the Czech law on civil service contains the definition of those civil service positions applying a non-compete clause. Implementing a non-compete clause after termination of employment, which prevents running a business or performing any other business activity or being a shareholder or a member in the trade unions similar to any civil service within the Financial Administration or entering any employment or similar agreement with an entrepreneur in the particular scope of business, would have certainly led to a more effective principle of impartiality in the performance of civil service as such. If the main goal of the Financial Administration Act is to provide both a legislative and an institutional framework of non-political, independent, impartial and professional services, then the absence of any provisions including a non-compete clause after the termination of employment is regarded as a considerable drawback of the whole enactment. A non-compete clause institute, which provides a legal framework for both an employer and an employee about not entering the competition from the part of an employee after termination of his/her employment with a certain financial compensation, has been an unseparable part of employment relations under the Labour Code since September 1, 2011. The specific enactment of the § 83 and 83a of the Labour Code

provides protection to an employer against unlawful abuse of information (unfair competition, disclosure of a trade secret) an employee was informed about in course of performance of his/her duties while an employer regards such information as confidential or essential to their operations (Kochan 2012). In our opinion, the Financial Administration Act has not sufficiently used its potential when the legislator could have been more particular about a precise legal wording hereof to effectively eliminate occurrence of ambiguities or contradictions between the public interest and that of financial administration officers through application of a non-compete clause.

6. Conclusion

After the merging of tax and customs administration back in 2012, the workforce of the financial administration has been unified upon the adoption of the said Act. The integration of employment relations within the Financial Administration should take place on July 1, 2019, upon the date of effectivity of substantial provisions of the Financial Administration Act. The Financial Administration Act represents the detailed legal enactment integrating into one codex all former legal statutes governing competences of state authorities in the field of taxes, fees and customs.

Apart from various competence statutes having been merged, the Financial Administration Act unifies both groups of employees of the Financial Administration – customs officers and civil servants under the name of „a financial administration officer“. As of July 1, 2019 customs officers and civil servants will be jointly referred to as financial administration officers with customs officers as armed members and civil servants as non-armed ones. What is more, a non-armed work position may be changed into an armed work position and vice versa. The Financial Administration Act intends to unify the principles serving as a basis for civil service of customs officers as the armed corps and civil service of civil servants as the non-armed corps with equal responsibilities. The institutes referring to employment of customs officers will be applied on civil servants, but only to a certain extent as these are not regarded as armed members of the Financial Administration. The uniqueness of civil service will be remunerated by salaries divided into seven payment categories with a considerable pay rise in contrast to former legal enactment under the Act Nr. 200/1998 Coll. and the Act Nr. 55/2017 Coll. Nevertheless, there shall be no unification of employees in the sphere of social security which should still be differentiated after July 1, 2019. The specific Act Nr. 327/2002 Coll. will be applied on armed officers of the Financial Administration as this enactment serves as a basis for other armed forces, e.g. policemen, soldiers and firemen. Non-armed officers will not be subject to a specific system of social security, i.e. not all the attributes of employment of customs officers shall be applied accordingly. With regard to the aforementioned, the key objective of the Financial Administration Act unifying the rules of execution of civil service by the Financial Administration officers may be regarded as partially accomplished. Transfer of customs officers into civil service should be more comprehensive and without any particular changes as these have already been incorporated into the Act Nr. 200/1998 Coll. Civil servants performing their duties under the Act Nr. 55/2017 Coll. shall be more influenced by these systematic changes. We may assume that the given enactment intends to compensate a lack of equality between civil servants and customs officers through certain benefits in the field of social security. Practice and the number of years of work experience of civil servants in another scope of business and prior to such employment may be calculated into their premium pay with regard to successful accomplishment of work duties. Upon transfer of civil servants into service, civil service employment terminates as amended by the Act Nr. 55/2017 Coll. in relation to

a particular state authority – the Ministry of Finance of the Slovak Republic. Continuity of civil service remains unchanged, though. We may assume that the Financial Administration Act introduces a new and specific type of civil service limited exclusively for state authorities in the field of taxes, fees and customs except for the Ministry of Finance of the Slovak Republic. As the Financial Administration Act contains both material and procedural legal provisions, it can be said that a particular type of civil service has been defined to apply specifically on employees of the Financial Administration besides civil service as amended by the Act Nr. 55/2017 Coll., the Act Nr. 171/1993 Coll. on police forces, the Act Nr. 315/2001 Coll. on fire brigade and emergency or the Act Nr. 281/2015 Coll. on civil service of professional soldiers as amended, supplemented or otherwise modified. The given conclusion may preclude permanent transfer of members of the Financial Administration to other state authorities including the Ministry of Finance of the Slovak Republic as the legal enactment of civil service will not concur herewith.

The particular enactment had great potential as it could have and, in our opinion, should have removed application as well as interpretation problems which have become natural practice for state authorities in the field of taxes, fees and customs or in Slovak arbitration courts. One of such drawbacks may be the interpretation of the entitlement to perform changes in the content and number of work positions in course of a calendar year through a personal order by the President of the Financial Administration. Despite the fact that we may think the legislator may not have intended to make this subject to approval by the Slovak Government or amendment to the Act on state budget, there have been certain court rulings with a different practice. In order to eliminate ambiguities as for competences of the President of the Financial Administration in the field of systemizing of work positions, the given enactment should have been rendered more precise instead of a non-critical transition of the former Act Nr. 200/1998 Coll. into the Financial Administration Act.

We may allege that each effective reform of civil service should include a non-compete clause for those civil servants who directly participate in formation and implementation of state administration and which shall be applied after termination of their employment. An employee of the Financial Administration may run a business in the field similar to his/her former specialisation with a potential conflict of interest. In course of exercise of his/her duties, such an employee of the Financial Administration may become familiar with secret or sensitive information, e.g. what methods, procedures or manners a tax authority implements to fight tax evasion or what „modus operandi“ taxable entities apply to claim tax incentives or tax deductions and what obstacles tax authorities may face when dealing with such fraudulent behaviour. Eventually, a tax advisor may abuse such information for illegal tax optimization for benefit of his/her own clients. The Financial Administration Act had not been inspired by the wording of the Czech law on civil service which determines a non-compete clause for specific civil service positions in the framework of systemizing of such employment.

Further evolution of the Financial Administration is only a question of time. Possible application problems or proposals for any changes or modifications will show only after implementation of the act into real practice. All depends upon the decisions to be made when implementing the second stage of the programme UNITAS which intends to unify collection of social security taxes and health insurance within the Financial Administration. For conclusion we may say that upon adoption of the new act, a specific type of civil service has been defined, i.e. civil service of officers of the Financial Administration when subsidiary usage of the Act Nr. 55/2017 Coll. as a general enactment of civil service for non-armed forces is no longer acceptable. However, the overall unification of personnel within the Financial Administration and elimination of discrepancies between the customs and tax authorities have

not been properly processed thus creating a certain imbalance among armed and non-armed officers of the Financial Administration. Adoption of the Financial Administration Act may be regarded as positive even though we may assume that the overall potential of the new enactment has not been fully used. The main purpose of the new act should have been to create a modern law which would be applicable to all state authorities in the field of taxes, fees and customs and their employees, not excluding the Ministry of Finance of the Slovak Republic.

References

- Kochan, R 2012, Konkurenčná doložka ako zabezpečovací prostriedok v pracovnom práve, Bratislava, Available on the internet: < <http://www.najpravo.sk/rady-a-vzory/rady-pre-kazdeho/k/konkurencna-dolozka-ako-zabezpecovaci-prostriedok-v-pracovnom-prave.html>>.
- Ministry of Justice of the Slovak Republic 2015, the ruling of the District Court in Košice 7S/40/2014, Available on the internet: <<https://obcan.justice.sk/infosud/-/infosud/i-detail/rozhodnutie/5b9770c6-f0eb-4234-9b55-d819bb4f7098%3Ac0a7952-56bc-4bec-a937-73116d4bd6a1>>.
- National Council of the Slovak Republic 2018, the Financial Administration Act, Available on the internet: <<https://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&ZakZborID=13&CisObdobia=7&CPT=1131>>.
- Pichrt, J. et al. 2015, Zákon o státní službě. Komentář, Wolters Kluwer, Praha.
- Situation report on the programme UNITAS 2012, Available on the internet: < <http://www.rokovania.sk/Rokovanie.aspx/BodRokovaniaDetail?idMaterial=21389>>.
- Slov-lex, the Act Nr. 55/2017 Coll. on civil service as amended, supplemented or otherwise modified, Available on the internet: < <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2017/55/20180501>>.
- Slov-lex, the Act Nr. 200/1998 Coll. on the state service of customs officers as amended, supplemented or otherwise modified, Available on the internet: < <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1998/200/20180101>>.
- Slov-lex, the Act Nr. 652/2004 Coll. on customs state authorities as amended, supplemented or otherwise modified, Available on the internet: < <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2004/652/20180525>>.
- Slov-lex, the Act Nr. 333/2011 Coll. on state authorities in the field of taxes, fees and customs, Available on the internet: < <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2011/333/20180101>>.
- Slov-lex, the Act Nr. 479/2009 Coll. on state authorities in the field of tax and fees administration, Available on the internet: < <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2009/479/20180101>>.
- Slov-lex, the Act Nr. 328/2002 Coll. on social security of soldiers and police officers as amended, supplemented or otherwise modified, Available on the internet: < <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2002/328/20180630>>.
- Straka, L, Šimonová, J. 2014, Postavenie a pôsobnosť Kriminálneho úradu finančnej správy, Akadémia Policajného zboru, Bratislava, Available on the internet: <<https://www.akademiapz.sk/sites/default/files/OVVP/PTP/2014/2/007%20STRAKA%2C%20%20A0IMONOV%2C%81%20%20Postavenie%20a%20p%2C%20B4sobnos%2C%20A5%20krim.%20%20C%20Aradu%20finan%20C4%8Dnej%20spr%20C%20A1vy.pdf>>.
- Švestka, J et. al. 2008, Občanský zákoník I, C.H. BECK, Praha.

The Government's mission statement for 2016 – 2020, Available on the internet:
<<https://www.vlada.gov.sk/data/files/7179.pdf>>.

National Council of the Slovak Republic, 2018, the Explanatory Report to the Financial Administration Act, Available on the internet:
<<https://www.nrsr.sk/web/Dynamic/DocumentPreview.aspx?DocID=457774>>.

The Act Nr. 234/2014 Coll. on civil service in the Czech Republic, Available on the internet: <<https://www.zakonyprolidi.cz/cs/2014-234>>.

The visualization of program and project portfolios and smart services of municipalities by the concept of Enterprise Architecture in the public administration

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Abstract

The article refers to the trend of implementation Enterprise Architecture into Public administration domain in order to get better managerial results, understanding of complexity and huge portfolio of public services as well as the design of specific services fitting into Smart City concept.

Keywords: Public administration, digital age, Enterprise Architecture, Information and Communication Technology, visualization of modelling, TOGAF, ArchiMate, municipality, Smart City concept, smart carpooling, smart parking, smart rent a bike.

1. Introduction into Digital transformation in Czech Republic

Digital transformation of global society and markets brought new social, economic and technological opportunities. It implies many changes of lives had long time ago crossed the borders of continents and states. These changes based on digitalization have been going naturally one of priorities of the European Union and Czech Republic. The Czech government primarily focuses at removing barriers and obstacles to business, trade, government itself and public administration services in order ensuring free movement of information, knowledge, goods and services in the digital as well as the physical world.

The part of digitalization within the current governmental initiatives formalized in “Digital Czech Republic 2019” is the improvement of government services as well as services of public administration for the citizens and entrepreneurs.

Czech Republic undergone through many legislative, organizational and digital initiatives since 90s till this time being. It resulted sometimes into positives and sometimes into negatives that have had strong impact into daily life of citizens. In comparison with other Eastern European countries, Czech Republic progressing slowly. Many digitalization projects and programs were successfully implemented and have influenced the lives of citizens. However, eGovernment (which also contains ePublic Administration) also deals with the projects and programs, which were not successfully done. Therefore, in this article we propose Enterprise architecture as an

approach, that can bring improvements and positive effects into ICT management as well as in organizational management of projects, programs and initiatives.

2. Introduction into the visualization using Enterprise Architecture

The visualization of the program and project portfolio is a multilateral activity of program and project managers in the preparatory phase. As it is a relationship between projects in program not only for them, but also for all interested or non-involved. In a public administration environment, due to its complexity and territorial scope, the situation may be much worse. Projects, whether it is an area or hierarchy within the National Architectural Plan¹ (eg ICT, etc.), are not often used. The relationships of project are hard to find. Strategic goals are not structured well and their relationships and dependencies are not also know². These abuses and imperfections can be eliminated by a systematic approach called Enterprise Architecture (EA). This access to information is presented in the following section, which relates to the goal, projects and illustrations of their relationships and dependancies (not only internal but also external). The EA concept is a native general concept that can be transferred from the private sector to the public sector. The use of this concept is in favor of its high values in the form of a formalized approach (graphical signs and symbols), which increases the clarity of structured content.

The aim of using Enterprise Architecture in combination with Project/Program management methods is to improve the principles and terminology of project and programme management based on method of PRINCE2 and MSP in public administration bodies in order to be more effective in ICT initiatives co-financed from EU funds. The side effect of EA and Project/Pogram management combination is to overbridge the semantic gap of different understanding of essential terminology of project management in initiation and realization phase of projects being financed from EU funds. The target group of this approach is not only ICT manager, senior managers of public administration bodies and clerks (team members) involved in project initiation and realization, but also the students of informatic, information management, public administration and economy, which are considering to get the appportunity of working for either the public administration bodies or ICT companies., see (Lukáš, 2016),

2.1 What the Enterprise Architecture is

Enterprise Architecture (EA) is often translated as an organization's architecture (enterprise architecture). In the public administration environment, it is preferable to adhere to the notion of the **architecture of the organization** or **the architecture of the public authority** or **the architecture of the public administration**. "EA is the process of description and the result of describing how the future business processes, technologies, and information will best support strategy, including the definition of the necessary steps, standards, and guidelines in order to get from the current state to the expected target.", see (1). Another view of the applicability of the EA concept is the determination of its conception. "Architecture in Enterprise Informatics (EA) is an approach, concept, means and tool by which we express

¹ See page #15, *National Architecture Plan* (4), European, central, regional, city and municipal layer (client layer)

² For example Strategy framework of public administration development of Czech Republic 2014 – 2020 (7) or *ICT Strategy of resort for 2016–2020* (11)

*fundamental arrangement of the relationship between business and information systém. This might lead to fulfillment the mission of the organization, while respecting the environment and consistently following the system design and development principles. ”, see (2). The purpose of EA in a public administration environment is to describe all key dimensions: **business** layer, **application and data** layer, **technology (infrastructure)** layer. ArchiMate visualization language (notation) is a widespread language for drawing relationships between elements of an organization architecture. It enables these key dimensions to be described by means of elements and relationships between them.*

2.2 Enterprise Architecture in the domain of Public Administration

The issue of using EA in a public administration environment is addressed in the National Architectural Plan (see Felix, Hrabě, Kuchař). It implies that each public authority will use the EA concept to develop the strategies of ICT implementation. In practical terms, it is therefore important that cities and municipalities do not have to deal with the architecture of public authorities (regional authorities, departmental ministries, etc.). It is sufficient to create and indicate a relationship and links to them. The same approach is necessary for strategic documents created, for example, by departmental organizations. There are a number of different systematic approach methodologies, none of which can be taken over mechanically. On the other hand, although there is no generally applicable methodology, it is possible to derive generally applicable principles from existing methodologies that can be applied to program and project management in public administration based on strategic documents. ArchiMate notation in each logical layer is used to record the current (AS-IS) and future (TO-BE) state of the architecture of architecture. Figure # 1 shows the architecture of public administration in four horizontal layers as defined by the National Architectural Plan. Cross-sectional architectures are shown vertically, which cannot be ignored (eg, power, security)

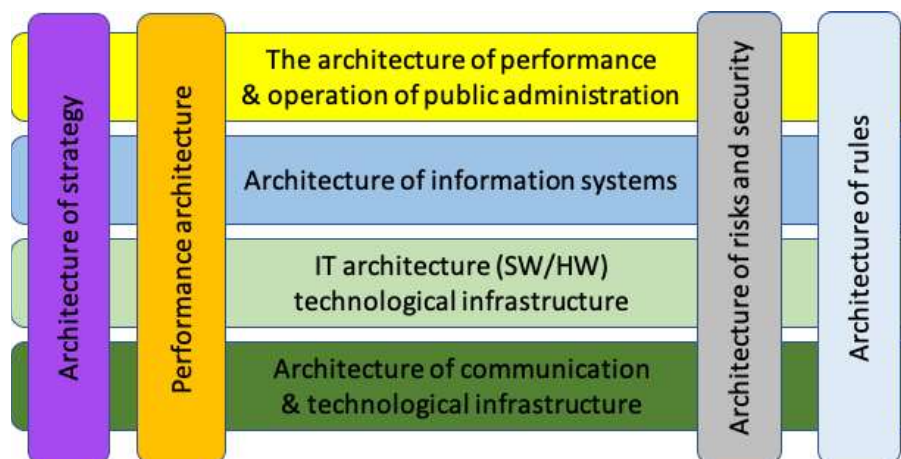


Figure #1: National ICT architecture of public administration of Czech republic (source: Felix, Hrabě, Kuchař)

2.3 Example of elements of Business layer

Selected elements of active and passive structure, behavior, sources of motivation and motivation themselves will be used to illustrate the links between **strategic documents of public administration, sectoral policies, sectoral strategies, objectives/goals, programs (areas) and implementation projects**. The element of **Business Actor** is an organizational entity capable of performing assigned business within one or more business roles. For example, the Department of Informatics provides for the acquisition and renewal of hardware infrastructure. The element of **Location** refers to the location (physical or virtual) in which the element is located. The division of the resort into individual departmental organizations performing state administration located in the Czech Republic and covered by the ministry is a good example for the location. The element of **Business function** is considered to be a group of activities according to a given criteria, which may be source, competence, goal or strategy. An example of a business function is the fulfillment of the functions of a departmental organizational unit resulting from its incorporation into the organizational order (eg implementation of EU fund projects). From opposite site, if the activities are organized according to their logical sequence (the order in which they are executed), then the element of **Business Process** is discussed. A typical example is the administrative procedure, which takes place in logical steps in accordance with Act No. 500/2004 Coll., The Code of Administrative Procedure.

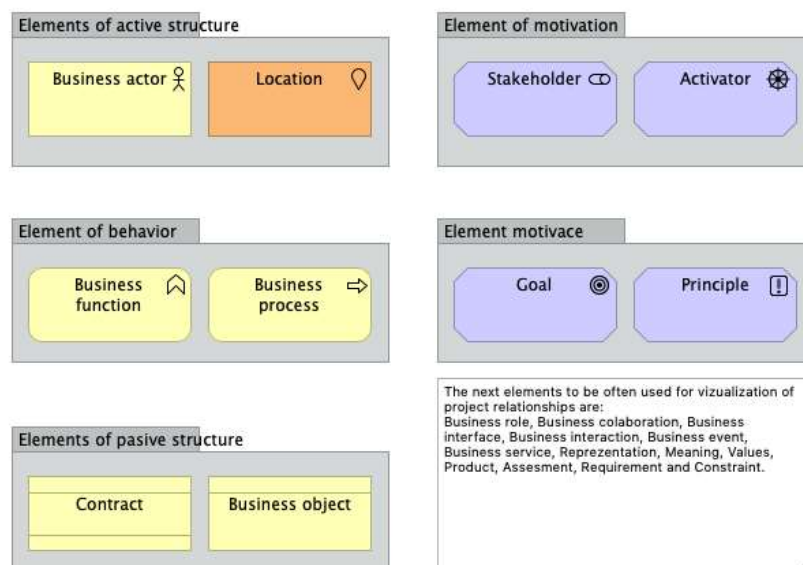


Figure #2: Example of elements for vizualization of the relationships between strategic goals, program and project (source: author)

An element that is significant to an organizational unit (organization) in terms of securing a service is called **Business Object**. An administrative decision issued in the administrative procedure for a given area (service) is an example of good practice of perceiving Business Object. **Contract** is an element that determines the relationship between product associated rights to it. Typically, it is an agreement or contract to own, use, rent a product, movable or immovable property. Individuals, teams, organizational units or entire organizations involved in the architecture of an organization or the entire organization system are considered **Stakeholders**. A frequent example is the project management committee, the output and benefit

beneficiaries and the users. The factor that creates, directs, and motivates changes to the organization is called the **Iniciator**. Often, the initiation of the decision by the management, or decisions of a political nature or decisions of the program and project managers. The state we want to achieve (ie TO-BE status) is **Goal**, such as the introduction of high-speed Internet or a qualified electronic seal for a departmental organization. If a general property applies to all elements in a system or systems in a given context, then it is referred to as **Principle**. An important example from the European point of view in relation to central and central IS is the possibility to identify and authenticate foreign entities in accordance with the eIDAS Regulation. Figure #2 shows the elements described above.

3. Visualization of ICT Strategy of the resort and its surroundings

Project Portfolio Managers and Program Managers will need these elements not only to create simple models that visualize strategic document goals, change requirements, but also to create a transformation program architecture and implementation projects. They can also be used to quickly draw a business area for improvement (see Figure #3). The strategy document is represented as a document consisting of one main body and two annexes (Appendix 1: Overview of sub-objectives, measures and assumptions and Appendix 2: Baseline overview). The ICT Strategic Program is listed on the right as a set of strategic projects for the target group Citizen, Entrepreneur (in the upper left corner. Places in the resort, the so-called Departmental Organizations are listed on the left).

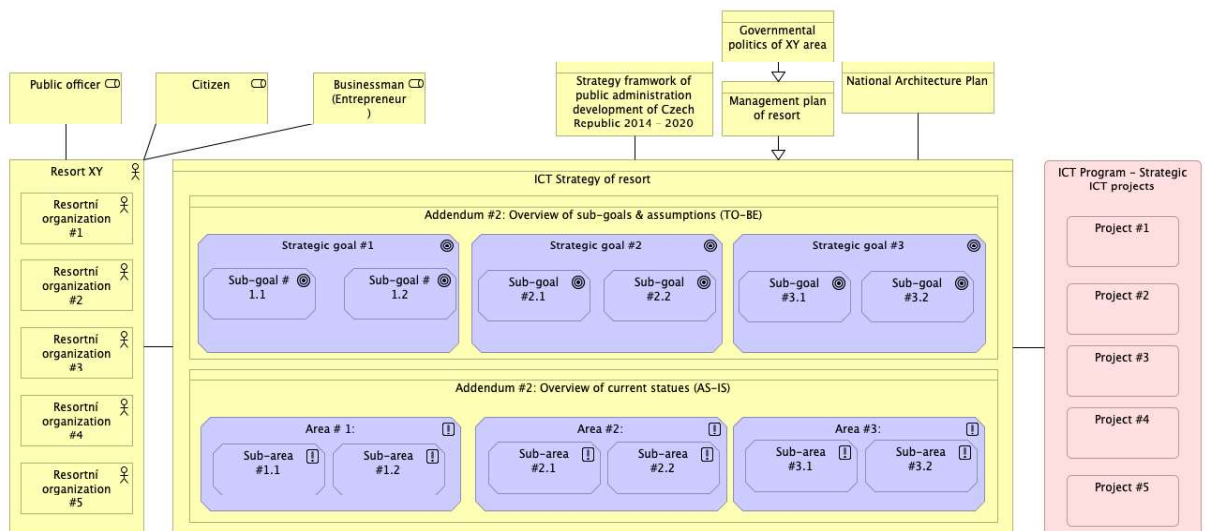


Figure #3: Example of vizualization of common ICT Strategy (source: author)

4. Visualization of relationships between strategic goals and projects (portfolio and program management)

If a strategic document is visualized as outlined in the previous paragraph, then it is advisable to follow the step of visualizing and developing the architecture of the dependency of the implementation projects on lower and strategic objectives. Figure #4 shows the logical decomposition of strategic goal 1 and 2 into sub-goals (sub-targets). The decomposition of goals into sub-goals is indicated by the **aggregation** constraint. This means that, for example, sub-

objectives 1.1, 1.2 and 1.3 are aggregated into a strategic objective 1. In practice, this means that the link represents a situation where a strategic target groups is a set number of sub-targets. Since sub-goals may also enter other strategic objectives, they may be part of other aggregate links. This is often used in practice. It is not always clear when linking objectives to each other and how many areas they enter. If it is clear that sub-targets do not enter other aggregations, ie if they do not consist of more than one target, then this is a constraint of the **composition** type. This is shown in Strategic Objective 2, which consists of sub-objectives 2.1, 2.2 and 2.3 (consisting of 3 components).

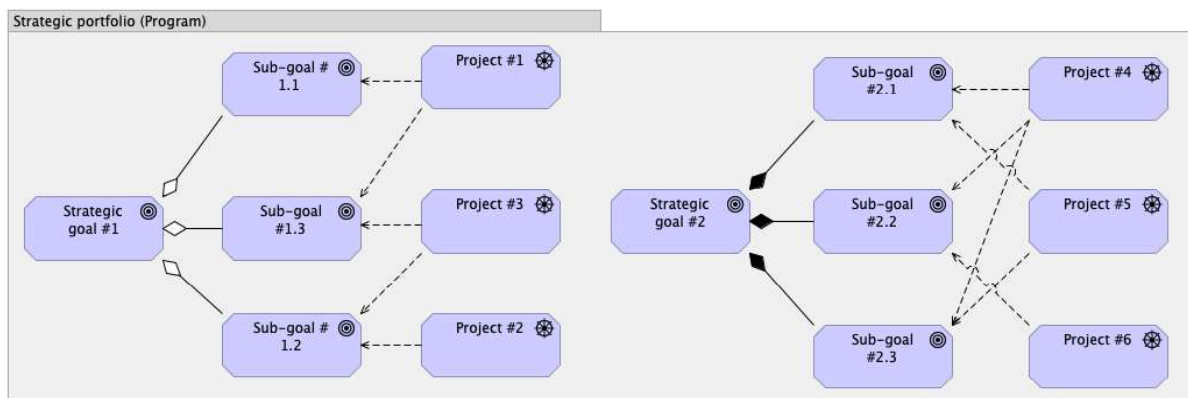


Figure #4: Example of visualization of projects within program and strategic goals & sub-goals (source: author)

The ICT program includes strategic ICT projects 1, 2,... 5. The linkage of **realization** will be used to illustrate their link to partial objectives. Its mission is to combine a source of motivation element with a more specific element of motivation (partial goal). This connection means that the project implements and fulfills a sub-objective (eg project 2 implements sub-objective 1.2 or project 4 implements sub-objectives 2.1, 2.2 and 2.3).

Creating a visualized architecture of ICT implementation projects within the ICT program will contribute to the transparency of links between themselves and sub-goals. This visualized portfolio is managed more efficiently. If a commercial or open source project management tool is introduced (eg, redmine), project IDs are better created for project administrators and projects are easier to link with each other, especially when program objectives are not clearly defined and it is focused on monitoring the status of projects in the program, including related metrics (eg, milestones, budget, human resources, etc.).

5. Examples of EA service design for municipalities

The Enterprise Architecture is also used in the design of Smart Cities concept across the municipalities of Czech Republic. The main aim of EA on municipality level is to design specific improvement of quality of life in cities and villages in order to the maintenance of sustainable development (e.g. smart parking services, carpooling and bike sharing services, etc.). There is an opportunity for EA approach, at the municipal level. The cities and the villages do not have their own enterprise architecture model, therefore the public services should be proposed and designed to comply with a reference model which is included in the National

Architecture Plan of the Czech Republic, on the one site. However, if the city management dedicate appropriate support and sources of funding, then EA model might be created in short time period by EA professionals (EA community). EA model of city can show what kind of services are needed as well as summarizes strengths and weaknesses and identifies opportunities and threats to these services.

5.1 Service of Smart Parking

Following picture shows an example of service design (business layer) for municipality, which consider to develop Smart Parking as part of Smart City concept. This TO-BE model was developed and supervised along a diploma thesis, which I reviewed and consulted. The result is drawn in ArchiMate notification.

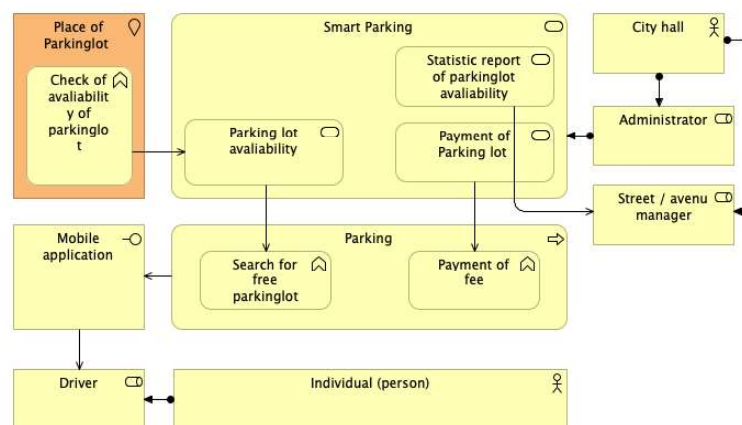


Figure #4: Example of Smart Parking service - business layer (source: author)

The actor of Smart Parking service is the City hall. The role City hall as an actor is an administrator and street / avenue manager. The business actor is an individual in the role of drive. The drive asks via mobile application for free parking lot. If a parking lot is available in the surrounding, then the drive pays via mobile application also (without get out of the car). Smart Parking service provide to an individual following sub-services in electronic form: Finding the Parking Occupancy and Paying the Parking Fee. The needs of the City hall in order to have information overview are met by the statistical report.

5.2 Service of Carpooling

The design of service Carpooling design might differ from city to city and village to village. The reason is simple, the common model of Carpooling service does not exist in National Architecture Plan either in regional Smart City strategies.

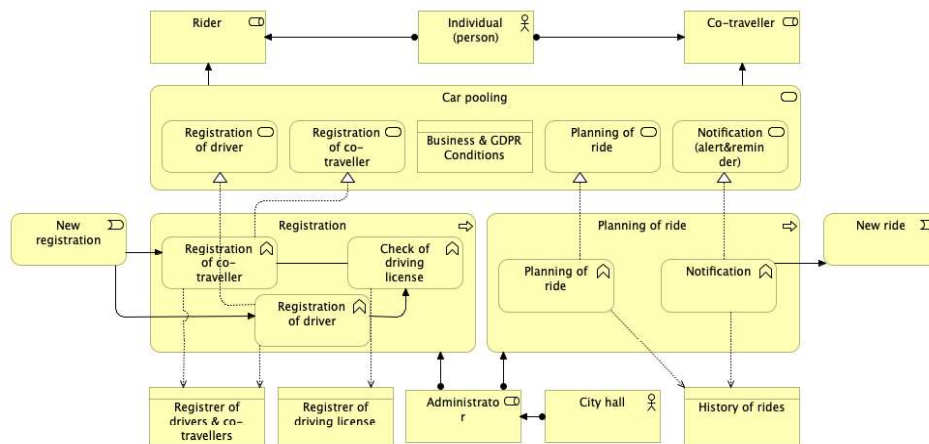


Figure #5: Example of Smart Carpooling service - business layer (source: author)

The actor is an individual who propose free seat in the car. Other role of an individual is the body who seeks for empty seat in car in given direction. It is required to register via mobile application. The driver assigns also soft copy of driving license to the registration via smart phone into mobile application and also confirm the consent to the processing of personal data (GDPR). The driver is a provider of the carpooling service to the citizens of the city, the appropriate ride is then service for an individual and the payments is relevant only between car driver and and co-traveller. The registration is “in just in time” and “non-repeatable” service (enter data just once). The City hall is in the role of administrator, planer and provider of rides. Also manages the database of drivers and co-travellers and alerts free car seats and/or request for carpooling by SMS and/or by emails.

5.3 Service of Rent a bike

Many municipalities are managed environmentally. Therefor is visible the support for the providers of rent a bike service. Following example shows how Enterprise architecture approach can help designing the service of rent a bike in more effective way than it is at this time being. This TO-BE model was developed and supervised as a part of along a diploma thesis, which I reviewed and consulted.

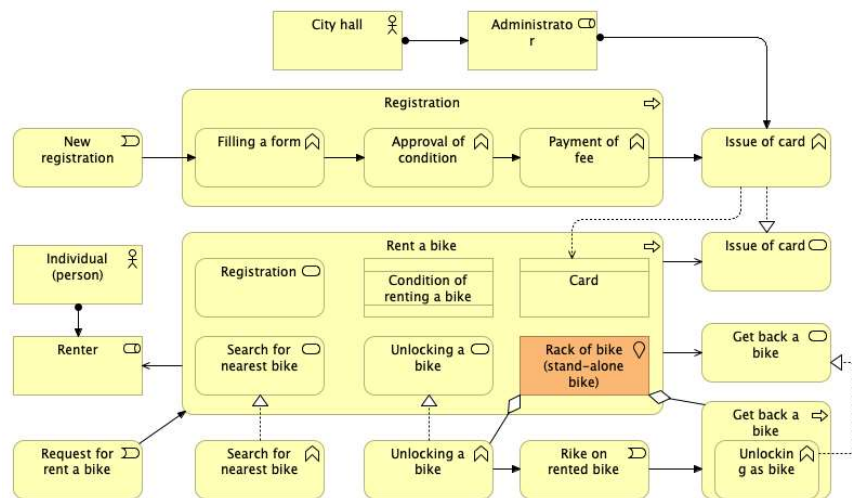


Figure #6: Example of Smart rent a bike service - business layer (source: author)

The picture above shows the rental of a bike service according to the Smart Cities concept. The role of the administrator is assigned to the City hall as an actor, who provides the Card Issue function. The card is issued based on the Registration process and is used to identify a person in case of damage or non-return. The fee for card and for system usage are paid once. Registration includes the Fill Out Form, Terms of Approval, that is, consent to the processing of personal data and general terms and conditions relating to rental, and the Payment of the Registration Fee. A person in the role of a borrower, after registering through a mobile application, searches for the nearest bike, unlocks the bike in the rack and/or stand-alone bike by using the card, returns the bike by locking it after driving.

6. Storage of Models of Enterprise Architecture

Creating a public administration architecture in all its complexity is a huge task (on the national level as well and on the municipal level). Therefore, it is recommended to approach it by stepwise and coordinated action in accordance with the National Architectural Plan and/or other strategies covering Smart City concept, Regional & Municipality development. If the architects succeed in creating the architecture of strategic documents, strategic objectives, partial objectives and related implementation projects as well as services, then it is a good prerequisite for creating applications for calls for operational programs. If the projects within the program or the program itself exceed the criteria set by the Department of Chief Architects of the Ministry of the Interior of the Czech Republic (CZK 6 million in each year for 5 years), it is possible to use the parts of the business architecture thus created for requests for OHA MV opinions. On the other hand, there is a good basis for departmental elements that can be stored in the architectural repository and reused for the creation of other architectural layers. Requirements for architectural repositories that store models and reusable elements by different users and interest groups should be based on the need to work with them and describe them in the Czech language in a way that allows remote access via the Internet / Intranet independently of the licensed or open source modelling used on the machine. At the same time, architectural repositories need to be able to remove element duplications and guarantee their unique storage in the repository.

7. Conclusion

One of the important prerequisite of progressive development of Czech Republic, at this time being, is the digitization of governmental and public administration services. Only this way can help Czech Republic become an innovation leader, to be competitive in European Union as well as in global economic.

As Mr.Dzurila (Guarantor for the area of eGovernment, Chief Digital Officer of the Government of the Czech Republic) said *“We are aware of the fact that the digital transformation will bring about a number of changes, affecting each of us, as well as the authorities themselves. Citizens and entrepreneurs, as well as their unions, are at the same time calling for the digitization of state administration and finally it has started to move forward.”* , see (Dzurila, 2019).

This article shows that EA can support the progress of digital transformation of Czech Republic in order to be more structured, well managed and efficient if ICT implementation and penetration into many parts of citizen lives. The effective usage of EA must be perceived in the light of wider theme of eGovernment, digital transformation and modern services of public administration because the architecture of new ICT services should be described and management in transparent and structured way.

The Enterprise architecture approach successfully helped to developed – basic registers, data mailboxes, CzechPOINTS and the data sharing infrastructure. Next ICT projects supported by EA on national level are - the citizen portal, electronic identification (NIA), changes in the distribution of documents, electronic stamps, electronic signature, eidentity cards.

List of abbreviations

EA	Enterprise Architecture
ICT	Information and Communication Technology
AS-IS	Current status
TO-BE	Future status
eIDAS	Electronical Identification Services
ID	Identifier
CZK	Czech crown
OHA MV Republic	Department of Chief Architects of the Ministry of the Interior of the Czech Republic
GDPR	General Data Protection Regulation
SMS	Short Message Service

References

- Felix, O.; Hrabě, P.; Šedivec, T. (2016), “*National Architecture Plan, or how and where we go*”, Ministry of Interior, Czech republic, [Online], Available: www.mvcr.cz/soubor/narodni-architektonicky-plan-pdf.aspx
- Kuchař, P.; Felix, O. (2015), “*National Architecture Plan of eGovernment of Czech Republic, goals, current state, future*”, Conference itSMF, Prague, January 22nd, 2015
- Lukáš, M. (2016), “*The program or project management of ICT initiatives founded by EU funds*”, Digital World Economy magazine, issued by Centrum pro informační společnost, s.r.o., pg. 50 – 53, MK ČR E22296
- Lukáš, M. (2016), “*The more effective usage of eGON Service BUS in the public administration via the principle of chaining the Enterprise Service Buses*”, vintage: 23, Issue: 3-4, pg. 24 – 39, ISSN: 1210-9479 (print), 1804-2716 (online)
- Ministry of Interior (2014), Czech republic, “*Strategic framework of public administration development of Czech Republic for 2014 – 2020, Specific goal 3.1 – Realization of functional framework of eGovernmentu*”
- Tax, M. (2016), “*EA – opportunities and threats*”, workshop EA: knowledge transfer for top management & architects of public administration, Malostranská beseda, November 8th, 2016, Prague
- Tax, M. (2016), “*EA modelling – the convention (methodical handbook)*”, version 1.7., September 16th 2016, DAIN s.r.o.
- Vodičková, J.; Adamuška, J.; Lukáš, M.; Pur, M.; Žižňavský, L. a kol., (2017), “*ICT Strategy of environmental resort for 2016–2020 years (approved)*”, Ministry of Environment, Czech republic
- Dzurila, V. (2019), “*eGovernment*”, conference article, Digital Czech Republic 2019, ebruary 7th – 8th, 2019, Institute for politics and society, Czech Republic, [Online], Available: https://www.digitalni-cesko.eu/wp-content/uploads/2019/02/ENG_DIGITAL_2019.pdf
- Mesteková, L. (2018), “*The concept of Smart City – improvement of the life in the municipalities*”, Department of Information technology, Faculty of Economics and Management, Czech University of Life Sciences, diploma thesis

The European social security system in a comprehensive book from the Czech point of view

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Abstract

The article provides an insightful review of the second updated edition of the book titled "Právo sociálního zabezpečení v České republice a Evropské unii" (Social Security Law in the Czech Republic and the European Union) authored by Iva Chvátalová et al. The book was published in 2018 by Aleš Čeněk in Pilsen and spans 304 pages. It carries the ISBN 978-80-7380-732-0. The reviewer commends the comprehensive nature of the book, which delves into the intricate realm of social security law within the Czech Republic and its relation to the European Union.

Keywords: law of social security; social policy; social security coordination

Review

The presented monography is called "Law of Social Security in the Czech Republic and European Union" (in original: "Právo sociálního zabezpečení v České republice a Evropské unii") and is written in Czech, with a brief English resumé, which makes it accessible mainly for readers from the Czech Republic and Slovakia.

The team of authors was led by Iva Chvátalová, Assistant Professor at the University of Economics and Metropolitan University in Prague, while all the contributors are very experienced in the field of social security both theoretically and practically, as scholars, public administration experts and lawyers.

The book provides comprehensive overview of all the relevant fields of social security legal regulation in the Czech Republic with recent updates. After an introductory chapter devoted to the presentation of three different social security systems and their instruments and an outline of historical development from the very beginning of social protection to our days, we can find a more detailed overview of the social security law and its system, including international public law and law of the European Union.

Individual chapters are covering health, sickness and pensions insurance, social security contributions, state social support and social assistance. One of the chapters is particularly devoted to the European legislation on social policy, on the level of primary law and with main focus on coordination system realized by directly applicable regulations replacing bilateral treaties. The open method of coordination as a political tool is also briefly explained.

Altogether, the book contains ten chapters on 304 pages. It is valuable both for studies and for practical implementation because there are precise references to laws and regulations currently in force. At the end of the book, we find also annexes with illustrative charts and tables depicting social security legislation schemes and interconnecting links between branches and particular laws.

To sum up, the readers are provided by all the relevant description and analysis about the Czech social security system accompanied by general introduction and theoretic basis on one hand and the connection international and European level of social security coordination on the other hand. Despite the high complexity of the issue, the book is still very understandable and easy to read.

The book is primarily tailored for Law and Economics students and social security professionals both from public and corporate sphere. Its practical orientation and understandable style also make this book attractive for other interested readers because social security is one of the legal phenomena that involve the professional and personal life of every human being at a certain point of time and it is in any case important and valuable to get relevant and recent information.

The importance of economic diplomacy in the further development of the EU

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Abstract

Economic diplomacy has an important position within the European Union. This is young discipline in foreign economic relations. In the world, we can see the development of economic diplomacy for about 50 years. To describe the management of economic diplomacy, we can observe three basic models, a unified model, dual model and model of a shared agency. Within these models we monitor different uses of national and international institutions. Economic diplomacy solves a variety of topical issues, always within the competence of the institutions. For the needs of economic diplomacy, the European Union has many specific institutions where the most important is the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW). In order to strengthen economic diplomacy, the Single Market refers to the EU as one territory without any internal borders or other regulatory obstacles to the free movement of goods and services. The current situation in a simple European Union is influenced by the process of the UK's withdrawal from the EU. The White Paper on the Future of Europe is a response to changes in the European Union and is very important for further development within the economic diplomacy.

Keywords: economic diplomacy, monetary policy, fiscal policy, European Union, euro, institutions, DG GROW, European Parliament, European Single Market, EU

1. Economic diplomacy

Economic diplomacy deals with international economic issues. Economic diplomacy is mainly concerned with what governments do in economy, in the broadest definition. Diplomacy is a relatively elastic term and it has a wide interpretation.

Economic diplomacy can be defined in a number of different ways. The definition mostly includes three strands - facilitating access to foreign markets for national businesses, attracting foreign direct investment (FDI) to a national territory and influencing international rules to serve the national interest.

I describe mainly institutions, state and non-state actors, in this paper. I choose some examples from the actual situation in the Czech Republic for a better illustration. I use actual problems in monetary policy and also show some examples from the EU, where many problems within economic diplomacy are solved.

I would like to find alternative views on the economic diplomacy based on the method of analysis, comparison and description. I use explanatory quantitative research on the base of international comparison. Economic diplomacy is increasingly influenced by the processes of globalization. Many theoretical concepts offer scenarios of future development. The most likely development is the model of parallel worlds with a pluralist grouping of states with different concepts of globalization and with little cooperation and trust (Krejčí 2014).

Woolcock (Woolcock 2011) defines institutional framework within which actors operate. Economic diplomacy in recent years has meant more economic negotiations between countries and more interest groups are affected by.

Economic diplomacy is attached to an extraordinary importance in the context of the intensifying economics of international relations within the EU. Economic diplomacy and its individual systems are fully dealt with by the member states. Thus, economic diplomacy is not a direct instrument of the EU's common trade policy and is an exclusive policy of individual member states by holding national economic interests (Štouračová 2012).

1.1 Models of economic diplomacy

From a global perspective, three basic models of economic diplomacy can be traced. Due to the significant differences between economies, due to the historical development and the economic focus of the countries, we can describe the differences in functioning of the individual institutions that deal with the economic diplomacy. Just like the system of a state and public administration, the system of institutional security for economic diplomacy is not uniform within the European Union. The application and use of economic diplomacy tools is entirely within the competence of national states. At the same time, none of the models is used in its pure form. Different specifics of national states and economies are always included (Štouračová 2012).

The unified model is the first type of organizational and competence model of economic diplomacy that creates a unified approach to addressing economic diplomacy issues. In this case, all competencies associated with securing and implementing economic diplomacy at the governmental level concentrate on one ministry (foreign affairs), which in most cases cooperates in very closely with governmental agencies specialized in the economic agenda. These agencies have very wide powers. An example of how to use a single model is Canada, where this is provided by the Ministry of Foreign Affairs and Foreign Trade.

The structured model or dual model is the second way of organizing economic diplomacy. The dual model can be labelled as a competitive model due to the nature of the institutions. In this case, competencies in the field of economic diplomacy are divided between two basic ministries: the Ministry of Foreign Affairs and the Ministry of Economic Affairs. Such model is applied in the Czech Republic and in Slovakia.

The model of a shared agency is the third type of division of competences in the area of economic diplomacy. The precise competencies are delegated to a relatively broad extent to the government, sometimes to another public institution within this model. As a typical example of this model is Singapore, in somewhat modified form of Germany model, in another form is this type applied in the Great Britain.

2. European Union economic diplomacy

Economic diplomacy includes state actors - government employees and officials - with international organizations such as the World Bank, United Nations, World Trade Organization, European Union, ASEAN, NAFTA etc., as well as bilateral negotiations with individual countries when concluding bilateral economic agreements such as the Agreement on Avoidance of Double Taxation, Agreement on Promotion and Protection of Investment, Agreement on Cooperation in Tourism, etc. Economic diplomacy is not engaged in the promotion of specific entities (companies, firms, corporations etc.) (Zirovcic 2016).

The decision-making and negotiation has general typology in the European Union. There are many factors and independent variables that shape the role of the European Union in the economic diplomacy. These factors mean the EU competence, decision-making regimes, external drivers, systemic factors and the EU's relative economic or market power. EU has its own normative power related to economic negotiations. The breakdown of the phases in any negotiation process is very important. The EU's role and possibly effectiveness in international economic relations will be greater the larger the EU's relative economic or market power (Woolcock 2012).

2.1 State and Non-State Actors in the EU

For the needs of economic diplomacy, the European Union has many specific institutions, the most important of which is the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW).

European Economic Diplomacy is promoted by DG GROWTH and refers to the use of political influence and policy measures to support European economic interests abroad, advocating for the European interest and improving the visibility or image of the EU. Then it helps reduce barriers to trade and negotiate bilateral and multilateral trade agreements and support European companies in internationalising to third countries. The concept therefore includes all aspects of business support, from trade policy to trade promotion.

Foreign policy becomes more effective and impactful if diplomats receive inputs and feedback from the business community. In turn, the European economy benefits when businesses can accompany high-level political delegations to non-EU markets and when diplomats as well as trade negotiators can reduce market access obstacles to open-up new opportunities. In order to forge a greater synergy and systematic cooperation between private and public actors in foreign policy, European diplomacy needs to involve the business community on a permanent basis and actively support it.

The EP could be associated to the inter-service group. The Commission and EEAS should issue the joint communication so that the EP can debate it. The EP can put forward more issues to be included within the scope of economic diplomacy. The EP can bring to bear its experience of parliamentary diplomacy and its networks and contacts.

The European Parliament (EP) could be associated to the inter-service group. The Commission and EEAS (European External Action Service) should issue the joint communication so that the EP can debate it. The EP can put forward more issues to be included within the scope of economic diplomacy. The EP can bring to bear its experience of parliamentary diplomacy and its networks and contacts.

The EEAS is the European Union's diplomatic service. It helps the EU's foreign affairs chief – the High Representative for Foreign Affairs and Security Policy – carry out the Union's Common Foreign and Security Policy. For the next long-term EU budget 2021-2027, the European Commission is proposing to increase the external action budget of 30%, to

significantly simplify its structure, and make it much more flexible and effective to address today's global challenges. The external action budget will be the EU's main tool to support its partner countries in their political and economic transformations towards sustainable development, stability, consolidation of democracy, socio-economic development and the eradication of poverty.

The issue of internationalising SMEs is mainly followed by the international trade (INTA), economic and monetary affairs (ECON) and budgets (BUDG) committees. A network was set up a few years ago in Parliament's DG for External Policies to support the committees following the issue but it is no longer operational. Generally speaking, MEPs are supportive of initiatives to promote the internationalisation of European SMEs but they also question their effectiveness and possible overlaps with action by Member States. MEPs repeatedly call for closer monitoring of the financing of these tools.

Two years ago, as the concept of economic diplomacy emerged, Parliament's INTA committee prepared a technical briefing bringing together representatives of the different institutions involved in the inter-service group (Secretary General of the Commission, DG GROW and EEAS). The European Parliament expressed concerns about the EU's measures. It has two main problems. There is a relatively high degree of duplication of instruments that are already in place, which results in inefficiency. The line between the Common Commercial Policy (EU competence) and trade promotion (Member States' competence) is very fine. (Bouyala Imbert 2017)

The European Parliament's participation should be increased in order to provide better coordination and effective monitoring of complementarities and subsidiary, ensuring that action at EU level does add value to action at Member State level.

2.2 Economic diplomacy of the European Single Market

Economic diplomacy, that is, international issues within the EU economy, can be assessed both in the area with third countries and, above all, in the internal market. The European Union's internal market is the territory of all EU Member States. The aim of this market is to define the space in which the four fundamental freedoms apply, namely the free movement of goods, persons, services and capital. The internal market is based on three pillars - the proper implementation of existing rules, the effective use of infringement procedures and the transparency of conditions. In particular, citizens and entrepreneurs from EU Member States benefit from a functioning internal market, but the deepening of four freedoms significantly contributes to achieving higher economic growth, a higher standard of living and a stronger European position in the international arena. It is an important instrument of economic diplomacy.

In order to strengthen economic diplomacy, the free movement of goods is the most important as a prerequisite for the functioning of the EU internal market. It is not only a matter of abolishing tariff barriers to the free movement of goods, but a wider release, as common products continue to meet the various technical requirements laid down in the national legislation of each Member State, which of course differ from each other.

The free movement of people in the European context means not only the free movement of workers, students, pensioners, but also the right of entrepreneurs to settle in another Member State for business purposes. The freedom of establishment for the purpose of business applies to both self-employed and commercial companies. The right to settle in another Member State for the purpose of doing business is unlimited. The established regulations are then governed

by the same regulations as domestic entrepreneurs. On the other hand, an entrepreneur may rely on his right of establishment against attempts to limit it, for example, by a residence requirement, a zoning plan, market saturation, the need for advice from local professional organizations and other more or less hidden efforts to deter him.

An entrepreneur may choose any legal form of business for establishment. It can thus establish a company in the host state or buy shares in established companies under the same conditions as nationals of that state, or establish a branch, subsidiary, or branch of a company established in another EU country. These branches enjoy the same rights in the host state as the companies established there, and may therefore defend themselves against discrimination on the grounds of rights or benefits enjoyed by companies primarily established.

Mutual recognition of qualifications is important for the development of the internal market and also for economic diplomacy. Most business activities and most of the jobs offered are individually regulated in each Member State, linked to a certain qualification. Most of these are professions for which the requirements have not been harmonized at EU level and where, therefore, the diversity of Member States' legislation acts as an obstacle to the free movement of persons or service providers. Therefore, the principle of mutual recognition also applies here, that is, qualifications obtained in one Member State are recognized in other Member States and need not be repeated. This recognition of qualifications goes beyond the formal recognition of diplomas through nostrification and includes everything that a qualified profession requires, including practice.

In the European context, the free movement of services means the provision of services across borders, so-called without being established in the State where the service is provided. Services are increasingly accompanying goods as a significant dynamic component, and in connection with goods, services are subject to the rules applicable to goods. Similarly, they are subject to the free movement of capital and persons. Therefore, the free movement of services within the EU's single internal market is as important as the free movement of goods.

The free movement of services is largely imperfect and, due to rapid dynamics, full of various obstacles, which prevents its full use. The European Commission pays particular attention to this aspect in the Services Directive.

The free movement of capital, along with the scientific and technological and innovation boom, is a major force for economic development. The primary condition that is fulfilled in the Czech Republic is the fully convertible Czech crown. It is also about removing all national barriers to capital transfer with other EU Member States as well as with third countries and about introducing EU rules on securing cross-border payments and transfers of capital of all kinds.

The least visible real free movement is certainly on the labour market. Indeed, the free movement of labour is only marginally fulfilled in reality, as evidenced by the mere 3% of citizens willing to work in a Member State other than the home within the EU.

As a result of the different interests of the individual members of the European Union and thus of the participants in the single internal market, it is above all that the internal market is still incomplete. Stronger support for the freedoms in the internal market would require greater generosity on all sides and a consistent abandonment of national protectionist scenarios. Such measures go against the spirit of liberal economic diplomacy.

2.3 Fiscal Processes

From the point of view of fiscal perspectives on economic diplomacy, the EU's most important current budgetary framework for the period after 2021 is now being presented in the EU. The long-term financial framework for the period 2021-2027 - modern budget for a Union that protects, empowers and defends was introduced in May 2018 (European Commission 2018). In terms of economic diplomacy, two instruments are interesting. Firstly, it is the Reform Support Programme and the European Investment Stabilisation Function to strengthen Europe's Economic and Monetary Union. And secondly, it is the InvestEU Programme.

The European Investment Stabilization Function is a new instrument which should help to maintain public investment levels in the event of large asymmetric shocks, thus preserving stability and facilitating economic recovery. This is due to the more complex situation of the economies of those countries that can no longer use the currency channel. National stabilization mechanisms may not be sufficient to cope with some macroeconomic shocks and there is often a risk that the problem will spread to other countries. This can have a particularly damaging impact on the volume of public investment and the real economy. This new instrument is intended for euro area Member States and countries participating in the ERM II exchange rate mechanism, which can no longer use their monetary policy to adapt to economic shocks.

The Stabilization function will complement the existing instruments put in place at national and European level to prevent crises through related EU funds. Possible shocks are to be addressed through the European Stability Mechanism and Balance of Payments Instruments.

Not only in terms of the theory of optimal currency zones, it is important to monitor the risks of large asymmetric shocks. For this purpose, the possibility of back-to-back loans guaranteed by the EU budget of up to EUR 30 billion is envisaged. Loans will be additional financial support at a time when public finances will be under pressure and focus mainly on the development of public investment with a positive impact on growth. Another tool will be a grant component that fully covers interest costs. A new stabilization fund will be set up. It will allow member states to collect contributions from other member states which correspond to the proportion of their cash receipts from the property they own in exchange for the notes they provide. Revenues from this Fund will be allocated to the EU budget to allow eligible Member States to provide interest rate subsidies. Such interest subsidies make the economic meaningfulness of this instrument conditional.

Also another instrument is interesting from the point of view of possible instruments of economic diplomacy at EU level. It is InvestEU Programme. The InvestEU Programme will bring under one roof the multitude of EU financial instruments currently available and expand the successful model of the Investment Plan for Europe, the Juncker Plan from the year 2014. With InvestEU, the Commission will further boost investment, innovation and job creation, triggering an estimated EUR 650 billion in additional investment. The new programme will consist of the InvestEU Fund, the InvestEU Advisory Hub and the InvestEU Portal. Such a format is reminiscent of commonly used business support tools within economic diplomacy in a number of countries, including the Czech Republic.

The InvestEU Fund focuses on mobilizing public and private investment in the EU, which is still a major drawback in Europe. The aim of the new fund is above all to make more effective use of scarce resources where the Commission proposes to allocate EUR 15.2 billion to InvestEU. It will also be possible to use a EUR 38 billion guarantee to be used to support strategically important projects in EU countries and to bring together private and public investment. The Commission expects to have additional investments worth more than EUR 650 billion. The InvestEU Fund should create a diversified and flexible portfolio with a focus on

supporting sustainable infrastructure; research, innovation and digitisation; small and medium-sized companies and social investments and skills. Member States will be able to transfer part of the cohesion policy funds to InvestEU's budget guarantee. These funds will be redirected to InvestEU Fund and will be able to benefit from the EU guarantee.

Building on the model of the Investment Plan's European Investment Advisory Hub, the InvestEU Advisory Hub will integrate the 13 different advisory services currently available into a one-stop-shop for project development assistance. It will provide technical support and assistance to help with the preparation, development, structuring and implementation of projects, including capacity building.

2.4 White Paper on the Future of Europe - Five Scenarios

In spring 2019, the current situation in the European Union is mainly influenced by two events. Firstly, it is the process of the UK's withdrawal from the EU and the second event is the European elections in May 2019. Both these facts significantly influence the processes of economic diplomacy and are a clear milestone for further development within the European Union.

The citizens of the United Kingdom of Great Britain and Northern Ireland voted to leave the European Union in 23 June 2016 in a referendum, which resulted in a close result. Finally 51.9% of the voters voted for the EU, especially in England and Wales. On the contrary, the inhabitants of Northern Ireland, Scotland and London also opposed Brexit. The deadline for terminating membership is 2 years after the activation of Article 50 of the Lisbon Treaty, it should have been in 29 March 2017. At present, in May 2019, there is still great uncertainty about how the UK will leave the EU. This threat of insecurity at a time when it should have been clear is not only for economic diplomacy depressing.

The White Paper on the Future of Europe (European Commission 2017) is a response to changes in the European Union and the European Commission in Rome in March 2017 analyzed the results of the past 60 years and the future of the 27 EU Member States. The European Commission aims to support the debate with the European Parliament and the interested Member States. The Commission offers different alternatives for which Europe can decide.

The White Paper examines how Europe will change over the next ten years: the impact of new technologies on society and jobs, doubts about globalization, concerns about security and the rise of populism. The White Paper offers possible responses to changing realities and opportunities to turn challenges into opportunities. The challenges we face are, in addition to changing EU membership, new technologies - the impact of wider use of technology and automation on industry and the labour market, climate change - the need to market innovative environmental solutions, migration - border protection while preserving the right to free movement in Europe, security threats near borders and within the Union, building up military capabilities east of our borders, war and terrorism in the Middle East and Africa, demographic decline and weakening economic power, aging populations, the rise of populist and nationalist rhetoric and the need to restore confidence citizens, to achieve results corresponding to expectations and to find consensus among Member States.

We can see current views on EU developments in the form of scenarios that the European Commission has created itself, offering alternatives to EU citizens in the run-up to the European Parliament elections in May 2019. Five scenarios model the future state of the Union, depending on the choices made by Europe (European Commission 2017).

This is a conservative scenario - Carrying On, with 27 EU Member States focusing on implementing a positive reform agenda. The advantage of this scenario is the assumption of respect for citizens' rights resulting from the respect and enforceability of EU law. On the other hand, the possibility of major disputes between member countries is suggested.

The second scenario is called the Nothing but the Single Market, with 27 EU Member States gradually moving towards a single market. This is an alternative where Member States are unable to agree on further action in many spheres and the need for individual cases remains bilateral. The European Union is thus focusing on deepening the key aspects of the single internal market.

The third alternative is the scenario Those Who Want More Do More allow the EU to work more intensively and deepen their integration efforts in specific areas. Citizens' rights stemming from EU law start to vary according to whether they live or do not live in a country that has decided to do more. There may be questions about transparency and accountability at different levels of decision-making.

The Fourth scenario is Doing Less More Efficiently assumes that the 27 EU Member States will focus on selected policy areas that will be more intensive and faster to act, while less active in other areas. Particular attention should be paid to innovation, trade, security, defence, migration and border management, as well as to the excellence of R&D and investment in decarbonisation and digitization projects. However, the European Union often has the problem of agreeing which areas need to be prioritized and where the Union should be less active.

And the final scenario is Doing Much More Together assumes that EU member states decide to do much more co-operation in all policy areas. However, there is a risk of losing support from those who feel that the EU does not have the necessary legitimacy and that it is taking too much authority from the Member States. Unfortunately, real events and negotiations show that the Federation is rather a wishful thinking of a minority within the EU.

Such a set of scenarios is not a possible fan of options for the future, but rather a halt in a situation where the EU stands at a crossroads where there are several options to choose and which option to choose.

3. Economic diplomacy in the further development of the EU

The importance of economic diplomacy within the European Union has many dimensions. One view is about fiscal processes, especially in the context of the current budgetary framework. Another view is about the currency market. Within the euro area, the power of the common currency is the instrument of economic diplomacy. Conversely, countries that do not have a common currency can apply domestic monetary policy as an instrument of economic diplomacy. The Czech Republic still has a relatively long period of time in which, in the area of monetary policy, it will be possible to use the exchange rate for the needs of economic diplomacy and, if necessary, to thoroughly stabilize the economy as it did in the previous year's exchange rate commitment.

The most important space for economic diplomacy in the European Union is a functioning single internal market. In this market, support for the economic relations of individual Member States is very successful. Similarly, the potential of the common commercial policy and the power of the European Commission to negotiate favourable conditions with third countries can be exploited. The single internal market will be what the Member States will be joining in the coming years. While Member States sometimes introduce

different national constraints, supranational structures, especially the European Commission, are constant followers of market improvement and completion and barriers.

Topical issues in economic diplomacy include the conclusion of international agreements. An example of a successful agreement is the Comprehensive Economic and Trade Agreement (CETA), which came into force in the autumn of 2017. The complicated economic relations are currently being monitored between the EU and the US when negotiations on the forthcoming Transatlantic Trade and Investment Agreement (TTIP) have been discontinued and the European Union at the same time faces US customs barriers.

At the beginning of 2019, European economic diplomacy is undergoing a very difficult period in the form of the departure of Great Britain from the European Union. The complexity of the negotiations and political influences has led to the threat of uncertainty at a time when it should have been clear. If it has been known much earlier that the only feasible scenario was the one without agreement, this option would be more acceptable today than when everything is still possible.

The Single Market refers to the EU as one territory without any internal borders or other regulatory obstacles to the free movement of goods and services. A functioning Single Market stimulates competition and trade, improves efficiency, raises quality, and helps cut prices. The European Single Market is one of the EU's greatest achievements. It has fuelled economic growth and made the everyday life of European businesses and consumers easier. One of the new instrument is Single Market Strategy. This is the European Commission's plan to unlock the full potential of the Single Market. The Single Market is at the heart of the European project, but its benefits do not always materialise because Single Market rules are not known or implemented, or they are undermined by other barriers.

References

Bayne, N. & Woolcock, S. 2011, *The New Economic Diplomacy: decision-making and negotiation in international economic relations*. Ashgate Publishing Limited, England.

Bouyala Imbert, F. 2017, *EU economic diplomacy strategy*. [online]. Available at: [http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/570483/EXPO_IDA\(2017\)570483_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/570483/EXPO_IDA(2017)570483_EN.pdf) (Accessed: 5 May 2019).

European Commission. 2017, *White paper on the future of Europe: Five scenarios*. European Commission, Brusel.

European Commission. 2018, *A Modern Budget for a Union that Protects, Empowers and Defends. The Multiannual Financial Framework for 2021-2027*. [online]. Available at: https://eur-lex.europa.eu/resource.html?uri=cellar:c2bc7dbd-4fc3-11e8-be1d-01aa75ed71a1.0023.02/DOC_1&format=PDF.

Krejčí, O. 2014, *Mezinárodní politika*. Ekopress, Praha.

Štouračová, J. 2008, *Ekonomická diplomacie České republiky*. Professional Publishing, Praha.

Štouračová, J. 2012, *Proměny ekonomické diplomacie – v ČR a ve světě*. Professional Publishing, Praha.

Woolcock, S. 2012, *European Union economic diplomacy: the role of the EU in external economic relations*. Ashgate Publishing Limited, England.

Zirovcic, D., D. 2016, *Theoretical Principles of Economic Diplomacy*. [online]. Available at: <https://ssrn.com/abstract=2710671>. (Accessed: 5 May 2019).

Security measures in Polish penal law in the context of international human rights standards

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Abstract

The subject of the article is the relation of security measures in Polish penal law to internationally protected human rights standards, especially to the guarantees provided by the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 and the case-law elaborated by European Court of Human Rights on the basis of the Convention. The main focus of the article is on preventive detention in a psychiatric institution as a security measure, which is prone to be the most invasive in the context of individual rights such as the right to liberty, right to privacy or prohibition of torture. Initially, the author attempts to define the notion of a „security measure” and present the main legal concepts regarding it. Subsequently, she moves on to present the current legal regulation of security measures in Polish penal law. Finally, the provisions of the Polish The Criminal Code regulating preventive detention in a psychiatric institution are being analyzed in the context of human rights standards provided by the Convention and elaborated in the case-law of the ECHR.

Keywords: security measures; preventive detention; the right to liberty and personal security; European Court of Human Rights

1. Introduction

The subject of this paper is the relation of security measures in Polish penal law to internationally protected human rights standards, especially to the guarantees provided by the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 (hereinafter: the Convention) and the case-law elaborated by European Court of Human Rights on the basis of the Convention. (hereinafter: ECHR).

I will concentrate on preventive detention in a psychiatric institution as a security measure, which is prone to be the most invasive in the context of individual rights such as the right to liberty, right to privacy or prohibition of torture. Preventive detention is combined with therapy so also the problem of consent for medical treatment comes into question along with the standards of European Bioethical Convention of 1997.

To begin with, I will attempt to define the notion of „security measure” and present the main concepts regarding it .Subsequently, I will move on to present the current legal regulation of security measures in Polish penal law. Finally, the provisions of the Polish The Criminal Code regulating preventive detention in a psychiatric institution will be analyzed in the context of human rights standards provided by the Convention and elaborated in the case -law of the ECHR.

2. The notion of „security measures”

Preventive measures as part of the repertoire of means of formal social response to acts prohibited by law are a relatively new institution in criminal law. They are instruments of penal law used complementary with punishment and penal measures. Punishment, understood primarily as retribution for evil caused by the crime, has been present in human societies from the beginning of time. Preventive measures understood as a means of protecting the public from a dangerous perpetrator began to be the subject of animated discussion only in the second half of the nineteenth century. They have been introduced to European penal legislation on a larger scale at the turn of the 19th and 20th centuries (Paprzycki, 2015).

Whereas punishment is mainly focused retrospectively, security measures in penal law are primarily prospective. Punishment is aimed at retribution for what is already done, security measures are supposed to prevent possible acts from happening in the future. Nevertheless, the source of legitimacy of security measures in a specific case derives from the criminal act that has taken place.

Primarily, preventive measures are supposed to remedy the problem of the impossibility of bringing to justice those, who, due to various circumstances, can not be charged, and therefore can not be found guilty or who can be found guilty only to a limited extent. Criminal law is often confronted with situations in which the perpetrator of a prohibited act cannot be held criminally liable due to the impossibility of finding him guilty or his guilt reduced to a certain extent. Sometimes it is related to personality disorders, addiction to alcohol or other intoxicants, emotional or social immaturity, or mental illness. Often these disorders cause a high probability of committing the offence again.

Insanity defence or diminished capacity defence means that there is no basis for imposing a penalty. This regards situations of complete or partial insanity, as well as situations that do not exclude the perpetrator's guilt but are not irrelevant to the assessment of his ability to recognize the meaning of the act or to control his behaviour. The latter regards perpetrators who are addicted to alcohol, as well as other intoxicants and psychotropic substances.

The threat that such perpetrators create for society is the main reason for introducing preventive measures in criminal law. The threat is primarily measured by the probability of recommitting the offences. In other words, in the case of people affected by mental disorders as well as those with an addiction problem, it is assumed that there is a high probability of committing the same acts again although this issue always requires a more accurate assessment in the context of each individual case. The need to protect the society from such threats justifies the isolation of the perpetrators with the use of preventive detention instead of or alongside a penalty. The period of this isolation may not be in any proportion to the gravity or nature of the offence committed but to the actual threat to the social and legal order created by the perpetrator.

The purpose of such isolation is not limited only to physically preventing the perpetrator from repeating the prohibited acts. Usually, it also has a therapeutic goal, insofar as therapy is possible in a given case. If therefore, during the isolation period, as a result of appropriate therapeutic procedures, the threat of recommitting the crime can be eliminated or at least significantly reduced, it may lead to the cessation of the implementation of preventive measures. Hence in this understanding of preventive measures, they serve primarily isolation and therapy.

In the context of the history of penal law and criminology, the understanding of preventive measures presented above can be defined as a narrow one. The discussion on security measures in the penal and criminological literature of the last 150 years went far beyond the problem of securing the society against insane perpetrators or those with diminished

capacity. Actually, the problem of such perpetrators had a marginal significance for the initial discussion on security measures that took place on the turn of the 19th and 20th centuries. It resulted from the fact that the sources of the threat posed by the perpetrator of a prohibited act may have a much broader character than only mental disorders or addictions. The likelihood of reoffending or returning to crime may also result from other factors than insanity or substance dependence. These factors became of particular interest to the new scientific discipline, which emerged in the second half of the nineteenth century, later referred to as criminology. The offender and his special biological, psychological and social features became the main subject of its interest. Criminological research revealed the existence of a group of perpetrators who were defined by various concepts as „born criminals”, habitual offenders or recidivists (Zalewski, 2010). Although these concepts do not necessarily coincide, all of them regard perpetrators, who may not necessarily be considered *non compos mentis*, but who also pose a threat to the legal order due to the high probability of repeating criminal behaviour. This gave rise to a discussion about the need to protect the society against such perpetrators, through applying the security measures instead of or beside penalties.

In this light, the discussion about security measures ceases to be a problem regarding a relatively small group of perpetrators affected by certain serious psychiatric defects or other related problems. It becomes the basic problem of the criminal-political discussion regarding the role of guilt on the one hand and the perpetrator's threat to society on the other, and consequently the relationship between the concepts of punishment and security measures and their role in the system of formal social response to crime. So here we are dealing with a broad understanding of the concept of a security measure. It is related to the concept of the so-called duality of criminal law, where the penalties and security measures are recognized as two equal instruments of criminal policy, fulfilling various criminal-political functions depending on certain characteristics of the perpetrator to whom they are applied (Warylewski, 2009; Bojarski, 2003).

In addition to the above-mentioned security measures, criminal law also distinguishes a particular group of security measures called administrative measures. They include the possibility of adjudicating prohibitions of performing certain professions or deprivation of certain rights in some situations (e.g. a prohibition to take part in mass events, or a driving ban). They constitute a specific form of punishment for the perpetrator but they also clearly have preventive functions. However, when they are used as a security measure they are intended, first and foremost, to protect the public from the possibility of the perpetrator committing a crime again.

3. Security measures in the Polish penal law and their relation to the standards of ECHR case-law

Security measures are adjudicated by the Polish courts on the basis of article 93a-g of the Polish The Criminal Code of 1997. These provisions contain a closed catalogue of security measures as well as general and specific grounds for their adjudication.

According to the Criminal Code under the amendment passed on 20th February 2015, the security measures are electronic supervision, therapy, addiction treatment and detention in a psychiatric institution (Criminal Code, 93, 1).

Also other administrative security measures can be applied: prohibition of occupying a specific position, performing a particular profession or conducting a specific business activity; a ban on conducting activities related to the upbringing, treatment or education of minors; a ban on staying in certain environments or places, contacting certain people, approaching certain

people or leaving the place of residence without the court's consent; prohibition to take part in mass events; prohibition of access to game centres and participation in gambling; an obligation to periodically leave the premises occupied jointly with the victim of offence; driving ban) (The Criminal Code, 93 a-g , 93 a § 2, in relation to 39 § 2-3)

Security measures are applied not only to insane perpetrators and those with diminished mental capacity, but also to those who remain fully sane, but create a serious threat of performing further acts which violate legally protected rights. After changes in Polish penal law which came into force 1 July, 2015 security measures can also be applied to offenders with personality disorders and sexual offenders who committed crimes against life, health and sexual freedom (Criminal Code, 93c §3, 4) . Also, as it had been before the amendment, security measures can be adjudicated in the case of perpetrators addicted to intoxicants, who committed a crime in the state of intoxication (Criminal Code, 93c § 5).

Not all of the security measures, however, can be applied to every category of offenders distinguished above. According to the provisions of the Criminal Code the security measure in the form of detention in a psychiatric institution, which will be the subject of our special attention, can be applied only to three categories of perpetrators. Firstly it's applicable to those that cannot be held liable for their actions for the reason of insanity and to those convicted of an offence committed in a state of diminished mental competence without conditioned suspension of execution, sentenced to 25 years of prison or life imprisonment. Finally, it can also be adjudicated to those convicted of the crimes of murder, grievous bodily injury, rape, sexual abuse of disabled persons or sexual abuse of minors committed due to paraphilia (The Criminal Code, 93 g).

Additional conditions are required to adjudicate detention in a psychiatric institution. As far as the insane perpetrators and those with diminished mental capacity are concerned the court must determine that there exists a high probability of committing an offence of significant social harmfulness in due to the perpetrator's mental illness or mental disability. In the case of sexual offenders, there must exist a high probability of committing an offence against life, health or sexual freedom due to paraphilia (Criminal Code, 93g, 1, 2, 3). The court rules on the basis of psychiatric opinions and its own analysis of probability with regard to the previous lifestyle of the offender, his criminal record and his current life situation. The analysis should be combined with the prognosis of circumstances favourable for abjuration of therapy or committing an offence again. Adjudicating the measure of psychiatric detention the court must make sure that the security measure applied is proportional to the extent of social harmfulness of the criminal act the offender may commit in the future and the probability of committing the act, with regard to the progress the offender has made in therapy or addiction treatment. The court should also consider if the likelihood of committing an offence again can be reduced in another way than detention in a psychiatric institution. This principle is intended to impose restraint on applying the measure of detention to offenders who committed minor offences, however onerous for the society they might be (Decision of the Supreme Court, 2002).

Detention combined with compulsory treatment interferes in the sphere of basic human rights protected by the Constitution and international law such as the right to liberty and personal security, right to privacy including the right to consent to treatment, the prohibition of torture and potentially other rights. For this reason, the provisions of domestic law and their implementation should be strictly compliant with these standards. That is why the relation of the analyzed provisions of the Criminal Code to the international human rights standards, especially those contained in the European Convention and interpreted by the ECHR in its case-law is so significant.

The Polish judge is not directly bound by ECHR judgments, but he should take into

consideration the provisions of the Convention which pursuant to the Constitution of the Republic of Poland of 1997 (Journal of Laws no. 78, item 483) is part of the Polish legal order and is directly applicable. Interpretation of the provisions of the Convention and other regulations of Polish law should, therefore, refer to ECHR judicature. As indicated by the Polish Supreme Court "since Poland's accession to the Council of Europe, the ECHR's judicature can and should be taken into account when interpreting the provisions of Polish law" (Decision of the Supreme Court, 1995).

Hence, the interpretation of the premises regulated in the Criminal Code. Should be based, *inter alia*, on the standards contained in the Convention and the ECHR case-law. They supplement the judicature of Polish courts and the legal doctrine in the process of interpreting the provisions of the statute.

Article 5 paragraph 1 of the Convention stipulates safeguards of the right to liberty and security of person. „No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law". Letter e) of paragraph 1 regards situations of detention of persons with mental disorders and is applicable to the security measure of detention in a psychiatric institution.

On the basis of selected ECHR judgments, the following principles which apply to deprivation of liberty under article 5 paragraph 1 letter e of the Convention can be recognized: the principle of legal certainty, prohibition of arbitrariness, the principle of adjudication by a judicial authority, the principle of necessity and proportionality, finally – the requirement of obligatory impartial expert opinions at the time of adjudication and enforcement of the isolation measure (Srogosz, 2018).

As for the first of the principles mentioned above, it means that the conditions for deprivation of liberty provided for by domestic legislation must meet the minimum standard of legal certainty, resulting in their predictability. Thus, decisions of the judicial authorities regarding deprivation of liberty should be based on criteria, which are clear, precise and comprehensible for the average citizen. This rule should prevent arbitrariness when adjudicating detention (see, for example, *Medvedyev and others v. France*, *Steel and others v. the United Kingdom*).

With regard to this principle, the provisions of the Criminal Code have been questioned by the Polish Ombudsman in his complaint to the Constitutional Tribunal. He pointed out that the criteria of the probability of committing an offense of significant social harmfulness are vague and ambiguous and do not comply with the rule of legal certainty as they leave a vast field of interpretation to the court. This argument has been refuted, however, as prognostic and evaluating statements are generally being made by the courts in the implementation of criminal law. The following examples of terms open to interpretation and evaluation can be given: "particular cruelty" (Criminal Code, 148 § 2, 1), "strong commotion justified by circumstances" (Criminal Code, 148 § 4) or "persistent harassment" (Criminal Code, 190 a § 1). All of these are ambiguous terms which need interpretation of the court in every given case.

It is worth noting that in the cases examined by the ECHR the prerequisite for the probability of committing an offence has never been perceived in terms of an alleged violation of the principle of legal certainty. In particular, in cases against Poland, in which these provisions have been repealed so far no objection of violating this principle has been raised (Srogosz, 2018).

As for the criteria of the high probability of committing an offence of significant social harmfulness in connection to mental disorder laid down in the provisions of the Criminal Code, the ECHR has acknowledged them stating at the same time that the mental disorder must be of the kind and intensity that justifies forced hospitalization (see: *Biziuk v. Poland*, *Nawrot*

v. Poland, Witek v. Poland).

The second principle mentioned above - the prohibition of arbitrariness - with regard to preventive detention is tantamount to the constitutional principle of the rule of law contained in Article 7 of the Constitution of the Republic of Poland of 1997. Article 5 of the Convention, in turn, stressed that deprivation of liberty should be "lawful". Thus, the detention of the perpetrator of an offense committed in a state of insanity, diminished mental capacity or in connection with a disorder of sexual preferences in a psychiatric institution can be adjudicated only on the basis of the relevant provisions of the Criminal Code. The principle of legality protects individuals against deprivation of liberty by the state without the basis of domestic law. This principle constitutes the prohibition of arbitrariness in the formal legal sense. It emerges *expressis verbis* from articles 7 and 41 par. 1 of the Constitution of the Republic of Poland ("deprivation or restriction of liberty may be enforced only according to the principles specified in the statute").

Nevertheless, deprivation of liberty can be considered arbitrary even if it is implemented in accordance with domestic law when it is at the same time contrary to the purpose of the restrictions contained in art. 5 paragraph 1 letter e of the Convention. In the opinion of the Tribunal the essential purpose of this provision is to allow the deprivation of liberty of the mentally ill, not only in order to prevent a threat to public safety, but also to protect the interest of the detained (see, for example, Enhorn v. Sweden,). In the previous legal situation in Poland (before the amendment of 2015) the provisions providing for the detention of the perpetrator in a psychiatric institution were aimed first of all at securing the society against the offender and it was actually the only purpose of the isolation measure. Currently, the provisions of the Criminal Code contain a new premise determining the choice of a security measure (apart from the criteria of the degree of social harmfulness of the act) Additionally the court now has to "take into account the needs and advances in therapy" (Criminal Code, 93b § 3).

As for the condition of adjudication by a judicial authority the Convention and Strasbourg judicature do not require that the decision on the isolation of a person with mental disorder should be made by a court. This conclusion results from the comparison of article 5 paragraph 1 letter a) with article 5 paragraph 1 letter e) of the Convention. This first provision refers to a "conviction by a competent court", and the latter to "lawful detention". Nevertheless, the legality of isolation is subject to the court's control at every stage of enforcement of the security measure. Article 5 paragraph 4 of the Convention, confirms the right of appeal to court "for anyone who has been deprived of liberty by arrest or detention". In the case of Winterwerp v. The Netherlands in 1979 the Strasbourg Tribunal confirmed, that the deprivation of liberty of a person with mental disorders requires regular judicial control of legality. Even if the decision on isolation is made by an administrative body, the detained person has the right of access to the court personally or through his representative at any time. Court proceedings controlling the legality of detention should guarantee the protection of the interests of persons with mental disorders.

In accordance with the ECHR judicature, the criminal proceedings in Poland guarantee the participation of the accused (personally or represented by a proxy). According to the provisions of the Polish Code of Criminal Procedure. The accused must have an attorney if there is justified doubt whether the accused's mental health allows to participate in the proceedings or conduct the defence in an independent and reasonable manner. Participation of the defence attorney is obligatory at meetings in the subject of isolation and at the hearings with the participation of the accused (Code of Criminal Procedure, 79 § 1 it. 3, 4, 339).

The principle of necessity of applying a security measure (which can also be defined by a Latin term *ultima ratio*) has been regulated *expressis verbis* by article 93b § 1 of the Criminal

Code. The court may adjudicate a security measure when it is necessary to prevent the perpetrator from committing an offence but only if other measures prescribed by the law are insufficient to achieve that purpose. The premise of necessity was further specified by an additional guarantee arising from the specific preventive function of the measure of detention. Namely, detention in a closed psychiatric institution should be necessary for "preventing the perpetrator from committing a prohibited act of significant social harmfulness". The necessity of detention must also result from the high probability of committing this kind of act in the future (Criminal Code, 93 g).

The Strasbourg Tribunal has considered the *ultima ratio* principle and the requirement of proportionality of deprivation of liberty in the judgments regarding the application of art. 5 paragraph 1 letter. e) of the Convention (e.g. Lithuania v. Poland, 2000, 78). For instance, in the recent case of Nawrot v. Poland, the ECHR stated that the grounds justifying the deprivation of liberty referred to in the article 5 paragraph 1 of the Convention should be given a narrow interpretation. The ECHR referring to its previous case-law stated that the mental disorder of the offender should be real and serious enough to justify the necessity of isolation in a psychiatric institution (Nawrot v. Poland, 64). On the basis of a specific factual situation, the Strasbourg court also expressed doubt that dissocial personality, or psychopathy, can be treated as "real" and serious enough to deprive a person of liberty within the meaning of art. 5 paragraph 1 letter e) of the Convention (Plesó v. Hungary, 2012; Stanev v. Bulgaria, 2012). The ECHR also referred to the premise of "imminent danger to others or to himself". In the above-cited case of Nawrot v. Poland, the Tribunal accepted the Polish regulation stipulating that potential threat of recommitting the act should be associated with significant harmfulness of the act (Nawrot v. Poland, 75).

The assessment of the premises of applying an isolation measure should be analyzed by the court on the basis of reliable evidence in an objective manner. According to the ECHR the essential prerequisite for the isolation of a person with a mental disorder is the necessary evidence of the experts' opinion (Ruiz Rivera v. Switzerland, 2014, 59). The ECHR expressed its position on the subject of experts' opinions in the case of Witek v. Poland, stating that the opinion should be based on the current state of mental health and not only on past events. The opinion cannot be considered sufficient for deprivation of liberty if a longer period has elapsed since its issue.

An overview of recent Strasbourg cases against Poland allows an assertion that as for the application of the above-mentioned principles in the Polish law the Tribunal generally finds the provisions of the Criminal Code concerning preventive detention compliant with the Convention.

There is however one issue, which remains controversial. Namely the issue of preventive post-penal deprivation of liberty, which was introduced to Polish law by the Act of 22 November 2013 on the treatment of persons with mental disorders posing a threat to life, health or sexual freedom of others (the so-called *Beast Act*) (Journal of Laws, 2014). The amendment of 2015 has introduced a possibility of postpenal detention also to the Criminal Code.

This regulation arouses voices of criticism, accusing the adopted solutions of being in breach of Constitution and the Convention. The Polish Ombudsman has brought a complaint to the Constitutional Tribunal deeming the provisions providing that the prescribed protective measure shall be applied after serving the sentence as contradictory to *inter alia* the *nullum crimen sine lege* principle (article 42 paragraph 1 of the Constitution) and *ne bis in idem* principle (as part of the principle of the rule of law). However, these arguments have been eventually refuted by the Constitutional Tribunal (Judgment of the Constitutional Tribunal 2016 r., K 6/14).

The institution of post-penal detention has also been introduced to the legal systems of other States Parties to the Convention, raising a lot of controversies (see i.a, Kulik, 2013). Strasbourg judicature on the matter evolved. In the case of *M. vs Germany* (2009), recognizing the violation of art. 7 paragraph. 1 of the Convention the Tribunal pointed out that in fact, the preventive detention in its current form did not differ from the execution of the penalty of deprivation of liberty, even though German law defined it as a security measure. The Court has criticized the conditions of the detention the applicants had been subject to, which put them in a similar situation to those detained on the basis of criminal sentences. The implementation of the therapeutic goal of the detention was difficult due to the fact that the detained did not have sufficient access to the necessary therapy. The impact of this measure was primarily focused on separating individuals deemed to be dangerous from society. The assessment of the above-mentioned arguments prompted the Court to recognize that preventive isolation violated the principle of *nullum crimen nulla poena sine lege* (*M v. Germany* 2009).

However, in a similar case of *Bergmann v. Germany* (2016), the ECHR found that the applicant's detention was in line with the European Convention on Human Rights. In the *Bergmann* the Court did not find a violation of Article 7 of the ECHR, recognizing that a relationship with an earlier conviction does not play a significant role, and detention is adjudicated due to the necessity of therapy of mental disorders, with its repressive element being significantly limited. In the context of the above facts, the Tribunal considered that post-penal preventive deprivation of liberty can only be imposed on persons who suffer from mental disorders constituting an independent cause for detention, which is unrelated to the previous conviction. ECHR recognized that isolation can be ruled without specifying its duration in advance, which undoubtedly constitutes an interference with the rights of the individual; however, it also pointed out that the detained person will be released when the danger of committing a prohibited act is minimized. Therefore, the situation of the detainee is constantly monitored by the court which, after consulting the experts, may decide to release the applicant. Consequently, there can be no question of a deterioration of the applicant's position when the isolation is to serve a therapeutic purpose and is aimed at returning him to normal functioning in society. The Court concluded that the applicant's preventive isolation does not infringe art. 7 of the Convention (*Bergmann v. Germany*, 2016). The Court came to similar conclusions in the case of *Ilseher v. Germany* (2017) where it has ruled that preventive deprivation of liberty applied retroactively to a convicted killer does not violate fundamental rights if the convicted person is placed in a special therapeutic centre (*Ilseher v. Germany*, 2017).

It seems that the European Court of Human Rights allows post-penal preventive detention, even though it does not only regard persons of "unsound mind" in the meaning of mental illness or mental disability (as stipulated by article 5 paragraph 1 letter e) of the Convention) but also it applies to convicted criminals of sound mind with personality disorders and disorders of sexual preferences (paraphilia). The question arises: if the mind of those offenders was sound enough to bear liability for their actions, how is it possible to apply a security measure of non-penal character allowed by article 5 paragraph 1 letter e of the Convention after they have served their sentence (provided that the mental disorder did not appear in prison)?

Of course the need to protect the society prevails, but it would be more honest to admit that in fact, it is a breach of the principles of *nulla poena sine lege* and *ne bis in idem*, but one justified by the necessity to protect life, health and sexual freedom of innocent individuals.

The Polish "Beast Act" has not yet been put to trial before the ECHR but as follows from the above-cited German cases the Tribunal has determined its position on the matter of post-penal detention for the present moment.

4. Conclusion

Extrapolating from the legal situation described above, the Polish penal law, alike penal systems of many other European countries seems to implement the concept of duality of criminal law, where the penalties and security measures are recognized as two equal instruments of criminal policy, fulfilling various functions of criminal policy depending on certain characteristics of the perpetrator to whom they are applied. The situation is accepted by the ECHR provided certain standards elaborated by the Court in its case-law concerning preventive detention under article 5 paragraph 1 letter e of the Convention are met. A matter, which remains controversial in my opinion, is the issue of post-penal detention, which potentially constitutes a breach of the prohibition of retroactivity of law and other essential standards of the principle of the rule of law.

References

- Paprzycki, K 2015, *Środki zabezpieczające (Security measures)*, Warszawa:Wydawnictwo Beck, Instytut Nauk Prawnych PAN.
- Zalewski, W 2010, *Przestępca „niepoprawny” – jako problem polityki kryminalnej ('An incorrigible offender as an issue of criminal policy')*, Gdańsk.
- Warylewski J, 2017 *Prawo karne. Część Ogólna. (Criminal Law. General Provisions)*, Wolters Kluwer Polska.
- Bojarski, T 2003 *Polskie prawo karne. Zarys części ogólnej. (Criminal Law. An overview of the general provisions)*, Lexis Nexis.
- Srogosz, T 2018, 'Strasburskie kryteria dotyczące izolacyjnego środka zabezpieczającego a prawo polskie'('Strasbourg criteria for an insulation security measure and Polish law'), *Studia Prawnicze*.
- Rozprawy i Materiały* Vol 1, No. 22, pp.33-46.
- Kulik, M 2013, 'Środki zabezpieczające w prawie karnym wybranych państw europejskich' ('Security measures in criminal law of selected European countries'), *Prawo w działaniu. Sprawy karne*, Vol. 13, pp.63-120.
- European Convention on Fundamental Rights and Freedoms of 4th November 1950 https://www.echr.coe.int/Documents/Convention_ENG.pdf.
- Ustawa z dnia 2 kwietnia 1997 Konstytucja Rzeczypospolitej Polskiej (The Constitution of the Republic of Poland of 2nd April 1997), Dz. U. 1997 ,Nr 78, poz. 483 (Journal of Laws no. 78, item 483).
- Ustawa z dnia 6 czerwca 1997 r. Kodeks karny, (Act of 6 June 1997 the Criminal Code), Dz .U.1997 Nr 88 poz.553 (Journal of Laws1997 No. 88, item 553).
- Ustawa z dnia 6 czerwca 1997 Kodeks postępowania karnego, (Act of 6 June 1997 the Code of Criminal Procedure), Dz. U.1997 Nr 89 poz.555, (Journal of Laws No. 89, item 555).
- Ustawa z dnia 22 listopada 2013 r. o postępowaniu wobec osób z zaburzeniami psychicznymi stwarzających zagrożenie życia, zdrowia lub wolności seksualnej innych osób,(Act of 22 November 2013 on the treatment of persons with mental disorders posing a threat to life, health or sexual freedom of others) , Dz. U. z 2014 r., poz. 24, (Journal od Laws, 2014, item 24).
- Judgment of the ECHR of 29.03.2010 Medvedyev and others v. France, <http://hudoc.echr.coe.int>.
- Judgment of the ECHR of 23.09.1998 Steel and others v. the United Kingdom, <http://hudoc.echr.coe.int/>.
- Judgment of the ECHR of 19.10.2017, Biziuk v. Poland, <http://hudoc.echr.coe.int/>.
- Judgment of the ECHR of 19. 10. 2017 Nawrot v. Poland (no. 77850/12),

<http://hudoc.echr.coe.int/>.

Judgment of the ECHR of 21.12.2010 Witek v. Poland, <http://hudoc.echr.coe.int/>.

Judgment of the ECHR of 25.01.2005, Enhorn v. Sweden, <https://hudoc.echr.coe.int>.

Judgment of the ECHR of 4.10.1979 Winterwerp v. The Netherlands, <https://hudoc.echr.coe.int>.

Judgment of the ECHR of 4.04.2000 Lithuania v. Poland, <https://hudoc.echr.coe.int>.

Judgment of the ECHR of 18.02.2014 Ruiz Rivera v. Switzerland, <https://hudoc.echr.coe.int>.

Judgment of the ECHR of 2003 Herz v. Germany, <https://hudoc.echr.coe.int>.

Judgment of the ECHR 17.12.2009 M v. Germany, <https://hudoc.echr.coe.int/>.

Judgment of the ECHR of 7 .01. 2016 Bergmann v. Germany, <https://hudoc.echr.coe.int/>.

Judgment of the ECHR of 4.12. 2018 Ilseher v. Germany, <https://hudoc.echr.coe.int/>.

Wyrok Trybunału Konstytucyjnego z 23 listopada 2016 (Judgment of the Constitutional Tribunal of 23 November 2016 r.) K 6/14.

Postanowienie SN z dnia 4 listopada 2002 III KKN 269/01, LEX nr 56868 (Decision of the Supreme Court of 4 November 2002, III KKN 269/01, LEX nr 56868).

Voivodship self-government as a creator of regional development and its new identity on the example of the Kuyavian-Pomeranian Voivodeship in Poland

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Abstract

The aim of these considerations is, firstly, to pay attention to the role of local self-government at the voivodship (województwo) level as a creator of regional development in Poland. Secondly, an indication of how the above function may be a useful tool for the reconstruction or creation of the region's cultural identity, after the destruction made in this sphere in the period when Poland was not existing as a result of the partitions (1795-1918), and during the communist dictatorship (1944) - 1989).

The above analysis will be made on the example of the present Polish Kuyavian-Pomeranian Voivodeship, which is the area where various cultural and civilization traditions meet. For this reason, it is an interesting example of modern transformation processes and can, from this point of view, become an interesting point of reference for regions facing similar experiences in different parts of the world.

Keywords: Regional administration; public management; Kuyavian-Pomeranian voivodship; regional policy; cultural identity

1. The reform of the public administration model in Poland in 1998 and the creation of the Kuyavian-Pomeranian Voivodeship

The region (voivodship) of Kujawsko-Pomorskie in its present territorial shape, was established in 1998 as a result of the reform of the administrative division of Poland at that time³. This was accompanied by a change in the existing model of the territorial organization of

³ The reform of the administrative division was introduced by the Act [Ustawa] of 24 July 1998 on the introduction of an essential three-tier territorial division of the state (Journal of Laws [Dziennik Ustaw] 1998 No. 96, item 603). The new division of the state into voivodships and poviats (powiat) came into force on January 1, 1999. The map of poviats was introduced by the Regulation [Rozporządzenie] of the Council of Ministers of 7 August 1998 on the creation of poviats (Journal of Laws from 1998 No. 103 item 652).

public administration. As a result, along with the governmental administration existing at the voivodship level in the form of voivod (wojewoda) offices⁴, a self-governmental administration was created consisting of: elected representative bodies - constituting voivodship assemblies and collegiate executive bodies in the form of provincial bodies with marshals at the head⁵.

In the new political system, almost total responsibility for regional development was submitted to local self-government⁶, which in practice was the sole exclusive at this level of funds dedicated by the European Union to this area under the cohesion fund and structural funds⁷.

Having this financial tool was to become the basic instrument for creating regional development so as to equalize the civilization distance in relation to the average EU level. It is necessary to add here (we will come back to this issue later) that the new voivodship had a difficult starting position and much to catch up with.

2. Kuyavian-Pomeranian region, its composition and historical affiliation

The Kujawsko - Pomorskie Province, established in 1998, corresponds approximately to only one historically defined territorial unit in the area of interest to us - existing in the years 1945 - 1975 - in the Bydgoszcz Voivodship⁸.

⁴ Voivods are the Government representatives appointed by the Prime Minister in the voivodship, see The Act of 5 June 1998 on government administration in the voivodship (Journal of Laws of 1998 No. 91, item 577)

⁵ The provisions regulating the system of the voivodship self-government were implemented by the Act of 5 June 1998 on the self-government of the voivodship (Journal of Laws of 1998 No. 91 item 576)

⁶ This problem in comparative perspective between Unites States and European Union is described in important study: J. Górka - Szymczak, „*More perfect Union*” versus „*ever closer Union*” *Rozwój unii międzypaństwowych w Stanach Zjednoczonych i Unii Europejskiej w pierwszych pięćdziesięcioleciach ich istnienia, [More perfect Union "versus" ever closer Union "The development of the interstate union in the United States and the European Union in the first fifty years of their existence.]* Toruń 2018.

⁷ In accordance with the National Development Plan adopted by the Council of Ministers on 14 January 2003, the Integrated Regional Operational Programs were to be used as a tool for implementing the new regional policy. Responsibility for their preparation and implementation has been taken over by the resolution's bodies and executive bodies of voivodship self-governments. For the implementation of the next financial perspective (2007 - 2013), the National Cohesion Strategy was adopted ("Poland - National Strategic Reference Framework 2007 - 2013 supporting economic development and employment", Ministry of Regional Development, May 2007). Under these assumptions, voivodship self-governments outside the Regional Operational Programs obtained a significant impact on the spending of funds from the programs: Infrastructure and Environment, Human Capital and Innovative Economy. The legal framework for the implementation of the tasks of the voivodship self-government in this respect is determined by the provisions of the Act of December 6, 2006 on the principles of conducting development policy (Journal of Laws 2006 No. 227 item 1658).

⁸ On August 21, 1944, the decree of the so-called The Polish National Liberation Committee was established in the Pomeranian Voivodeship with headquarters in Bydgoszcz. In 1950, the administrative division was modified, along with the change of the province's name to the Bydgoszcz voivodship. About the conditions of these changes, see: Biegański Z., *Territorial and administrative shape of the Kuyavian-Pomeranian region in the 19th and 20th centuries.*

In the forming state of the Piast dynasty in the 10th and 11th century, most of the area constituting the eastern part of the Bydgoszcz voivodship was part of the Mazovian province⁹. Precise determination of the border between two provinces: Mazovia and Wielkopolska is not easy, especially on the southern side of the Vistula. It seems that from the west side these lands were delimited along the run of Noteć River to Nakło. The area of the estuary of the Brda River to the Vistula was also part of Mazovia. Thus, on this left-bank section of the Vistula, Mazovia was cut with a wedge between Wielkopolska and Pomerania.

In the southern section, the delimitation ran more or less from the run of Noteć River to Skrwa Lewa River, originally called Brwa River. On the north side of the Vistula, the Mazovian land encompassed areas later separated as the Dobrzyń land and the Chełmno land, along Skrwa River and Osa River.

Thus, the majority of today's Kuyavian-Pomeranian region constituted the western part of the Mazovian province at the dawn of the existence of the Polish state. The present-day north-western part of the region - Krajna and Bory Tucholskie, were already part of Pomerania.

Changes in the belonging of these areas began to occur during the so-called privincional breakdown¹⁰. The southern part of this province in the 13th century began to alienate from Mazovia as the area of the Principality of Kujawy¹¹. The north-eastern part on the right bank of the Vistula became part of the organizing Teutonic state¹². With the control of the Teutonic Order of Eastern Pomerania¹³, also Krajna and Bory Tucholskie became part of their state.

This division of western Mazovia resulted in more lasting consequences. The Chełmno area occupied by the Teutonic Knights began to integrate more closely with Pomerania and

[in:] *Relations between Kujawy and Pomorze over the centuries*. A collection of studies edited by Biegański Z. and Jastrzębski W., *Works of the BTN history committee* vol. XVII: Bydgoszcz 2001; Sudziński R. *Shaping the borders and administrative divisions of the Pomeranian Voivodship (Bydgoszcz) in the years 1945-1950*. *Zapiski Historyczne* Toruń 1973, R.37, z. 2. Wider context of these changes, see Górski G., *Polonia Restituta. Polish constitutional order in the twentieth century*, Toruń 2018 and Górski G., *Around the genesis of the PRL*, Lublin 2004.

⁹ The Mazovian Province as part of the Piast state during the reign of Mieszko I (963 - 992) was one of the five main regional territorial units alongside Wielkopolska, Małopolska, Śląsk and Pomorze.

¹⁰ The southern part of this province in the 13th century began to alienate from Mazovia as the area of the Principality of Kujawy. The north-eastern part on the right bank of the Vistula became part of the organizing Teutonic state. After the death of Bolesław Krzywousty in 1138, his sons received individual provinces of the state in the management. As a result of first breaking and then changes in its succession statute from 1136, the process of gradual fragmentation of these provinces into smaller territorial units, inherited in the expanding Piast family, began. Together with the Order of Eastern Pomerania, also Krajna and Bory Tucholskie entered into composition of their country.

¹¹ Eventually, the authorities in Kujawy were taken over by the Piast's of Kuyavia, as a side line of the Piast dynasty from the prince Konrad of Mazovia.

¹² In 1228, the mentioned Konrad of Mazovia gave the Order of the Blessed Virgin Mary the right to dispose of the Chełmno Land. In 1235, this Order merged with the Order of the Dobrzyń Brothers, who earlier (also in 1228) received the right to dispose of the Dobrzyń Land from Prince Konrad.

¹³ On the circumstances of the takeover by the Teutonic Order of Gdańsk Pomerania in 1308 see: Jasiński K., *Occupation of Gdańsk Pomerania*. *Zapiski Historyczne* Toruń 1966, R. 31, 3.

Prussia as part of their Order's religious state. On the other hand, the areas south of the Vistula were associated more and more with the Wielkopolska area.

Sanctioning this state of affairs has become the principle of administrative division within the Kingdom of Poland, which was restored in the fourteenth century. This was due to the fact that most of Mazovia remained formally outside the Kingdom until the beginning of the 16th century¹⁴. However, this part of Kujawy at the turn of the thirteenth and fourteenth centuries became part of the Kingdom, because for Władysław Łokietek it was part of the hereditary domain that he brought to this state.

The situation was similar with Kazimierz Wielki, and this state consolidated the de facto relationship of this land with the province of Wielkopolska. After the full entrance of Mazovia to the Crown, its former eastern territories have not returned to this land. It should be pointed out, however, that the Dobrzyń region, connected by belonging to the Kujawy Brest Duchy, isolated from Kujawy and, consequently, Wielkopolska, still had strong ties with the Mazovian land, and the two areas separating it in the formal Skrwa River sense did not constitute a serious barrier in relations on the Vistula side. As a result, the sui generis process of reintegration of the Dobrzyń region with Masovia will progress over time.

Another important breakthrough was confirmed by the Second Peace of Toruń in 1466, the earlier incorporation of Gdańsk Pomerania into the Kingdom¹⁵. As a consequence, the part of the Crown became a province that adopted the name Royal Prussia¹⁶. It included the Chełmno land and the already mentioned Krajna and the southern part of the Tuchola Forests, at that time part of the newly created Pomeranian Voivodship. This division of present-day areas of the Kuyavian-Pomeranian region between Wielkopolska, Royal Prussia and in fact Mazovia, proved to be extremely durable. The division into voivodships within the framework of the Polish-Lithuanian Commonwealth survived until the period of partitions. As a consequence of the subsequent actions of the German Prussian authorities, the entire area of interest to us in 1793 became part of the territory of the German Kingdom of Prussia¹⁷.

Another change brought the Napoleonic era. In 1807, part of the area we were interested in became after the Treaty of Tylża a part of the Duchy of Warsaw, created as a consequence of this French - Russian - Prussian agreement. Thus, the Toruń Department embraced the Chełmno lands on the right bank of the Vistula and the entire historic Kujawy. The Dobrzyń region returned to Mazovia by belonging to the Warsaw department. On the other hand, Krajna and Bory Tucholskie on the left bank of the Vistula, north of Kujawy, remained in Prussia.

¹⁴ After the restoration of the Kingdom of Poland at the turn of the thirteenth and fourteenth centuries, Mazovia remained formally outside of it, constituting the fiefdom of the Polish Crown. At the beginning of the 16th century, Mazovia was finally incorporated, which by virtue of the Lublin Union's provisions of 1569 became part of Wielkopolska.

¹⁵ In 1454, as a consequence of the outbreak of the anti-Teutonic uprising in Gdańsk Pomerania, King Kazimierz Jagiellończyk issued an incorporation act stolen in 1308 into the Kingdom of Poland. The treaty sanctioned acts were the Second Peace of Toruń concluded in 1466.

¹⁶ Royal Prussia was a province covering the areas of Gdańsk Pomerania (eastern) and the Warmian bishopric. Three provinces were created in its area - Chełmno, Pomeranian and Malbork. The entire area of Chełmno and the southern part of the Pomeranian Voivodship were located in the area of interest to us. Like Mazowieckie, the Royal Prussia was incorporated into Greater Poland by the Union of Lublin.

¹⁷ As a consequence of the First Partition of Poland in 1772, Prussia seized all of Royal Prussia, excluding Toruń. The Dobrzyń Land and eastern Kuyavia still remain at Poland. These areas of Prussia were seized in the second partition in 1793.

As a consequence of the provisions of the Vienna Congress in 1815, only the Dobrzyń land and the eastern part of Kujawy (the former Duchy of Brzeg with Włocławek) became part of the Kingdom of Poland¹⁸ (and after its actual liquidation into the Russian Empire¹⁹). The remaining part of Kujawy was included in the Grand Duchy of Poznań, while the Chełmno land with Toruń in the Pomeranian province, both in German Prussian Kingdom.

This division, in which Western Kujawy became part of the German Greater Poland, while Eastern Kujawy and Dobrzyń part of the Russian Mazovia, while the Chełmno land and left-bank areas of Krajna and Bory Tucholskie German Pomerania survived until the outbreak of World War I.

Eastern Kujawy and Dobrzyń land enjoyed their independence the earliest in November 1918 and became part of the newly created Warsaw Voivodship²⁰. Western Kujawy covered by the Wielkopolska Uprising became part of the Poznań Voivodship and became part of the 2nd Polish Commonwealth after the ratification of the Treaty of Versailles²¹. On the other hand, the Chełmno land, Krajna and Bory Tucholskie became part of the Polish state at the beginning of

¹⁸ The Kingdom of Poland was established on the strength of the Final Act of the Congress of Vienna, covering the majority of the lands of the Duchy of Warsaw. Wielkopolska was excluded from it, to which western Kujawy was annexed, while Chełmno Land was incorporated into the Prussian province of Western Pomerania.

¹⁹ The process of the actual liquidation of the Kingdom of Poland took place within a few years after the fall of the January Uprising and proceeded more or less until the mid-1770s. For more on the legal and political conditions of this process, see : Górski G., *Around the genesis of the PRL*, and Górski G., *Polonia Restituta*. See Also: Mażewski L., *Kingdom of Poland 1815 - 1874. Establishment and collapse of the state*, Przegląd Sejmowy 2017 Nr 2.

²⁰ Eastern Kujawy and the Dobrzyń region were the first to enjoy independence in November 1918 and entered Tereny these were part of the territory of the Kingdom of Poland, the General Governorship, created by the Germans in 1915, which was a form of temporary military administration of the occupied territories. After the takeover of power from the Germans in November 1918 by the Regency Council and its subordinate administrative institutions, and then after it was handed over to Józef Piłsudski, new units of the administrative division of the state were gradually created. In the area of interest to us, the Dobrzyń Land, which before the outbreak of the war was a part of the Russian Poviát Governorate and eastern Kujawy, part of the Warsaw Guberniya, became part of the Warsaw Voivodship. The newly created Warsaw Province. Western Kujawy covered by the Greater Poland Uprising became part of the Poznań Province and became part of the Polish-Lithuanian Commonwealth after the ratification of the Treaty of Versailles. On the other hand, the Chełmno land, Krajna and Bory Tucholskie became part of the Polish state at the beginning of 1920 and became part of the entire Pomeranian region of Pomerania in the Pomeranian region. The province of Działdowo, that is, the historical Lubawa land, was also added to the province.

²¹ Under the Treaty signed on June 28, 1919, Poland received the territories of Wielkopolska and Gdańsk Pomerania according to the borders corresponding more or less to the Polish Prussian border from 1772 (with the exception of Gdańsk and Warmia). Wielkopolska in practice, as a result of the Wielkopolska Uprising, was in the hands of the insurgent authorities from the beginning of 1919. After the formal attachment of these areas to Poland, Western Kujawy became part of the Poznań province.

1920 and became part of the entire Gdańsk Pomeranian region in the Pomeranian Voivodship²². The lands around city Działdowo, that is, the historical Lubawa land, was also added to the province.

At the turn of 1938 and 1939, as a result of wider changes in the administrative system of the state, whose aim was to break down the various territorial subdivisions, the Pomeranian Voivodship underwent major reconstruction²³. The Działdowo powiat was excluded from the Pomeranian Voivodship to the Warsaw Voivodship, while the Dobrzyń Land and Kujawy Wschodnie were included from Warsaw Voivodship to the Pomeranian Voivodship. However, Western Kujawy was excluded from the Voivodship of Poznań and became a part of Pomeranian Voivodship.

The new shape of the "Great Pomerania" was also aimed at strengthening the Polish element on the one hand, and on the other, it was about taking away its new shape from the conditions of the historical Russian-German divisions. Interestingly, after including the areas of interest to the Third Reich after the September campaign and the outbreak of World War II in 1939, the Germans with their unlawful decisions recreated administrative divisions from the period of the Second Reich²⁴.

After the end of World War II in 1945, the Bydgoszcz region was created on the area we were interested in. In relation to the present Kuyavian-Pomeranian Voivodship, the only significant difference was the fact that the powiat of Chojnice belonged to the then voivodship. Therefore, apart from the period between 1975 and 1998, when there were three voivodships in this area (Bydgoszcz, Toruń - including the Nowomiejski powiat and Włocławek), the region has some spatial stability characteristics for 80 years.

3. Local and supra-local regional identities in Kujawsko-Pomorskie

The existence of a large cultural diversity in the area of the Kuyavian-Pomeranian Voivodship is - in the context of the aforementioned fates of particular territories forming them now - not a questionable fact. It seems that compared to other Polish voivodships, we are dealing here with the greatest diversity. Let's look briefly at individual Polish voivodships.

Let's start this review with the provinces located in the areas that returned to Poland in 1945²⁵. Zachodniopomorskie, Lubuskie and Dolnośląskie voivodships are areas in which the Polish population, which flowed in from different parts of Poland after 1945, is still in the phase

²² According to the Versailles stipulations, Poland covered the areas of Pomerania in January and February 1920. As a result, the areas we are interested in have become part of the Pomeranian Voivodship.

²³ The contemporary authorities of the Republic, making wider changes in the administrative division of the Second Republic of Poland, indicated that the remaining boundaries established by the invaders have a negative impact on the rate of socio-economic reconstruction of Poland, and at the same time perpetuate unnatural barriers destroying the centuries-old ties formed during the First Polish Republic.

²⁴ As a result of this decision of the Germans, Western Kuyavia were incorporated into the Reich and once again became part of the Greater Poland province. The Dobrzyń region became part of the General Governorship. The remaining part of the province combined with the Free City of Gdańsk formed the district of Gdansk - West Prussia.

²⁵ As a consequence of the decisions of the Potsdam Conference in 1945, the territories of Warmia and Mazury, Western Pomerania, Lubusz and Lower Silesia as well as the rest of Upper Silesia returned to Poland.

of seeking a new identity. It is obvious that the elements of Polish cultural identity have not survived there since the Middle Ages, while the German culture that dominated in the later period has been effectively and completely eradicated²⁶. The new cultural identity is therefore formed from scratch, as a specific synthesis of various cultural environments that flow in and settle there.

It looks a little different in the case of the Opolskie and Warmian-Masurian voivodships. In the Opole region, there are strong elements of the centuries-old Silesian cultural identity, which although it is undoubtedly the subject of attempts to exploit German culture for the restaurant, has a huge impact on the regional identity of this area. It is not altered by the fact that here too numerous settlements of Poles from the center and from the east found a place of settlement.

The situation is similar in Warmia and Mazury, although undoubtedly the mindless extermination of the Masurian culture by the communists²⁷ significantly impoverished this area. However, both relics of this culture, such as micro-identities in the genus of Lubawa culture or the land of Kwidzyn, are an important value for the identity of the region being built.

The Pomeranian Voivodeship in its present form is characterized by very strong influences of the Kashubian and Kociewie culture, the tradition of centuries-old cultural exclusiveness of Gdańsk and the cultural identity of Gdynia shaped in a specific way in the interwar period. These are the elements that allow a relatively consistent shaping of the identity of this region, although the tensions between the current character of the Tri-City (Gdańsk - Gdynia - Sopot)²⁸ and the character of the sui generis of the provincial interior are certainly evident.

One can also talk about the relative cultural cohesion of the Mazovian, Podlasie, Wielkopolska, Świętokrzyskie, Silesia, Małopolska, Podkarpacie and Lublin provinces. In these cases, we are dealing with the persistence of some regional specifics over a few hundred years. Finally, the Łódź region combines, on the one hand, the rich cultural legacy of the Łęczyca-Sieradz or Łowicz region, and on the other hand, shaped in the years of the first industrial revolution, the specificity of multiculturalism brought by Łódź.

It is only on this background that we can see how complex matter is in the area of the Kuyavian-Pomeranian Voivodeship. Therefore, it should be pointed out in the first place to the existing and dividing region almost in two equal parts the border of two completely different

²⁶ The German population living in this area largely left it, escaping from the Soviet army. Subsequent transfers of population took place in 1945 and 1946, so that in practice only a small percentage of this population remained.

²⁷ Problems related to the communist authorities' policy towards national minorities in Silesia and towards Masuria in the PRL today have rich and reliable literature. See, among others *National minorities in Poland. The state and Polish society and national minorities in the periods of political breakthrough (1944-1989)*, edited by P. Madajczyk, Warsaw 1998; *National and ethnic minorities in Poland after the Second World War. Selected elements of state policy*, ed. S. Dudra, B. Nitschke, Kraków 2010; *Displaced or repolonized? Dilemmas of Polish policy towards Warmians and Masurians after 1945*, ed. T. Filipkowski, W. Gieszczyński, Olsztyn 2001.

²⁸ The proof of this dichotomy is the attempts made in recent years by the Gdańsk local government authorities to build some sort of separatist in its essence and having the character of a certain historical mystification, the ideology of the "Free City of Gdansk". Meanwhile, the vast majority of Pomeranian Gdańsk residents, even representing a strong Kashubian or Kociewie identity, at the same time represent a clear attachment to Poland.

civilizational orders - Russian and German. The power of this difference is still expressed in very many areas in a way that we often do not realize ourselves²⁹.

It is enough to compare the eastern and western regions of Kujawy in various dimensions to see the truth of this thesis. Despite the fact that for many centuries Kujawy constituted a relatively uniform and homogeneous area, the strength of various social, economic or cultural processes between 1815 and 1914 was so great that it caused profound differences between the two parts of this area. In the microscale, we can see many of these differences on the example of Golub - Dobrzyń, which within the existing one urban-communal organism combines two strongly different civilizational orders. The same applies to the Toruń powiat, which combines municipalities from two former partitions, or the city of Toruń, which currently - although to a lesser extent than Golub - Dobrzyń - also combines three separate traditions - Pomeranian, Wielkopolska and Kuyavian³⁰.

In addition to the strongly shaped separate cultural traditions of both parts of Kujawy, we still have many other differences. The Dobrzyń region is located within the so-called „Kongresówka” (the name of lands of the former Kingdom of Poland after mentioned Vienna Congress) it retains a great deal of distinctiveness in relation to the Chełmno identity neighboring the same Vistula. In the areas of Western Kujawy, we find a strong cultural identity of Pałuki land, and north of them the Krajna identity. A specific variant of the Kashubian - Kociewie identity is the Borowiak culture. The strongly present elements of the industrial revolution in Bydgoszcz, located at the north border of the Kuyavian, Pałuki, and Krajna and Borowiak cultures, have alienated it in a new cultural mosaic comparable with Łódź, which is still fighting for its own face.

4. Voivodship self-government and construction of a new cultural and civilizational identity Kuyavian-Pomeranian region

Thus, it can be clearly seen how strongly differentiated it is in terms of culture and civilization in the region. It has been subjected to many changes in its state or administration over the centuries. Therefore, it failed to create a supra-local, strong regional cultural synthesis.

An additional shock for the region has become the so-called political transformation brought about in the period between 1989 and 2005. Its basic feature was the rapid and very deep deindustrialisation of the region, which in the 1960s and 1970s underwent a reverse process of strong industrialization³¹. At that time, important industrial centers on the map of

²⁹ It is characteristic that after of more than 20 years since the creation of the Kuyavian-Pomeranian Voivodeship, no scientific work has been created regarding these extremely important issues. Neither regional authorities have initiated such research directions, and - what is even more amazing - two large public universities in the region (Nicolaus Copernicus University in Toruń and the University of Kazimierz Wielki in Bydgoszcz) did not consider it important that their research teams do elementary work for their immediate surroundings.

³⁰ Both of these centers are a kind of social micro-lab, which is best seen on the occasion of elections and electoral preferences of their residents. It is in electoral situations (mainly in the elections for the President of the Republic of Poland) that civilizational and cultural differences appear in the most spectacular way.

³¹ In this period, the great chemistry industry, the metal and machine industry as well as textile industry rapidly developed in this area. As a result, thousands of large industrial assemblies were established in all five major cities of the region. The result was population development, because in total these cities reached almost 1 million inhabitants.

Poland were those which still had earlier traditions, Bydgoszcz, Grudziądz, Inowrocław, Włocławek³², and Toruń³³, which was actually experiencing its then industrial revolution. It is characteristic that as a consequence of this process, the Kujawsko - Pomorskie Voivodship was the only one outside the Śląskie region in Poland, with such large numbers as for Polish conditions (ie over 100,000 inhabitants) of cities.

However, the nineties and adopted model of Poland's economic transformation resulted in a radical destruction of this industrial potential³⁴. The consequence of this state of affairs for this region³⁵ was the rapidly growing social problems, expressed at a very high level of unemployment, the emergence of many areas of structural exclusion of huge groups of people from the labor market and the consequent consequences for social life. These processes resulted in a significant outflow of the most qualified workforce to regions with a higher standard of living, as well as a permanent outflow of graduates of various levels of education, seeking more attractive centers for the development of their further life careers. In connection with the growing demographic crisis³⁶, this created a very difficult situation at the beginning of the 21st century, when the process of accessing larger funds dedicated by the European Union was beginning³⁷.

Poland's accession to the European Union was to serve - as in the previous experience of Spain, Portugal or Greece - the rapid integration of the countries of Central and Eastern Europe with the better developed countries of Western Europe. An important element of this process was to be the development of individual regions so that they would soon approach the average level of development of regions in the countries of the current "fifteen".

The structural and cohesion funds were to play a special role here, whose main purpose was to support these processes. According to the rules in force in the EU, the regional self-government authorities were to play a decisive role in planning the directions of regional development that would ensure the implementation of this cohesion. From this point of view,

³² These four cities became important industrial centers still at the turn of the 19th and 20th centuries, ie in the period when Polish winter, both in the Prussian partition and in the Russian partition, underwent a process of rapid industrialization.

³³ Toruń, which is an important German stronghold on the border with Russia, has not undergone a comparable industrial explosion. The city was dominated by German military purposes, which determined the non-industrial existence of this center.

³⁴ It was so called „Balcerowicz Plan” (vice Prime Minister in the period 1989 - 1991 and 1997 - 2001 which resulted in the destruction of hundreds of Polish factories. Symbolic sign of this destruction was the destroying with completely neutral position of this economic dictator of Poland one of the most important and present in the world industry shipyard branch.

³⁵ As we have mentioned above so-called „Balcerowicz reform” constituted the deadly end for most of the largest industrial plants in the region. In addition to large chemical plants, only a few industrial plants have survived this peculiar economic tsunami, radically changing the face of the region.

³⁶ Over the last 30 years, we have been observing either the demographic stagnation of large cities (Bydgoszcz, Toruń) or degression (Grudziądz, Włocławek, Inowrocław). Also, the entire population of the voivodship remains at a more or less stable level, with the increasing process of raising the average age, ie the aging of the region's inhabitants.

³⁷ Confirmation of all these observations are the data contained in the *Statistical Yearbook of the Kuyavian-Pomeranian Voivodeship 2018*. Provincial Statistical Office Bydgoszcz 2018. Similarly, see : *Kuyavian-Pomeranian Voivodeship. Subregions, poviats, communes*. Provincial Statistical Office Bydgoszcz 2018.

the possibilities of such shaping of the directions of this regional development were opened so that it would maximally rebuild and enrich the regional civilizational and cultural identity. For a region as diverse as the Kuyavian-Pomeranian region, it meant a unique chance to achieve such goals.

Unfortunately, the last twenty years have not brought any significant change here. It seems that during this period, there was simply lack of deepened reflection on the historical determinants indicated above. For it is impossible to shape a new reality without elementary recognition of the historical background, especially in such delicate matter. The result of the lack of this reflection were also relatively chaotic activities in various dimensions that did not manage to lead to any vision of building even minimal cohesion of the region.

Also in the area of rebuilding the industrial potential of the region, no significant progress has been made. In the major industrial centers, a part of the current potential has been preserved, but in the vast majority of smaller centers (powiat towns), this deep regression has not been restored - despite the attempts made. Therefore, these consequences of the industrial counter-revolution in the social sphere have proved to be a permanent phenomenon.

Unfortunately, the attempt to seek the place of the region in new areas of the economy was unsuccessful as a rule. It was not until 2015 that a study project concerning the assumptions of the revitalization process of the Kuyavian-Pomeranian Voivodeship was created³⁸. These works have not been finally completed. Meanwhile the main efforts of both regional and sub-national authorities focused on seeking development opportunities in the tourism sphere. Creating development plans at various levels, based on the development of the tourism sector, became a specific tenet³⁹.

It might seem in this context that such a unique regionalization of the region will be conducive to the reconstruction of its cultural mosaic. From the point of view of developing the tourist attractiveness of the region, just displaying its wealth of cultural heritage could be a very important asset. It turned out, however, that the regional authorities had much more faith in the construction of mini-aquaparks or dinosaur parks than in their own power⁴⁰.

5. Synthesis or regional multiplication?

The above statement is very sad. The more so that the specific multiculturalism of the region in today's reality should be one of its major assets. We have been observing a lot of successful experiments in this area over the last decades. The very tradition of the First Polish Commonwealth shows that its multiculturalism has been for many centuries the source of its great strength and attractiveness.

One can point to the example of Toruń, which over several centuries successfully synthesized German and Polish culture, thus creating the basis for the great splendor of the city⁴¹. We also see similar elements of the creative synthesizing of different cultures in later

³⁸ *Project assumptions for the revitalization process in the province Kuyavian-Pomeranian*, Office of the Marshal, Toruń 2015.

³⁹ On this subject, see b interesting remarks regarding the experiences of the Kujawsko - Pomorskie region [in:] A. Potoczek, *Regional policy and spatial economy*, Toruń 2003.

⁴⁰ Here also important observations on this issue [in:] A. Potoczek, *Territorial Policy as a public policy*, Toruń 2017.

⁴¹ It is amazing that at the turn of the 19th and 20th centuries, despite the very anti-Polish policy of the German authorities (so-called *Kulturkampf*), the population of Toruń, mostly using German language at that time, underwent a process of linguistic and cultural Polonization.

periods. At the same time, it was about the strength of Polish culture, which, thanks to the ability to draw from various sources, was able to defend itself, or even dominate, supported by autocratic German and Russian regimes, the cultures of these nations.

It is obvious that what today is about the weak bonds of various communities within the region is caused by numerous internal tensions. They prevent rational concern for the common good, through a wise search for common goals and benefits, which could become a strong development impulse for the region.

It must be remembered, however, that there is no place for any attempt to build a defined, new cultural community of the region. It seems that the various failures of the voivodship authorities so far result precisely from the conviction of various centers that such a top-down procedure is possible. This was accompanied by the conviction that regional institutions with the help of serious external funds would lead to the creation of such a model.

This operation was reminiscent of the heroic attempts of forcefully building some sort of "European identity" imagined in Brussels in recent years. Needless to say, just like the project of the European technocrats, debris collapsing before our eyes with increasing intensity, so have to end the attempts at a smaller, regional scale in a similarly diverse environment.

For the inhabitants of Central and Eastern Europe this is not a new experience. For many generations in individual countries of this part of the continent remember how, through the ideological pressure of the Soviet Union, they tried for half a century (and in the case of the state that is part of the USSR three quarters of a century) to create a new, universal "socialist" cultural identity, destroying centuries-old traditions. This project collapsed in a spectacular way and it is only surprising that at the beginning of the 21st century a new mainstream of the European Union, it undertook a similar in its essence effort to rebuild the nations and European countries. As indicated, the effects of these intentions are similar, but they turn out much more quickly.

However, to seriously discuss this topic, the question should be asked: is it necessary for the region to have a such unified identity? Even assuming - which seems rather impossible to us - that it could be constructed during the life of one generation, the question arises for what? Is the existence of such a thing a condition for the existence and development of the region? In our opinion, no.

The result of the hitherto "regional policy" is the constant tension and internal disputes that make him a "sick man" in external perception⁴². In this way, we ourselves give evidence that the existence of a region in such a construction is pointless. Since it is not only unable to solve the basic problems of its inhabitants, and also generates the necessity of external interference through permanent animosities, it will eventually lead to the conclusion that the only way to change this situation is the partitioning of the region between more mature neighbors⁴³. We have the impression that in many places in Kuyavian - Pomeranian region,

Consequently, at the beginning of World War II, the population identifying itself as Polish in Toruń, equaled or even exceeded the population identifying with German language and culture. After Toruń's return to Poland in January 1920, regardless of the fact that part of the German population left the city, the rest identified with Poland to the extent that the city had the largest share of Polish population among its inhabitants, from all major cities of the Second Polish Republic (nearly 95 %).

⁴² A classic example here is the conflict between the two main cities of the region: Bydgoszcz and Toruń. This conflict actually paralyzes the region's development opportunities.

⁴³ These sad reflections result directly from an important document: *Diagnosis of the socio-economic situation of the Kuyavian-Pomeranian Voivodeship. Voivodeship on the country's*

local communities are increasingly matured to such conclusions, recognizing that only in this way will it be possible to break the existing development impasse.

In this context, one must realize that each of the possibly fragmented parts of the region, however, will become even more peripheral in a possible new system and will fall even lower in its civilization status. However, the awareness of this is obviously post factum.

So how to respond to this challenge and create an unstoppable problem? It seems that the decisive action to strengthen all of the region's micro-cultural identities, strengthening them beyond the local character, is the way to rebuild the strength and significance of the region. The empowerment of these supra-local communities, strengthening their development potential and cultural traditions is the way to build a sense of regional community. Local communities, gaining real support from regional authorities, will become their greatest ally.

Only by supporting bottom-up development processes, raising the civilization level of crops.

References

- „Polska - Narodowe Strategiczne Ramy Odniesienia 2007 - 2013 wspierające rozwój gospodarczy i zatrudnienie”, Ministerstwo Rozwoju Regionalnego, maj 2007 [*Poland - National Strategic Reference Framework 2007 - 2013 supporting economic development and employment*, Ministry of Regional Development]
- Uchwała Rady Ministrów w dniu 14 stycznia 2003 roku o Narodowym Planie Rozwoju. [Resolution of the Council of Ministers about National Development Plan]
- Ustawa z dnia 5 czerwca 1998 r. o administracji rządowej w województwie (Dz. U. z 1998 Nr 91 poz. 577) [Act of 5 June 1998 on government administration in the voivodship (Journal of Laws of 1998 No. 91, item 577)].
- Ustawa z dnia 5 czerwca 1998 r. o samorządzie województwa (Dz. U. z 1998 Nr 91 poz. 576) [Act of 5 June 1998 on the self-government of the voivodship (Journal of Laws of 1998 No. 91 item 576)]
- Ustawa z dnia 24 lipca 1998 r. o wprowadzeniu zasadniczego trójstopniowego podziału terytorialnego państwa (Dz.U. 1998 Nr 96 poz. 603) [Act of 24 July 1998 on the introduction of an essential three-tier territorial division of the state (Journal of Laws 1998 No. 96, item 603)].
- Ustawa z dnia 6 grudnia 2006 roku o zasadach prowadzenia polityki rozwoju (Dz. U. 2006 Nr 227 poz. 1658) [Act of December 6, 2006 on the principles of conducting development policy (Journal of Laws 2006 No. 227 item 1658)].
- Rozporządzenie Rady Ministrów z dnia 7 sierpnia 1998 r. w sprawie utworzenia powiatów (Dz.U. z 1998 Nr 103 poz. 652) [Regulation of the Council of Ministers of 7 August 1998 on the creation of poviats (Journal of Laws from 1998 No. 103 item 652)].
- Biegański Z., *Kształt terytorialno-administracyjny regionu kujawsko-pomorskiego w XIX i XX wieku*. [w.] *Związki Kujaw i Pomorza na przestrzeni wieków*. [Territorial and administrative shape of the Kuyavian-Pomeranian region in the 19th and 20th centuries. [in:] *Relations between Kujawy and Pomorze over the centuries*]. Zbiór studiów pod red. Zdzisława

background. Forecasts and trends. Endogenous potentials. Bydgoszcz 2012. Although this document is not free from stereotypical approaches and is superficial in many elements, it is in practice the only, more serious attempt to analyze the complexity of the socio-economic situation of this region.

Biegańskiego i Włodzimierza Jastrzębskiego. Prace komisji historii BTN t. XVII: Bydgoszcz 2001.

Diagnoza sytuacji społeczno - gospodarczej województwa kujawsko - pomorskiego. Województwo na tle kraju. Prognozy i trendy. Potencjały endogeniczne [Diagnosis of the socio-economic situation of the Kuyavian-Pomeranian Voivodeship. Voivodeship on the country's background. Forecasts and trends. Endogenous potentials]. Bydgoszcz 2012.

Górski G., *Polonia Restituta. Ustrój Polski w XX wieku*. [Polonia Restituta. Polish constitutional order in the twentieth century]. Toruń 2018

Górski G., *Wokół genezy PRL*, [Around the genesis of the PRL]. Lublin 2004.

Jasiński K., *Zajęcie Pomorza Gdańskiego* [Occupation of Gdańsk Pomerania]. Zapiski Historyczne, Toruń 1966, R. 31 z. 3.

Mażewski L., *Królestwo Polskie 1815 - 1874. Powstanie i upadek państwa*. [Kingdom of Poland 1815 - 1874. Establishment and collapse of the state]. Przegląd Sejmowy 2017 Nr 2.

Mniejszości narodowe i etniczne w Polsce po II wojnie światowej. Wybrane elementy polityki państwa [National and ethnic minorities in Poland after the Second World War. Selected elements of state policy,] red. S. Dudra, B. Nitschke. Kraków 2010.

Mniejszości narodowe w Polsce. Państwo i społeczeństwo polskie a mniejszości narodowe w okresach przełomów politycznych (1944–1989) [National minorities in Poland. The state and Polish society and national minorities in the periods of political breakthrough (1944-1989)] red. P. Madajczyk, Warszawa 1998.

Potoczek A., *Polityka terytorialna jako polityka publiczna* [Territorial Policy as a public policy]. Toruń 2017.

Potoczek A., *Polityka regionalna i gospodarka przestrzenna* [Regional policy and spatial economy]. Toruń 2003.

Projekt Założeń procesu rewitalizacji w woj. kujawsko-pomorskim [Project assumptions for the revitalization process in the province Kuyavian-Pomeranian]. Urząd Marszałkowski, Toruń 2015.

Rocznik statystyczny województwa kujawsko - pomorskiego 2018 [Statistical Yearbook of the Kuyavian-Pomeranian Voivodeship 2018]. Wojewódzki Urząd Statystyczny Bydgoszcz 2018.

Sudziński R., *Kształtowanie się granic i podziału administracyjnego województwa pomorskiego (bydgoskiego) w latach 1945–1950* [Shaping the borders and administrative divisions of the Pomeranian Voivodeship (Bydgoszcz) in the years 1945-1950]. Zapiski historyczne Toruń 1973, R.37, z. 2.

Górska - Szymczak J., „More perfect Union” versus „ever closer Union” *Rozwój unii międzypaństwowych w Stanach Zjednoczonych i Unii Europejskiej w pierwszych pięćdziesięcioleciach ich istnienia*, [More perfect Union "versus" ever closer Union "The development of the interstate union in the United States and the European Union in the first fifty years of their existence"]. Toruń 2018.

Województwo kujawsko - pomorskie. Podregiony, powiaty, gminy [Kuyavian-Pomeranian Voivodeship. Subregions, poviats, communes]. Wojewódzki Urząd Statystyczny Bydgoszcz 2018.

Wysiedlać czy repolonizować? Dylematy polskiej polityki wobec Warmiaków i Mazurów po 1945 roku [Displaced or repolonized? Dilemmas of Polish policy towards Warmians and Masurians after 1945]. red. T. Filipkowski, W. Gieszczyński, Olsztyn 2001.

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