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## **REGULAR PAPERS**

## **STRATEGIES FOR PROMOTING POLISH IDENTITY IN THE NORTHEASTERN UNITED STATES**

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### **Abstract**

The survey research study described in this article was launched in Fall 2018 to assess the determinants of Polish identity among first and second-generation American born individuals of Polish descendant -- the generation first born in the United States whose parent(s) was/were born in Poland -or- the second generation born in the United States whose grandparent(s) was/were born in Poland and whose parent(s) was/were born in the United States. The study took place in the northeastern United States. The article begins with a brief literature review on the subject followed by a description of the research methods used, findings that pertain to a target audience, and a strategy for promoting Polish identity with this target audience. This strategy should prove useful to Polish cultural organizations in the northeastern United States (and perhaps elsewhere) in their efforts to develop programming that successfully promotes Polish identity with their audiences.

**Key words:** *Promoting Polish Culture, Polish Cultural Organizations, Survey Research, Northeast United States*

## INTRODUCTION

The survey research study described in this article was launched in Fall 2018 to assess the determinants of Polish identity among first and second-generation American born individuals of Polish descent -- the generation first born in the United States whose parent(s) was/were born in Poland -or- the second generation born in the United States whose grandparent(s) was/were born in Poland and whose parent(s) was/were born in the United States. The study took place in the northeastern United States. The article begins with a brief literature review on the subject followed by a description of the research methods used, findings that pertain to a target audience, and a strategy for promoting Polish identity with this target audience. This strategy should prove useful to Polish cultural organizations in the northeastern United States (and perhaps elsewhere) in their efforts to develop programming that successfully promotes Polish identity with their audiences.

### 1. LITERATURE REVIEW

Migration patterns have changed to the extent that a smaller percentage of people are living in their birth country now than at any other time in history [Esses, Medianu, Hamilton, & Lapshina 2015]. The number of immigrants worldwide reached 258 million in 2017, with the United States hosting the largest number of immigrants at approximately 50 million [United Nations 2017]. In Canada, it is projected that by 2031 almost half of the country's inhabitants will have a foreign-born parent or be foreign-born [Statistics Canada 2011].

Moving to a foreign country generally necessitates some level of acculturation that inevitably alters a person's original cultural identity [Schwartz, Unger, Zamboanga, & Szapocznik 2010]. Glinka and Brzozowska (2015) describe changes in cultural identity as "the process through which immigrants define their place and role in a host society, make sense of themselves and their actions" [Glinka & Brzozowska: 53-54]. Gone, Miller and Rappaport (1999) describe changes in cultural identity as a negotiation process in which immigrants face two competing reactions: a) cultural conservation, the level of importance attached to an immigrant's native identity and its preservation, and b) intercultural interaction, the extent to which immigrants learn and appropriate aspects of the host culture [Berry 2001]. Ellis and Chen [2013] suggest that an immigrant's identity negotiation is influenced by their level of interaction with the new community, their age at the time of immigration, feelings of fitting in, and the difference between their native cultural values and the values of the new community [Ellis & Chen 2013].

According to the 2017 United States Census Bureau, more than 9 million people (about 2.77% of the population) living in the country reported having Polish ancestry. Since World War II, the cultural identity of these Polish-Americans has been influenced by a steadfast devotion to religion and a specific style of social interaction reflected by the communities where they choose to reside, family customs, language, food and music [Swastek 1944]. It still is.

For many Polish immigrants in the United States, the parish Catholic church has meant more than a place to exhibit religious devotion. It has been a communal epicenter for the support and development of every stage of their lives. Children taught at parish schools in Polish neighborhoods often receive considerable instruction about Polish language and customs. The objective is to preserve their identity, culture, and religious values [Matten 2014]. Lewandowska (2008), who

studied the identity of second generation Poles born in Great Britain, found that Polish cultural identity was effectively preserved and transmitted by the Polish church, especially with children attending Saturday School where they were educated on Polish language, history, geography, and cultural traditions. The same influence of the Saturday Schools is evident among Polish immigrants in the United States.

Many Polish immigrants tend to live in Polish neighborhoods initially where the maintenance of their cultural identity is facilitated. These immigrant communities are “an urban village, a face-to-face/day-to-day world of kinship and friendship [with] common values, attitudes, language, and traditions” [Bukowczyk 1987: 35]. Later, once they begin to assimilate more fully into the American culture, many move out of these neighborhoods into suburban areas that are more multi-cultural. Underrepresentation of one’s cultural background in these new communities affects the degree they may hold on to their cultural identity. When a group feels ethnically underrepresented they often try to fit in with what they perceive as the majority culture. Under these circumstances their original ethnic traditions, language, and cultural values may begin to wane [Puloka 2010]. However, Poles, compared to many other ethnic groups, tend to have more friends that share their ancestry resulting in the “popular opinion that Polish-Americans are clannish” [Rokicki 2000: 91]. Even after they move to the more multicultural suburbs, Poles still tend to “visit the core communities for ethnic foods and shopping, Polish language church services, Saturday Polish schools for their children and cultural programs and events” [Jaroszynska-Kirchmann 2011: 108]. This helps keep their Polish identity alive.

Glebocki (2012) states that the geographical location of Polonia is not a determinant of intensity of connection to Polish roots or to Poland, what is important is their connection through family ties, the Internet, and the Polish language publications and media. Though the role of the Polish language press in strengthening Polish identity has shrunk considerably over time in the United States, online blogs and discussion forums, websites, and social media allow many immigrants to maintain social, economic and political interests with colleagues, friends and family in Poland on a daily basis. In addition, ease of travel allows many to live transnational lives. This certainly helps to strengthen their sense of Polish ethnicity.

Rokicki’s (2000) found that, among Polish immigrants, the “family home is a crucial factor that shapes an individual’s cultural identity. Home is a place [where] traditions, ceremonies, symbols, and values are assimilated through intentional or accidental learning and imitation of behaviors” [Lewandowska 2008: 214]. Women are particularly important in this regard. “Immigrant women in general are considered the guardians of ethnicity and religion within families and the main transmitters of ethnic culture to young generations” [Jaroszynska-Kirchmann 2011: 104]. Parents who are firmly engrained in their natal country’s cultural values tend to raise their children acknowledging their Polish background and language. Parents whose ties to Polish have diminished, are less apt to do so. Marrying outside ones ethnicity or religion is a strong predictor of cultural assimilation. Yet, “the preference for Polish (or at least Roman Catholic) spouses remains consistently high [among younger Polish-Americans]” [Jaroszynska-Kirchmann 2011: 110].

Temple’s (2010) found that Poles consider speaking their language a vital part of being Polish. The Polish language is seen as an instrument not just for communicating, but as helping to “differentiate between “us” and “others” in terms

of values” [Temple 2010: 301]. In Brazil where the use of the Polish language was forbidden for a time by the state, the clandestine use of the language changed it from being just a means of communication to more of a shared symbol of pride in their heritage [Juergensmeyer, 2018]. Miodunka’s (2003) found that immigrants who use the Polish language within social or organizational settings are much more apt to spread ancestral traditions, values, and identity among young generations. Yet, Puloka’s (2010) study about cultural changes in first and second-generation immigrants coming to America, found that developing a bicultural identity is contingent on being fluent in both country’s languages. Immigrants to the United States feel pressured to learn English and adopt American customs. They sometimes sense negative perceptions that U.S. born native English speakers have towards multilingualism. Immigrant parents often feel pressure to downplay the importance of their children learning the Polish language. This can quickly precipitate an erosion of their original cultural identity.

American consumerism has greatly influenced the culture of Polish immigrants. Kasprzak (2011) noted that American clothing styles are often quickly adopted and buying an American car is often seen as a sign of prosperity for Polish immigrants. Yet, Polish immigrants seem to resist assimilating American food habits to some degree. They may use readily available ingredients, but they tend to maintain an affinity for traditional Polish dishes [Kasprzak 2011]. In addition, many Polish immigrants tend to maintain their liking of traditional polka music. According to Jackson (2004) “Polka music possess a special power to promote Polish Americanness” [Jackson 2004: 64]. The lyrics often promote Polish heritage and highlight traditional values having to do with love and marriage.

As discussed above, the preservation of their cultural identity as Poles among Polish immigrants to the United States is influenced by (among other things) their devotion to religion, the communities where they choose to reside, intermarriage, the ease of online communication and travel, the women in the household, family customs, language, and the food they choose to eat and music they chose to listen to. It is well known that moving to a new country inevitably alters a person’s original cultural identity and practices. Polish cultural identity among Polish immigrants to the United States prior to the 1980s was thought to be a struggle to maintain in the face of mainstream American melting pot acculturation pressures. It still is. Yet, since the 1980s a new wave of Polish immigrants including post-Solidarity exiles and young professionals started arriving in the United States. Some of these immigrants have higher socio-economic status than previous Polish immigrants. This allows them to mix more smoothly in American society. These individuals also tend to have “a firm focus on the homeland, follow events there, and react to crises through social and political mobilization” [Jaroszynska-Kirchmann 2011: 107].

As stated earlier, the process of maintaining one’s cultural identity is affected by a) the level of importance an immigrant assigns to preserving their native identity and b) the extent they adopt aspects of the host culture [Gone, Miller & Rappaport 1999]. It is a blend of these two competing processes that will help create an immigrant’s cultural self-image going forward. The issue today may not be preservation of one’s cultural identity in a pure sense. The objective may be to find ways to help cultivate what Herbert Gans (1979) referred to as “symbolic ethnicity” reflected by “practices involving nostalgic and simplified representation of the ethnic past; selective celebration of certain rituals of passage or ethnic holidays;

consumption of ethnic foods, support for ethnic politicians, and interest in support of the Old Country [Jaroszynska-Kirchmann 2015: 198].

The level of importance a Polish immigrant to the United States assigns to preserving their native cultural identity can be influenced by the myriad Polish cultural organizations in operation today. Helping these organizations to develop programming that successfully promotes Polish identity with their audiences is important. Understanding who their primary target audiences are, what programming will best match their audiences' interests, what persuasive messages will best resonate with these audiences, who might be considered the most credible sources of information with these audiences, and how best to deliver information to them are key components necessary for developing an effective promotional strategy [Tyson 2017].

## **2. SURVEY RESEARCH METHODS AND LIMITATIONS**

Participants were first and second-generation American born individuals of Polish descent - the generation first born in the United States whose parent(s) was/were born in Poland -or- the second generation born in the United States whose grandparent(s) was/were born in Poland and whose parent(s) was/were born in the United States. A sample frame comprised of members from five Polish cultural organizations was used for the survey. The survey was administered online through SurveyMonkey.com. The survey was sent via email with an introductory statement to a) 380 Central Connecticut State University students who had taken courses in the past in the university's Polish Studies Program, b) 80 members of The Polish American Congress Connecticut Division, c) 142 members of The Polish American Foundation of Connecticut, d) 100 members of The Kosciuszko Foundation New England Chapter, and e) 350 members of The Polish Genealogical Society of the Northeast – for a total of 1052 people. A reminder email was sent one week later. A notice about the survey was also posted on the Facebook page of The Polish Genealogical Society of the Northeast. A reminder post was placed one week later. In all instances, recipients were instructed to share the link to the survey with other first and second American born individuals of Polish descent living in the northeast United States. Recipients were instructed to click on a web address that took them immediately to the survey questionnaire. The survey took approximately 15 minutes to complete. It was available for two weeks from October 8-22, 2018. Completed surveys numbered 603.

It needs to be noted that though sampling procedures and the size of the respondent sample for the survey would indicate that findings could be generalized to Polish cultural organizations in the northeast U.S., the fact that 69.7% of survey respondents were female and their average age was 64.5 indicates there is some bias in the sample. The fact that the average age of the sample was somewhat high, probably indicates that few college age students in the sample frame responded to the survey. With college students removed, membership in the other four organizations was 55% female and 68% were above age 60 indicating sampling bias is of less concern at least concerning age. As subsequent analyses show, the target audience, those who identify with their Polish heritage “a great deal” and put at least “a lot” of emphasis on the importance of their Polish heritage with children they have/raise, consists of 75.7% women with an average age is 63.1. In terms of gender and age, though the analysis procedures allowed for younger age and less women in the target audience, analyses indicate that the most effective group to

target is very similar to those that responded to the survey; i.e., women over age 60. These are the ones most apt to respond to the survey. They are also the ones most apt to respond positively to messages promoting Polish ethnicity.

### **3. THE TARGET AUDIENCE**

An effective promotional strategy nearly always begins by defining a target audience. Once the target audiences is identified, programming that best matches their interests, persuasive messages that best resonate with their thinking, sources of communication they consider most credible, and methods for delivering information they most prefer can be identified. The overall promotional strategy is much more apt to achieve its objectives when it is uniquely tailored to a specific audience segment. It follows that the more narrowly defined the audience segment, the more targeted a promotional strategy can be and the more likely that strategy is to achieve its objectives. Yet, fewer people are reached as the focus narrows. The challenge is to seek a large enough group so there will be a significant impact, yet a narrow enough focus so that you will realize results [Tyson, 2017].

The target audience selected for the following analyses was defined a priori as a) those who identify with their Polish heritage “a great deal” and b) put at least “a lot” of emphasis on the importance of their Polish heritage with children they have/raise. It is thought that these individuals will be more apt to respond most positively to promotional messages and importantly, that they would help diffuse the information they received to others that did not fall within the target audience; i.e., they would serve as opinion leaders mobilizing those around them. The segment that met these criteria included 145 individuals (24% of all survey respondents); 75.7% are women and their average age is 63.1. Nearly three quarters (73.1%) are second generation U.S born people of Polish descent (their parent(s) was/were born in the U.S.).

### **4. COMPARATIVE ANALYSIS BETWEEN THE TARGET AUDIENCE AND ALL RESPONDENTS**

All statistics listed below are displayed in the order Target Audience versus All Respondents (respectively). As can be seen, there are slight to moderate difference across a vast number of factors between these two groups.

- The target audience consists of more women (75.7% vs 69.7%).
- A greater number of target audience respondents had all four grandparents born in Poland (61.1% vs 46.8%).
- A greater number of target audience respondents had three of four grandparents born in Poland (14.6% vs 9.7%).
- A greater number of target audience respondents had both parents born in Poland (21.4% vs 10.9%).
- A greater number of target audience respondents had mothers/fathers raised in Poland (18.8%/20.1% vs 10.9%/13.3%, respectively).
- Fewer members of the target audience respondents are second generation U.S. born people of Polish descent (73.1% vs 80.6%); i.e., more are first generation U.S. born (21.4% vs 10.9%).
- A greater number of target audience respondents come from conservative families (grandparents and parents) (average 57.4% vs 49.6%), and are conservative themselves (33.3% vs 31.5%).

- Target audience respondents come from families (grandparents and parents) that read/wrote/spoke more Polish at home (average mean value 1.93 vs 2.43, on 1-5 scale, a great deal to not at all) and read/wrote/spoke more Polish themselves at home (mean value 3.60 vs 4.19, on 1-5 scale, a great deal to not at all).
- A greater number of mothers/fathers of target audience respondents were raised in Polish neighborhoods (85.4%/70.2% vs 64.9%/64.9%, respectively).
- Target audience respondents come from families (grandparents and parents) that interacted more with people of Polish descent (average mean value 1.42 vs 1.84, on 1-5 scale, a great deal to not at all) and interacted more with people of Polish descent themselves (mean value 2.68 vs 3.33, on 1-5 scale, a great deal to not at all).
- A greater number of target audience respondents come from families (grandparents and parents) that consider themselves Polish (average 64.0% vs 46.4%), and consider themselves Polish (17.5% vs 8.2%).
- A greater number of target audience respondents consider themselves either Polish or Polish-American and less consider themselves American (17.5% vs 8.2%, 68.5% vs 54.7%, 11.9% vs 32.6%, respectively).
- Target audience respondents come from families (grandparents and parents) that embrace their Polish heritage more (average mean value 1.32 vs 1.69, on 1-5 scale, a great deal to not at all) and do so themselves (mean value 1.00 vs 2.19, on 1-5 scale, a great deal to not at all).
- Target audience respondents come from families (grandparents and parents) that express their ethnicity by celebrating more holiday traditions (average mean value 1.46 vs 1.91, on 1-5 scale, a great deal to not at all) and do so themselves (mean value 1.94 vs 3.05, on 1-5 scale, a great deal to not at all).
- Target audience respondents come from families (grandparents and parents) that express their ethnicity through more consumption of Polish foods (average mean value 1.44 vs 1.84, on 1-5 scale, a great deal to not at all) and do so themselves (mean value 1.97 vs 2.89, on 1-5 scale, a great deal to not at all).
- Target audience respondents come from families (grandparents and parents) that express their ethnicity by attending more commemorative events (average mean value 2.36 vs 2.70, on 1-5 scale, a great deal to not at all) and do so themselves (mean value 3.35 vs 3.96, on 1-5 scale, a great deal to not at all).
- Target audience respondents come from families (grandparents and parents) that express their ethnicity through more membership in Polish cultural organizations (average mean value 2.77 vs 3.06, on 1-5 scale, a great deal to not at all) and do so themselves (mean value 3.58 vs 4.02, on 1-5 scale, a great deal to not at all).
- Target audience respondents know more about Pre-WWII Polish history, WWII Polish history, Post-WWII Polish history and Contemporary Polish history (mean values 2.65 vs 2.99, 2.37 vs 2.70, 2.54 vs 2.93, 2.86 vs 3.36, respectively, on 1-5 scale, a great deal to not at all).
- As can be seen from the Table 1, target audience respondents are more interested in all potential program topics (mean values that are reported were assessed on 1-5 scale, a great deal to not at all).

**Table 1: Interest in Program Topics**

<b>Interested in establishing...</b>	<b>Target audience</b>	<b>All respondents</b>
...contact with organizations in Poland that can assist you with genealogy research about you Polish ancestors	1.97	2.16
...contact with organizations in the U.S. that can assist you with genealogy research about you Polish ancestors	1.99	2.23
...contact with organizations in the U.S. that offer workshops or publications about Polish language, history, culture	2.28	2.86
...scholarly contact with people in the U.S about Polish language, history, culture	2.41	2.96
...scholarly contact with people in Poland about Polish language, history, culture	2.56	3.10
...contact with organizations in Poland that offer workshops or publications about Polish language, history, culture	2.77	3.29
...contact with business/industry organizations in Poland that might have similar interests	3.48	3.90

Source: own processing, 2018

## **5. A STRATEGY FOR PROMOTING POLISH IDENTITY IN THE NORTHEASTERN UNITED STATES**

Based on the review of literature and the survey findings, the following recommendations are offered for promoting Polish identity in the northeastern United States. These recommendations may help Polish cultural organizations in the northeast United States and perhaps elsewhere in the world better develop and disseminate programs that successfully promote Polish identity.

Noted in the literature review is the fact that more recent Polish immigrants tend to mix more smoothly in American society, but they also tend to maintain strong social and political attachments to Poland. This bodes well for at least cultivating a sustained sense of “symbolic ethnicity” involving basic and nostalgic views of their ethnic heritage, celebration of certain holiday and religious rituals, consumption of ethnic foods, and interest in the history and culture support of Poland.

### **5.1. The Target Audience**

The primary target audience includes influential individuals that are most apt to respond positively to promotional messages delivered by Polish cultural organizations; i.e., those most apt to appreciate and retain aspects of their native Polish culture and share the importance of this with future generations. The assumptions are a) that this group will benefit from interactions with Polish cultural organizations by cultivating a greater appreciation for their Polish heritage and b) influence their family members, friends and colleagues of Polish descent to benefit from the same appreciation of Polish culture. Prioritizing this group as the target audience does not mean that the strategy is “singing to a choir” whose motivations are already in line with your objectives. It more likely means that the strategy will influence those most apt to be sympathetic to your messages which should in turn motivate them to follow through with their inclinations and hopefully help promote Polish culture with others. This allows you to use limited resources

most wisely by targeting the “low hanging fruit” – those whose effective assistance is most easily secured. The objective is to get members of the target audience to follow through with their inclinations, help them cultivate a stronger appreciation of their Polish heritage, and to help them share this with others.

The target audience group comprised 24% of all respondents to the survey. They are defined by a) the fact that they identify with their Polish heritage “a great deal” and b) put at least “a lot” of emphasis on the importance of their Polish heritage when raising children. Members of the group have at least one parent or grandparent born in Poland. Approximately three quarters have at least three grandparents born in Poland. They themselves were born in the United States. Nearly three quarters are second generation U.S born people of Polish descent (their parents were born in the U.S.); slightly less than one quarter are the first generation U.S born. Yet, it should be noted, when compared with all respondents to the survey, members of the target audience are slightly more likely to be the first generation born in the United States.

As might be expected based on the literature, they come from families that read/wrote/spoke the Polish language at home a lot; yet they themselves use the Polish language only a moderate amount (albeit more than non-target audience members). Not surprising, based on the literature, the group tends to be female and older. Three quarters of them are women and their average age is about 63. As supported by the literature, they are more apt to have relatives in Poland that they are at least moderately familiar with. The literature suggests that the widespread use of internet-based communication and ease of travel facilitates this. The target audience is also more apt to come from families that were raised in Polish neighborhoods and who interacted a lot with fellow Poles. They themselves tend to interact more often with people of Polish descent too. As might be expected, they are more apt to come from families that considered themselves Polish and they are more likely to consider themselves Polish, or at least “Polish-American”. In addition, as stated in the literature, they tend to celebrate holidays in the Polish tradition, consume Polish foods, attend Polish commemorative events, and join Polish cultural organizations more often. In essence, they are more closely connected to their Polish heritage than respondents who are not in the target audience.

As supported by the literature, the vast majority of the target audience come from Catholic families and consider themselves Catholic. When compared with all respondents to the survey, they are more apt to come from what they label as “conservative” families and one third consider themselves conservative. In terms of occupation and formal education, there is no difference between those in the target audience and those who are not. Yet, they do tend to be better educated concerning Pre-WWII Polish history, WWII Polish history, Post-WWII Polish history and Contemporary Polish history than respondents who are not in the target audience.

## **5.2. Suggested Program Themes**

In order of most to least interest, assessed on 1-5 scale, a great deal of interest to not at all interested, the primary target audience consider the topics presented in Table 2 of greatest interest.

**Table 2: Priority Program Topics**

Interested in establishing...	Target audience
...contact with organizations in Poland that can assist you with genealogy research about you Polish ancestors.	1.97
...contact with organizations in the U.S. that can assist you with genealogy research about you Polish ancestors.	1.99
...contact with organizations in the U.S. that offer workshops or publications about Polish language, history, culture.	2.28
...scholarly contact with people in the U.S about Polish language, history, culture.	2.41
...scholarly contact with people in Poland about Polish language, history, culture.	2.56
...contact with organizations in Poland that offer workshops or publications about Polish language, history, culture.	2.77
...contact with business/industry organizations in Poland that might have similar interests	3.48

Source: own processing, 2018

Polish cultural organizations may want to prioritize their programming based on these findings. Especially popular in this age of inexpensive DNA-based ethnicity testing is genealogical research which these organizations could help facilitate. It should be noted that the target audience gave “contact with business/industry organization in Poland that might have similar interests” an average rating of only 3.48 meaning it is of less than moderate interest.

### 5.3. Messages to be Communicated

Promotional messages to the target audience need to be designed in a way that appeals to an older, female, second generation U.S. born audience who tend to be conservative politically and active in the Catholic church. The initial challenge is to secure the audience’s attention and heighten their interest in the organization’s mission. Messages that address family history, the celebration of holidays in the Polish tradition, the preparation and consumption of favorite Polish foods, attendance at Polish commemorative events, and interactions with Polish cultural organizations should resonate effectively with this audience. Messages should recognize that the audience strongly identifies with their Polish heritage, consider themselves Polish or Polish-American, and have strong relationships with people living in Poland. Because the target audience tends to have above average knowledge and interest in Pre-WWII Polish history, WWII Polish history, Post-WWII Polish history and Contemporary Polish history, messages that address these issues should peak their interest.

Once the audience’s attention and interest has been secured, the objective changes to helping them perform the role of opinion leaders in the community; i.e., the role of influencing others to have greater appreciation for their Polish identity. Closely associated with this is helping them form positive attitudes about the organization. Messages describing the history of the organization, its present mission, its structure, and opportunities for involvement need to be communicated clearly.

Messages that promote the benefits of involvement and alleviate any concerns about involvement will help the audience form intentions to become involved. Once intentions to becoming involved have been formed, it will be the organization's responsibility to minimize any potential barriers that might block a person from following through with their intentions (e.g., minimize membership fees, structure meetings and activities at convenient times in convenient locations, design programs at a comfortable level of sophistication, provide opinion leader training, coordinate and facilitate their activities in the community).

#### **5.4. Preferred Sources of Communication**

The perceived credibility of the source of communication greatly affects the efficacy of promotional messages. Sources that are viewed by the audience as knowledgeable and trustworthy are more persuasive. Research findings suggest that because of the audience's close attachments to people who consider themselves Polish (or at least Polish-American), sources that have active ties to Poland may be considered most credible. In addition, because of the target audience's interest in religion, active members of the Catholic church may prove to be effective sources. Research findings also suggest that the target audience has interest in hearing from scholars of Polish history and from organizations that promote Polish culture and perform Polish genealogical research. Representatives from these three groups should also prove to be effective sources of information.

#### **5.5. Preferred Communication Channels**

In order of most to least effective, assessed on 1-5 scale, extremely effective to not at all effective, the target audience consider a) Polish culture social events/fairs/parades, b) websites of Polish cultural organizations, c) social media posts by Polish cultural organizations, d) word-of-mouth through friends and acquaintances, and e) general social media networking as their preferred communication channels. These five communication channels were rated between 2.12 and 2.54 meaning they are perceived to be just slightly less than "very effective". It needs to be noted that Polish language television, Polish language radio, Polish language newspapers, and Posters put up in local shops were considered to be the least effective – rated between 3.01 and 3.52, between "somewhat effective" and "not so effective." Use of these channels as a means of communicating with the target audience should be employed with some skepticism.

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# **FREE MOVEMENT OF WORKERS AND THE EU INTEGRATION PROCESSES, EXPERIENCE OF THE POLISH IMMIGRANTS IN FRANCE**

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## **Abstract**

Free Movement of Workers is the fundamental right of EU citizens and one of the key principles of the European Single Market. Economic and migration crises however revealed that the immigrant workers' issue raises high-tension debates in Member States. The focus of this paper is on the Polish blue-collar immigrant workers in France. Their situation in the host country and their interactions with the French society are analysed through their experience at the workplace. First, the working conditions of Polish immigrants in the French labour market after 2008 are examined. The paper then discusses the cultural differences at the workplace, as well as the French employers' and clients' attitudes towards Polish workers. Finally, the impact of Free Movement of Workers on immigrant's adaptation and integration processes is studied.

**Key words:** *European Union, Free Movement of Workers, Stereotypes, Immigrant Worker, Integration at the Workplace*

## **INTRODUCTION**

The European Union integration process is founded on economic measures that break down barriers in the internal Single Market. Free Movement of Workers is considered one of the key principles of European integration [Treaty on the Functioning of the European Union, Article 45]. This fundamental right of workers applies to European Union, Island, Lichtenstein, Norway and Switzerland citizens seeking job opportunities in the European Economic Area [European Union Charter of Fundamental Rights, Article 45]. The principle of Free Movement of Workers

guaranties European Union nationals and their family members the right to work and to reside in another Member State [Regulation (EU) No 492/2011]. Those immigrant workers ought to be treated on an equal footing with local citizens regarding access to employment, remuneration and working conditions [Directive 2004/38/EC]. Free Movement of Workers principle also involves the coordination of social security schemes, health insurance and healthcare to facilitate the labour mobility [Regulation (EC) No 883/2004].

Though European strategies conducive to geographical movement of workers, the integration processes does not occur without objections. Current economic and migration crises clearly show that the issue of immigrant workers triggers controversy and public debates in all European Union's Member States. The highly publicized stereotype of a "Polish plumber" is a clear illustration of this phenomenon. This symbol of social dumping was coined in France on the eve of the referendum on the Treaty establishing a constitution for Europe in 2005. The depiction represented the Central and Eastern European immigrants requesting easy access to jobs to improve their life situation [Patok 2017]. This stereotype was an expression of fears about economic migrants flooding Europe's Old labour markets.

This paper relates to the experience of Polish blue-collar workers in France, the subject of high-tension debates, following the French labour market opening for Poles in 2008. It is important to stress that current Polish community in France is different from the three previous migration waves: the Great Emigration following the November and January Uprisings [Pezda 2001: 167-177], a large economic migration during the interwar period [Paczkowski 1979: 17] and political migration from Polish state during communism [Śladkowski 1980: 15]. Today an economic migration is a choice that does not exclude the possibility of a return to or of being in daily contact with relatives living in the state of origin. France is not the main destination for Polish immigrant workers [Główny Urząd Statystyczny 2018]. Poles constitute a rather small group compared to other communities of immigrants in France. Unlike the previous Polish migrations, the majority of the current wave are women [Institut national de la statistique et des études économiques 2014].

In the context of economic and migration debates there arises a question of the impact of the Single Market freedoms on the immigrant workers' adaptation and integration into the host society. This paper's focus is on the Polish immigrants employed in blue-collar occupations in France and their integration into the French labour market. Their situation in the host country and their relations with their French colleges, employers or customers are examined through the variety of their experiences at the workplace.

In the first part of this paper I will present the research methodology, as well as the group studied. The next part will discuss the research results. First, I will examine the working conditions of Polish immigrants in the French labour market after 2008. The study will continue with the analysis of the cultural differences at the workplace. Finally, I will focus on the French employers' and clients' attitudes towards Polish workers. In conclusion, I will try to understand the effect that the principle of Free Movement of Workers has on immigrant's adaptation and integration into the host society.

## 1. METHODOLOGY AND THE STUDY SAMPLE

The study was conducted in a Paris metropolitan area between 2011 and 2016 in a qualitative approach of Grounded Theory method [Glaser and Strauss 2006]. The research is based on 60 semi-structured interviews with Polish blue-collar immigrant workers, the participant observation and dozens of informal conversations at their workplaces or homes. I have also carried out the observations in a public space frequented by Polish immigrants in Paris, such as Polish shops and parishes, public transport and Polish or French offices of public administration. I used non-probability sampling [Babbie 2007] in order to construct the analysed group of the population of Polish blue-collar immigrants working in France (Table 1 and Table 2). It is important to notice that Polish immigrants are also employed in highly qualified and managerial roles, but these would require a different analysis, which is not the purpose of this paper. First, I have randomly selected six unrelated Polish blue-collar workers. Then, each of them indicated two or three persons from his or her labour environment who met the criteria of my target group. The following respondents were selected according to the same rule. Finally, the group studied consisted of 28 men and 32 women in working age.

My aim was to create a diverse group of Polish immigrants who varied in the length of their residence and arrival moment whether it was before or after the Polish accession to European Union in 2004. I also considered the immigrant worker's age, the declared level of French proficiency, as well as their marital status.

The variety of these factors allowed me to compare different experiences of Polish immigrants working as blue-collar workers in France. My main purpose was to understand the processes of their adaptation and integration into the host state's labour market, and not to represent entirety of Polish blue-collar workers in Paris or all Polish immigrants in France.

In this study, in order to understand the adaptation and integration processes, I crossed two theoretical frameworks. Firstly, in order to analyse the relations between Polish immigrant workers and their French employers, colleagues or customers I referred to symbolic interactionism: Howard Becker's labelling theory [Becker 2009] and Erving Goffman's notion of stigma [Goffman 1996]. Secondly, I examined the choices made by immigrant workers in their professional lives. For this purpose, I applied the concepts from methodological individualism, more accurately Raymond Boudon's theory of rational actions [Boudon 1983] and Michel Crozier's strategic analysis [Crozier and Friedberg 1977].

**Table 1: Study population: Women by age, occupation, residence period in France, level of French proficiency and marital status**

N°	First name	Age	Occupation	Residency in France	Level of French proficiency (self declaration)	Marital State
1	Magdalena	20	Babysitter	10 months	Does not speak any French	Single
2	Monika	20	Intern	4 months	Advanced	Single
3	Dorota	21	Cleaner (Self-employed)	6 months	Basic	Married, Polish husband living in France

4	Monika	22	Shop assistant	3 years	Advanced	Single
5	Weronika	23	Ice cream seller	3 years	Advanced	Single, French partner
6	Aleksandra	24	Secretary	3 years	Advanced	Single, French partner
7	Agata	25	Babysitter	10 months	Basic	Single, Polish partner living in France
8	Aleksandra	25	Waitress	3 years	Advanced	Single, French partner
9	Sabina	26	Babysitter	10 months	Intermediate	Single
10	Iga	27	Dancer (Showgirl)	5 years	Basic	Single, Polish partner living in Germany
11	Maja	27	Dancer (Showgirl)	1 year	Basic	Single
12	Magdalena	28	Secretary	7 years	Advanced	Single, French partner
13	Magdalena	28	Barmaid	3 years	Intermediate	Married, Polish husband living in France
14	Paulina	28	Cleaner (Self-employed)	4 years	Basic	Married, Polish husband living in France
15	Agnieszka	29	Barmaid	1 year	Intermediate	Single
16	Agnieszka	30	Dancer (Showgirl)	5 years	Advanced	Married, French husband, one child
17	Magdalena	30	Cleaner (Self-employed)	7 years	Basic	Married, Polish husband living in France
18	Dagmara	34	Amusement park employee	6 years	Intermediate	Single, Polish partner living in France
19	Edyta	34	Cleaner (Self-employed)	2 years	Basic	Married, Polish husband living in France, one child
20	Katarzyna	35	Concierge	10 years	Advanced	Married, French husband
21	Joanna	36	Dancer (Showgirl)	5 years	Advanced	Married, Cuban husband living in France, two children
22	Aneta	37	Babysitter (Self-employed)	10 years	Advanced	Married, French husband
23	Lucyna	37	Concierge	16 years	Advanced	Married, French husband, one child
24	Magdalena	37	Stewardess, former Cleaner	11 years	Advanced	Married, French husband, two children
25	Violetta	37	Cleaning lady (Self-employed)	6 years	Basic	Married, Polish husband living in France, three children
26	Marta	38	Cleaning lady (Self-employed)	11 years	Intermediate	Married, Polish husband living in France, two children
27	Wioleta	38	Waitress, cleaning lady	6 years	Intermediate	Divorced with Polish man, French partner, two children

28	Iwona	49	Grocery store owner	21 years	Advanced	Divorced with Polish man, Australian partner living in France, two children
29	Malgorzata	51	Secretary	21 years	Advanced	Married, Polish husband living in France, one child
30	Barbara	56	Shop assistant	30 years	Advanced	Married, Polish husband living in France, two children
31	Jolanta	56	Hostess, cleaning lady (Self-employed)	30 years	Advanced	Married, French husband, one child
32	Aleksandra	60	Bar owner	20 years	Intermediate	Married, Polish husband living in France, three children

Source: Author's findings based on her research

**Table 2: Study population: Men by age, occupation, residence period in France, level of French proficiency and marital status**

N°	First name	Age	Occupation	Residency in France	Level of French proficiency (self declaration)	Marital State
1	Kamil	21	Construction worker	6 months	Does not speak any French	Married, Polish wife living in France
2	Lukasz	23	Plumber	1 year	Does not speak any French	Single
3	Slawomir	23	Construction worker	5 years	Intermediate	Single
4	Grzegorz	25	Construction worker (Self-employed)	5 years	Intermediate	Single
5	Artur	27	Construction worker	2 years	Basic	Single
6	Grzegorz	27	Construction worker, plumber	6 years	Intermediate	Married, Polish wife living in Poland
7	Pawel	27	Construction worker	2 years	Basic	Married, Polish wife living in France
8	Pawel	27	Shop assistant	6 years	Advanced	Single, Bulgarian partner living in France
9	Tomasz	28	Construction worker (Self-employed)	3 years	Intermediate	Single
10	Waldemar	28	Mason	7 years	Basic	Divorced with Polish woman, two children
11	Konrad	30	Construction company office worker	3 years	Basic	Single, Polish partner
12	Piotr	30	Mason (Self-employed)	5 years	Intermediate	Divorced with Polish woman

13	Lukasz	31	Construction worker	2 years	Basic	Single
14	Szymon	31	Construction worker (Self-employed)	3 years	Basic	Married, Polish wife living in France
15	Piotr	32	Construction worker	2 years	Does not speak any French	Married, Polish wife living in Poland, two children
16	Mariusz	33	Construction worker, construction company owner (Self-employed)	10 years	Advanced	Married, Polish wife living in France, two children
17	Piotr	35	Construction worker (Self-employed)	8 years	Basic	Married, Polish wife living in Poland, two children
18	Piotr	36	Construction worker (Self-employed)	5 years	Basic	Married, Polish wife living in France, one child
19	Dariusz	36	Construction worker (Self-employed)	4 years	Intermediate	Married, Polish wife living in France, two children
20	Mariusz	38	Construction worker, construction company owner (Self-employed)	7 years	Advanced	Married, Polish wife living in France, three children
21	Pawel	38	Construction worker (Self-employed)	3 years	Intermediate	Married, Polish wife living in France, one child
22	Rafal	38	Construction worker, construction company owner (Self-employed)	14 years	Advanced	Married, Polish wife living in France
23	Robert	38	Electrician (Self-employed)	17 years	Intermediate	Married, Polish wife living in France, two children
24	Grzegorz	41	Mechanic, truck driver (Self-employed)	6 years	Intermediate	Married, Polish wife living in France, two children
25	Mariusz	48	Construction worker, plumber, construction company owner (Self-employed)	17 years	Advanced	Married, Polish wife living in France, three children
26	Jaroslaw	48	Construction worker	2 years	Does not speak any French	Married, Polish wife living in Poland, two children
27	Marian	50	Security guard	7 years	Basic	Married, Polish wife living in France
28	Jan	66	Bookstore assistant	23 years	Advanced	Married, Polish wife living in France, one child

Source: Author's findings based on her research

## 2. THE RESULTS OF THE RESEARCH

### 2.1. Company type and working conditions in the French labour market

As a result of the opening of the French labour market in 2008, a Polish worker is subjected to similar procedures as French citizens in terms of law and

administration. Consequently, the situation for both a Polish immigrant and her or his French employer has evolved. The focus of this part of the paper is on the Polish blue-collar workers' current working conditions in France. I was interested in Polish immigrants' economic and social situation resulting from new legal aspects of their professional situation. Following the experience of workers from the group studied, I identified three types of companies employing Polish workers in France. The differences result from professional occupation and network, knowledge regarding French labour market and the choices made by the immigrant worker.

French companies, which pay taxes in France, represent the first type of working environment. In this case, the business can be founded and managed either by a French or Polish principal. The Polish immigrant workers are employed in the exactly same way as their French colleagues. Pawel, a 27-year-old construction worker living in France for 2 years, explains this situation: "I've got the same [employment] contract as the French. Yes, as I've got all [the] papers, I had no worries. Everything was done by my boss". Furthermore, the immigrant worker evolves in the international environment where she or he mixes with people from other cultures and courtiers. As a result, the Polish immigrant worker knows and understands her or his rights and obligations as employee. In the group studied, this experience encouraged the immigrants to start their own business in the French labour market. Interviewees stated that a company established in France seems more credible for local customers. All administrative procedures are also easier to achieve. A self-employment is a very popular form of French business activity, especially for men in the construction sector or women working as cleaners and babysitters. The experience of Mariusz, a 33-year-old construction worker and construction company owner living in France for 10 years is an example: "I founded my company here (...) because the French are a bit conservative. Having a Polish insurance can be complicated".

Companies registered in Poland but carrying out their work only in France illustrate the second type of working conditions. The interviews clearly show that in this case the employees are constantly, as they say "in the delegation", even though they have been living in France for years. In the group studied these were men working in a construction sector. They often come from the same town or village in Poland and are provided with housing. This type of company employs seasonal workers without a contract and permanent employees working only in France under the Polish Labour Code. In consequence, they are not covered by the French health and social care systems. Grzegorz, a 27-year-old plumber and construction worker living in France for 6 years describes his experience: "our company is Polish, I mean registered in Poland. (...) We've never worked in Poland. I go on holidays to Poland for two weeks every six months". Following the experience of workers studied, this is usually immigrant's first job opportunity. In the group studied it was a case of blue-collar workers with little knowledge of French labour market and limited contacts with the French society.

Foreign franchises registered in France and employing workers of different origins represent the third and the last type of working conditions. In the group studied, restaurant, clothing sectors and amusement parks illustrated this type of enterprises. They operate under the same legal rules as the French companies, however, the strategies and the culture of management may be different from a typical French company. The interviews show that in this case the managerial positions are held by employees with work experience in other countries. Foreign

franchises in France also tend to employ workers of different origins. All formal and legal aspects are quickly resolved. Workers often take advantage of several benefits, such as training provided or funded by the company in order to improve professional skills. This type of international franchise usually employs the young Polish women from the studied group. The experience of Dagmara, a 34-year-old amusement park employee living in France for 6 years, shows that welfare guaranteed by her employer had a significant impact on her migratory and professional career: "I do not want to leave [this company] because we have good insurance and social protection. This company gives us a lot of opportunities of professional development and eventually a promotion".

The research results indicate that the opening of the French labour market, as a consequence of Poland's accession to the European Union structures, had a significant effect on the Polish immigrants' everyday life. As equals in terms of law to her or his French colleagues, Polish worker has more opportunities to evolve professionally in France. Today the immigrants confront less complex administrative procedures and become more aware of their rights in France. The fact of being employed in a different type of company: French or Polish company or international franchise, affects the living standards, French proficiency and the breadth of interactions with the French society.

## **2.2.Cultural differences at the workplace**

The work organization in particular at the construction site is based on the same principles in both studied countries, in France and in Poland. Nevertheless, the attitudes regarding labour differ between the Polish and French employees. These attitudes are directly related to the work culture of each country. Social depictions are the mechanisms that bring together sentiments, morals and illusions cementing society [Valade 1997: 304-402]. These simplified and descriptive categories are inseparable from social practice and they influence the decisions and opinions of individual [Gresle et al. 1994: 355]. The interviews indicate four major cultural differences between Polish and French workers observed at their workplace in France.

Firstly, the notion of working pace is different. The Polish immigrants from the group studied used to work from Monday to Saturday, while their French colleagues usually have their weekend free. Polish workers are also more prepared to have a longer working day. The temperaments of Polish and French workers are also different. Following the interviews, Polish immigrants appreciate working with the host country colleagues more than with their compatriots. Grzegorz, a 25-year-old construction worker living in France for 5 years explains: "The work with the French is great! We work calmly. We inserted two doors during the day. The Poles fixed ten doors in the same time. The French are laid back and the Poles are always ready to work longer".

Secondly, the research clearly shows that in the opinion of Polish workers their French colleagues are highly specialized, but only in one domain, for example in masonry. Polish workers are more versatile and ready to be responsible for many fields at the same time like masonry, electricity and plumbing. The illustration is the experience of Waldemar, a 28-year-old mason living in France for 7 years: "in France even quite recently you're supposed to be very good in your job; (...) I've met [French] specialists who were really good. Yet, they had limited skills. On the other hand, Poles are usually very versatile and they are performing more tasks".

Then, in the group studied the French colleagues are considered to be more polite than the compatriots at the workplace. Also, French superiors are not authoritarian, in contrast to the Polish ones. The immigrant worker appreciates this attitude, however sometimes it may be confusing. For example a kiss on the cheek instead of shaking hands for a greeting was surprising and even embarrassing for Dagmara, a 34-year-old amusement park employee. The immigrant woman explains her difficulties to adapt to the French norms regarding the power relations at the workplace: “they [her French superiors] thought I was arrogant, but I didn’t know how to laugh with them. In Poland, I was not joking with my boss, I mean not in the same way”.

Finally, the interviews indicate that a decision-making process is longer in France owing to more participants being involved, while in Poland it is more centralized. A Polish working day is usually more intensive in activities. The Polish immigrant workers from group studied claim that their French colleagues have more breaks during a working day. These short pauses stimulate the exchange of opinions, as well as the integration of employees. Initially surprised, the Polish workers got used to this new style of work. Magdalena, a 28-year-old secretary in France for 7 years claims: “if you go home too early, even if you finished your tasks, it means you’re not very motivated. It’s a sort of a social pressure”.

The conducted interviews show that Polish immigrants consider their French colleagues as less competitive and more familiar with working only Monday to Friday. The Polish blue-collar workers from the group studied prefer their French superiors and colleagues; however, they claim that the French expect the immigrant to improve her or his skills. Consequently, the Polish worker seems to consider the job position more seriously. A professional occupation is the goal of her or his economic immigration. Unemployment would be considered a failure and a loss of face [Goffman 1993: 10]. This attitude is also linked to strong respect towards the employer. At the same time the Polish immigrant discovers the significance of informal rules at the workplace in France [D’Iribarne 1993]. The differences in two studied cultures of work, French and Polish, constitute the main challenge in the early stages of Polish worker integration into the French labour market.

### **2.3. Attitudes of French Employers and Clients towards the Polish Workers**

The highly publicized stereotype of a “Polish plumber” referred to the image of inexpensive labour force coming from a country suffering from political and economic turbulence. In this part of the paper I examine the cultural expectations attributed to the Polish workers by their French employers or clients. My purpose is to understand the effects that these attitudes have on the immigrants’ professional activity in France. I measure these social depictions by the Polish immigrants’ discourse and experience at the workplace.

According to interviews I distinguished two attitudes of the French employers. In the first case, the employer has a positive opinion about Polish workers and as a consequence she or he readily employs them. Aleksandra, a 25-year-old waitress living in France for 3 years explains: “I was employed on the spot when the boss saw that I was Polish. He told me that he liked to employ Poles because they worked well”. In the second case the employer takes advantage of an immigrant’s lack of language skills or knowledge regarding French labour market. On the one hand, that involves immigrant workers arriving for short periods, dependent of housing offered by an employer and ready to work illegally. On the other hand, the Polish

immigrants legally employed can notice unequal treatment when compared to the treatment their French colleagues receive. An example is the experience of another Aleksandra, a 24-year-old secretary living in France for 3 years: “I had the impression that my [French] colleagues had more rights than me. (...) My boss was convinced that he did me a favour. His attitude towards the Poles was: he employed us, so we should be grateful”.

Following the interviews I identified that the French clients represent six attitudes. Firstly, the cleaners and the construction workers from the group studied claim that their French customers have a great confidence in them. In the Polish immigrants’ opinions this is an attribute of French in general. Mariusz, a 33-year-old construction worker and construction company owner gives an illustration: “I get the keys to the flat, where TV and even some money are exposed”.

Secondly, the clients are curious about the immigrant as a foreigner. They ask about the Polish worker’s professional experience and even about her or his private life. Waldemar, a 28-year-old mason explains: “clients often ask about my situation. Sometimes, it’s too much. They want to know if I stay in France or how much I earn”. In the group studied, cleaning ladies’ employers are also very helpful in administrative procedures or in handling formal documents. Marta, a 38 year old cleaner living in France for 11 years, is very grateful to her employers for their support: “I’ve got the family [Employer’s family] who helps me from the beginning. I can’t write in French, so I can’t write a formal letter. [The employer’s family members] always help me in everything I ask them”.

In response to the stereotype of a Polish worker as an alcohol enthusiast, the third case of French clients can propose drinks during lunch breaks. They may also express distrust, mainly in the construction sector where the level of risk is higher. Magda, a 30 year old cleaner living in France for 7 years talks about her husband’s construction company: “when they’d finished the renovation the flat owner lady told their boss that they were good employees, because there were no beer cans or bottles. As they were Poles, she’d controlled them every day”.

The fourth attitude highlights that the French customer is satisfied with the services of Polish workers. Her or his satisfaction is expressed by the bonuses and good references. In the construction sectors clients may also congratulate the results of work and recommend the Polish worker and his company to other friends and family members. Grzegorz, a 27-year-old plumber and construction worker in France for 6 years explains: “once a lady had called us and asked about Polish workers to renovate her house. She told us that she’d heard that Poles worked well and quick”. This was the most common case in the group studied.

The French client can be also dissatisfied with the Polish activities in the French labour market. The interviews show that this type of customer supports the French workers and as a result she or he is unwilling to employ an immigrant. Piotr, a 30-year-old mason living in France for 5 years, shares his experience: “the customer had no choice because my team was sent by the insurance company, but he told us that if it was up to him, he would send us home. He would never have taken Poles because we took French workers’ jobs”. In the group studied, this attitude can be linked with the perception of Poland as a modest backward country. For example Marta, a 38-year-old cleaner was embarrassed by her employer’s attitude: “they [French] think that we do not know what a refrigerator is. I was twice in that situation. When I started a new job the lady had been explaining for 15 minutes how the vacuum cleaner worked. (...) Some people think that we [Polish

immigrants] came from a backward country. They imagine that we wash by hand in the rivers. One lady asked me if we had washing machines in Poland, and then she tried to explain me how to use it”.

The last attitude trait is that of a client being jealous when the immigrant worker's material conditions are “too good”, especially if the immigrant's occupation is placed lower on the social ladder. The cleaner Marta, mentioned in the last paragraph, shares her experience: “once I was fired by a lady when Robert [Marta's husband] came to pick me up and she saw that he had a nice car. Two days later I got a call to tell me I was fired. I was already working! I was legally employed! I asked her if it was about the car and she said yes.”

The research results show that the cultural expectations attributed to the Polish immigrants have an impact on the professional activities of the Polish blue-collar workers in France. Polish origins are an advantage for French employers considering Polish immigrants to be good employees. The workers studied also meet employers taking advantage of lack of knowledge of French labour laws. The immigrant treated unfairly loses her or his motivation. For the French clients, they tend to appreciate the services and trust their employees. The customers are not only curious about a foreigner, but they are also helpful which facilitates the integration processes. The negative examples of the contacts with the clients involve remarks about immigrants' country of nationality or alcohol consumption. The Polish immigrants may feel treated worse than their French colleagues. In response, they try to prove their value by demonstrating their advantages like discipline and commitment.

### **3. CONCLUSIONS: SINGLE MARKET FREEDOMS' IMPACT ON THE IMMIGRANT WORKERS**

The Free Movement of Workers has a significant impact on the Polish immigrant workers employed in blue-collar occupations in France. Following the opening of the French labour market in 2008, these economic immigrants no longer have to follow additional procedures. Employment in the French companies or international franchises, rather than in the Polish structures, is an opportunity to evolve professionally and to improve living standards in a host country. Certainly, the immigrant worker increases her or his contacts with the host society and as a result adapts and integrates into French society. As an equal to the French colleagues, the Polish immigrant becomes more conscious of her or his legal rights. The Polish immigrant is free to choose the duration of staying abroad, the clients or a company. This awareness of freedom is a key consequence of the Free Movement of Workers' rights on the economic immigrant.

The research shows that the cultural expectations attributed to the Polish workers have the effects on their professional activity. The Polish immigrants are rather intentionally employed and considered to be good workers. The success of their migration is defined by their economic activity. At the same time, they may feel inferior in the eyes of their French colleagues or employers. As the economic migrants, they have a strong need for recognition. They also notice that they can be respected in their professional occupation. As a consequence these immigrants try to prove their value by demonstrating their advantages: commitment, efficiency and discipline. This is a very important aspect of their identity as immigrants and includes a sense of dignity [Patok 2015: 160-161]. In order to assimilate and

to integrate into the host society as an equal resident and worker, the Polish blue-collar immigrant doubles her or his efforts at the workplace; as a result she or he paradoxically confirms a stereotype of a hard-working immigrant looking for a job by all means. The Polish worker, in this sense, reflects the image attributed to a Polish blue-collar immigrant by the French society.

The experience of Polish workers proves that the European Union's integration is founded on the Single Market freedoms. The economic activity is changing the mentality of Polish immigrants towards the consciousness of liberty and equality. Nevertheless, this awareness of rights as European Union citizens is not yet established on a political level. The research results clearly show that the social depictions and stereotypes play a significant role in the integration processes. Those images involve the question of identity and, being strongly related with regional customs and Member States' history, they represent one of the key challenges for the analyses of the European Union.

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## **TURKEY'S ERRATIC FOREIGN POLICY IN THE MIDDLE EAST, 2011-2017**

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### **Abstract**

In a neorealist approach to the subject, this paper argues that decreases within the harmony of structural, institutional and individual levels within the state (in our case, Turkey), will eventually lead to a less and less successful foreign policy. The article explores Turkey's dyadic foreign relations primarily with Syria before and after the Arab spring, concentrating on the period of 2011 to 2017 (for comparative reasons, we have included Turkey-USA, Turkey-Saudi Arabia and Turkey-Iran relations within the research as well). It shows the slow degradation and increased lack of success within Turkey's foreign policy during the ongoing decade.

**Key words:** *Turkey, foreign policy, Syria, Iraq, neorealism*

### **INTRODUCTION**

In his 1993 paper, Cristopher Layne rightly predicted, using his neorealist analysis, that American primacy was bound to decline between the years of 2000-2010 [Layne 1993]. Similarly, Vasconcelo, in his 2009 study, claimed that the post-Cold War world had turned multipolar since the USA lost its ability to respond to global issues [Vasconcelos, 2009]. In such an environment, the expectations were that states would want to take greater regional roles. This was indeed valid for Turkey as well, whose recent foreign policy failures have yet to come to the academic spotlight. Starting in 2002, the Justice and Development Party (JDP) came to power in Turkey's broken political spectrum, where it stayed until the point of the writing of

this article. It distinguished itself (at least initially) with its moderate Islamic coloring, Western leaning, and an orientation towards liberal market economy [Kösebalaban 2011]. Whether it was attempting to reconcile Islam with democracy (via greater religious liberalization which corresponded to public demand), improve its relations with the EU (European Union, the 2005 opening of the accession negotiations), bring its domestic laws in accordance with the *acquis communautaire* (implementing various constitutional amendment packages), have a greater regional role through its participation in regional and global diplomatic/economic councils (GCC, the Gulf Cooperation Council, a theoretical Middle Eastern Union, etc.), or to play a stronger role in the reconciliation between Iran and the West, or perhaps to increase its economic/trade relations particularly with Arab states, Turkey had it all.

Hence, since 2007, the JDP took a stronger interest in foreign policy as well. The origins of the doctrine which would guide Turkey in its foreign policy for years to come can be observed at this point. Its chief architect, at the time advisor to prime minister, soon to become foreign minister, Ahmet Davutoglu proclaimed his vision for Turkey in his 2007 paper. Due to its geographical and ideological proximity to the former territories of the Ottoman Empire, Davutoglu envisioned Turkey as a “central country” and regional actor who needs to bring more involvement and stability in regional politics of the Middle East, the Balkans, and Africa [Davutoğlu, 2008]. In other words, Turkey needed to act more in accordance with new regional and global realities, which were assured by the coming of multipolarity, while still obeying liberal, democratic principles, which were one of the main colorings of the party. We hold that pre-JDP Turkey obeyed a strictly reactive policy in its external dealings with other states. Reacting to immediate security concerns, such as the case of the Euphrates dam controversy, or the diplomatic crisis with Syria over Abdullah Ocalan’s extradition, can be given as some of the more pertinent examples of such a stance.<sup>1</sup> This might have been either the product of a strong military which obeyed Kemalist secular principles (“peace at home, peace in the world”), or the weak coalitional governments/majority governments which did not have too much potential for staying in power. Thus, with the coming of the JDP, Turkey decidedly abandoned its reactive foreign policy in favor of a more involved and dynamic one.

This is an origin point of problems in Turkish foreign policy, especially in its relation with the Middle East, which only fully manifested themselves in the Syrian case. Question arose whether the countries within Turkey’s geopolitical reach would be receptive to this novel foreign policy. Acting at first as a stabilizing central power in the region implied a promotion of Turkey’s newly discovered values, such as conservatism, democracy and liberal market economy, which JDP was certainly championing at the time, particularly in the pre-2011 context. It is obvious how appearance of one such proactive and later unilateral player, who adapted and preached Western ideas coupled with concepts such as historical heritage and irredentist-sounding notions of spheres of influence, could have been viewed with a dose of suspicion by countries within its geopolitical neighborhood. Clashes eventually arose not only with Syria, but also indirectly with the Gulf countries as well, including direct clashes with Russia, who all perceived Turkey as trying to achieve regional leadership using its material and ideational capabilities. Turkey

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<sup>1</sup> For further reading check Kosebalaban’s *Turkish Foreign Policy* chapter 6, and Olson’s article *Turkey-Syria Relations since the Gulf War: Kurds and Water*.

soon realized that due to an unstable Middle Eastern environment, the “zero problems with neighbors” policy was untenable, especially in the post-Arab Spring period which caused problems not only in the region, but also with Turkey’s biggest sponsor at the time, the USA [Barkley 2011]. One can argue that the proactive role soon turned into a unilateral one, which presupposed not only shifting alliances and tighter international maneuvering, but also strong domestic changes and political reorientations, which started compromising democracy and Turkish Western-leaning itself. Therefore, the question we are posing is why Turkish foreign and domestic policy turned out to be so erratic in the context of the Arab Spring with particular reference to the Syrian case, between the years of 2011 and 2017. The Arab Spring, as a transformative event, offered challenges and opportunities for Turkey, which aimed to increase its relative position. Hence, we believe that this period is especially pertinent for the analysis of Turkish foreign policy since it best exposes its faulty nature that subsequently lead to greater domestic and regional securitization. As a consequence, this further lead to other events such as Turkey’s strategic cooperation with Russia over Syria, and Turkey’s discord with the US over the issue of the Syrian Kurds.

We utilize neoclassical realist theory in this paper, combined with structural realism, which “argues that the system constrains but does not determine state action and where foreign policy departs from what would be ideal behavior given a state’s structural position, domestic politics and ideas are generally the cause” [Rathbun 2008]. Hence we will be concerned with structural, as well as unit-level factors, when trying to answer the above-posed question. Our contention is that Turkey erroneously interpreted structural constraints and mired itself primarily into Syria (and later Iraq as well), which was not conducive to its *raison d’état*. We also hold that this specious foreign policy and misreading of structural constraints comes from domestic, or unit-level variables, coupled with charisma and personalities of statesmen at the individual level of analysis. Hence, our independent variable shall be the degree of harmony between structure, unit, and individual levels. Our dependent variable, which is foreign policy, can take on two values – either success or failure. When we see harmony between the dimensions of an independent variable, we can expect the success of foreign policy. On the other hand, if the harmony is lacking and discord is present between the levels of the independent variable, we can expect failure as a value in our dependent variable.

In the following section we will show how Turkish foreign policy – analyzed over its three dimensions (security, diplomacy, and economy) – took a hit with Turkey’s unilateralism and involvement in Syria. To that end, it is important to contrast levels of those dimensions in a pre-and post-2011 timeframe.

## **1. PROBLEMS OF INVOLVEMENT/ SCOPE OF OBSERVATION**

Our main hypothesis is that the decrease in the harmony between structural, state, and individual levels will cause a decrease in the success rate of a foreign policy of a country. We would thus like to empirically demonstrate that Turkish foreign policy post-Arab Spring received the value of failure, where we observe that harmony within the value of the independent variable was lacking. We do this through the analysis of three dimensions of foreign policy: security, economy, diplomacy. In order to know their relative decrease, we will compare the values of indicators with their pre-2011 period levels during which we argue that Turkey possessed greater

harmony between structure, unit, and individual levels, and thus a more successful foreign policy.

### **1.1 Value of Indicators of Turkish Foreign Policy before the 2011 Syrian Involvement**

While Turkey was operating multilaterally (in accordance with NATO and other international organization), its acceptance rate in the Middle East was stellar. Turkey was finally exiting its decades long geopolitical shell, and Arabs accepted this development with wide open arms; Turkey's support for the early Arab Spring democratic movements against dictators such as Gaddafi or Mubarak certainly contributed to this image [Walker 2011]; Turkey was additionally considered as a model by some states (such as Egypt or Tunisia) for successfully combining Islam and democracy. Furthermore, Turkey-Russia relations were at their highest after 2008. The year of 2009 saw highest-level diplomatic visits, which were supposed to solve regional differences and conflicts through multilateral involvement of both countries. In 2010, the two countries decided to remove mutual visa requirements. 2010 was also the year when an agreement was signed for the construction of the Akkuyu nuclear power plant in Turkey, which was to be performed and owned by the subsidiary of the Russian state-run company, Rosatom. Thus, an increase in economic cooperation between the two countries was taking an upward trajectory. The roots of these undertakings and the general rapprochement between Turkey and Russia can even be traced back to 2005 and the construction of the Blue Stream pipeline, which came as a crowning achievement of post-Soviet Russian-Turkey cordial relations.

The relations with Iran (pre-2011) were very affable as well. The policies of what Pinar Bilgin called "civilizational geopolitics" were based on mutual acceptance, a promotion of economic relationships, and policy interdependence based on shared cultural ties [Bilgin 2004]. Interference in the internal nature of the political systems was therefore out of the question. Hence, we see Turkey engaging in finding a multilateral solution for the Iranian nuclear program, where in 2010 it offered to outsource enriched Uranium so that Iran could avoid sanctions [Al Jazeera, 2000]. Trade relations were also increasing; for example, Turkish trade with Iran increased from 1 billion in 2000 to 4 billion in 2005 [Schleifer 2006]. At the time, Iranian gas export has seen an upward trajectory along with Turkish investments into Persian gas fields [Iran Daily 2008]. Cooperation within the field of security was blossoming as well; one instance of this can be seen in the Turkey-Iran deal, where the two countries agreed in 2011 to multilaterally tackle issue of Kurdish terrorists and militants in Northern Iraq [TR Defence, 2011].

The third dyadic relationship we wish to consider is that between Turkey and Saudi Arabia. Pre-Arab Spring Turkey and Saudis shared many ties, including those of common geopolitical environment, religion, and culture. Furthermore, King Abdullah had great interest in maintaining good relations with Turkey, seeing it as a rising Sunni power, even though Turkey is an officially secular state, with religion playing a secondary role. This was clearly seen from high-level reciprocal diplomatic visits; in 2006, King Abdullah visited Turkey, first time in four decades, while in 2009, the then Turkish president Gül reciprocated and visited Riyadh. These meetings had their roots in well-established cooperation between Turkey and the Gulf Cooperation Council (GCC). Since 2005, Turkey and the Saudi-dominated GCC were coming very close together; in 2005 they agreed on a framework for a future

free trade agreement, and in 2008, the new Memorandum of Understanding was signed between these countries. Therefore it is not entirely outlandish that some have seen cooperation between Turks and Arabs as a way of providing greater regional and international cooperation in various issue areas, from economic to security ones [Aras 2005]. Economic relations were progressing as well; for example, their mutual trade in 2010 amounted to 4.65 billion dollars, and it kept increasing until 2012. One other example instance of good economic cooperation was the 2007 treaty which had a goal of avoiding double taxation [Al Qassemi 2011].

Even though it is a domestic issue, we believe it is important to mention Turkey's Kurdish issue and how it reflected on the relations with other regional actors. Kurds are stateless people inhabiting geographies of Turkey, Syria, Iraq and Iran respectively, which imposes a great weight on the aforementioned countries' bilateral relations. Turkey's Kurdish problem was arguably best embodied in the Kurdistan Worker Party (PKK), a militant Marxist organization that has been leading an on and off war with the Turkish state since 1984 [Hakyemez 2017]. With the capture of the PKK leader Ocalan in 1999, the Turkish state hoped that this would put an end to Kurdish terrorism. However, this was not the case. Despite the fact that the PKK resumed with the guerilla warfare in 2004, Erdogan's government recognized the futility of a military solution and embarked on a peace process by other means [Hakyemez 2017]. This incentive lasted until 2015, when Turkey announced a domestic offensive against the PKK. During the time that the peace initiative lasted, Turkey markedly softened its policy towards both Syria and Iran, which some scholars contribute to domestic politics of de-securitization [Aras and Polat 2008]. Despite being on the brink of war in 1998, Turkey and Syria turned over a new leaf with the coming of the JDP to power, and even cooperated in solving long-standing issues pertaining to the Kurds, including water management; the early JDP era marked an end of the Syrian utilization of Kurds as a trump card against Turkey [Altunışık and Tür 2006]. Structural factors such as the American invasion of Iraq or domestic idiosyncrasies like Erdogan's and Assad's personalities, compounded with their respective Kurdish issues contributed to this rapprochement. The early JDP's de-securitization also contributed in ameliorating their issues with Iran pertaining to the Kurds. At that time, Turkey stopped "otherizing" Iran. Instead of seeing Iran as existential "other" that threatened it with Islamic revolutionary fervor and support for Kurdish terrorism, Turkey saw Iran as a potential ally, not only in economic and political realms as stated above, but also in security considerations against the PKK, drug and human trafficking, etc [Aras and Polat 2008]. All in all, this period marked a shift from the Kurdish issue being utilized by Iran, Iraq, Syria and Turkey against each other, to a closer multilateral cooperation in solving it.

## **1.2 Value of Indicators of Turkish Foreign Policy after the 2011 Syrian Involvement**

After the 2011 Syrian case, we have seen a decline in the value of indicators across all of the aforementioned spheres. For instance, Turkey immediately came into conflict with Iran. Özüm Uzun claims that Turkey-Iran relations were blossoming prior to the Arab Spring, yet after it, they have returned to those of competition and rivalry, due to their very different perceptions of the events at hand [Uzun 2013]. Turkey believed that the events, which followed in the wake of Arab Spring, were an

honest attempt at democratization removed from foreign backing, while Iran was more apprehensive, and believed they were the product of Western imperialism and Israeli quest for supremacy. The same author claimed that Turkey followed revisionist policies in Syria, while Iran approached it in a balanced fashion, trying to retain the status quo [Uzun 2013]. This is a reasonable statement to make considering Turkey's policy of involvement in the region in favor of pushing pro-democracy movements to power in order to create regimes similar to its own. As the only democratic power, Turkey considered democracy promotion as its main legitimizing tool against Iranian sectarianism and Saudi Wahhabism. After 2016, Turkey's invasion of Northern Syria directed against the Kurdish political entities can be taken as another example of this revisionism. It is important to note that Iran and Syria, as close allies, tend to support each other often. With Turkey taking a more unilateral role, it also appropriated normative-based injunctions, particularly in its relations with Iran over the questions of democracy and the perennial Sunni-Shia struggle [Öniş 2012]. After that episode, we also see the Turkish willingness to install an early warning radar system, as well as an Iranian reluctance to accept Turkish presence in nuclear talks [Öniş, 2012].

We can notice a similar development in Turkish relations with Russia. In the decades preceding the Arab Spring, not unlike with Iran, Turkish relations have been pretty sincere with Russia. Furthermore, Turkish foreign policy was orchestrated in such a way that it did not concern itself much with regional dynamics, which Russia welcomed as a positive instance; a trend which lasted until the Arab Spring when Russian policy towards Turkey completely reversed just like Iran's [Ayşe 2012]. The lowest point of the Turkish-Russian relations came with the downing of the Russian jet over Turkish airspace in 2015. Arguably, since then, Turkey revised its policy towards Syria, and we should see improvement in Turkish-Russian relations, but nevertheless, the early years of the Syrian conflict were mired in diplomatic and economic scandals.

The case of Turkey's relations with USA is the very opposite to the case of its dealings with Iran and Russia. At the outset of the Syrian conflict, the USA and Turkey saw eye to eye, and were cooperating in bringing about democracy and transition in the country on the Turkish border [Tanır 2011]. Nevertheless, in the recent years, America found it increasingly hard to turn a blind eye to Turkey's wavering trends in democratization, its abysmal relations with European Union and further unilateral involvement in Syria [Tuygan and Kirişci 2016].

So far, we were demonstrating how through these developments, Turkey got isolated at one or another point in time (either at beginning or later stages of Syrian conflict) in all of its dyadic relationships. We noticed the decline of cooperation with every regional power, including with the USA on a more global level. Not only has this shown through an appalling diplomacy at the level of various international diplomatic events, but it also manifested itself seriously on Turkish economy through decreasing trade volume with the aforementioned countries. We can see how the Turkey-Iran trade volume has been progressively decreasing between the years of 2012-2016; in 2012 it was 21.89 billion dollars, in 2013 14.57, in 2014 13.71, in 2015 9.77 and finally in 2016 it hit its lowest point of 9.65 billion US dollars [Ministry of Foreign Affairs, 2016a]. Turkey's economic relations throughout the Arab Spring period with Saudi Arabia strongly resemble those of Turkey's relations with Iran. The Turkey-SA trade volume was at its highest in 2012 at 8.0 billion USD, then it gradually decreased, hitting its lowest point in 2016, with 1.4

billion USD [Ministry of Foreign Affairs 2016b]. The economic image of Turkey's dealings with the USA was a tad different. During the early years of the Syrian conflict, until 2014, the USA's export and imports were significantly higher than those of the recent years. In 2014/2015, Turkey took a more direct military role in Syria, which was at odds with the USA's interests, and that manifested itself in the economic sphere. In 2012 and 2013, the USA's exports to Turkey were standing at 12.474,7 million USD and 12.078,7 million USD respectively. These numbers significantly decreased since 2014; by 2017, exports were standing at 6.995 [Maryland 2017]. The USA's imports of Turkish products stayed relatively consistent throughout these years, with relatively small fluctuations, probably due to decreasing purchasing power of the Turkish lira, compared to American dollar. Another reason why Turkish increased involvement in Middle East (post-Arab Spring) might not have been conducive to its national interests and security is terrorism. After 2011, the level and frequency of terrorist attacks skyrocketed in Turkey. Between 2011 and 2017 Turkey was targeted 87 times by 9 different terror groups and number of deaths reached 956 while number of wounded was 4717 [140 Journos, 2017]. In a longitudinal research conducted by Karamanoğlu, which focused on terrorist activities in Turkey from 2001 to 2012, we can see that the attacks reached their peak in 2012 [Karamanoglu 2016]. After 2012, terrorist activities continued, but with lesser intensity, until Turkey decided to engage in military involvement in Syria. We see their increase yet again in 2015 and 2016 due to Turkey's "weapon rattling" and eventual invasion [Keng Kuek Ser 2016]. Therefore, these can be seen as a response to Turkey's greater regional interventionism and geopolitical fluctuations, instability of borders, influx of refugees, ISIS, and Kurdish dissatisfaction with Turkish regional policies. To illustrate this point properly, we believe it is pertinent to note how the 2016 Istanbul airport attack occurred shortly after Erdogan proclaimed his wish for reconciliation with Russia and Israel, and hence after an official apology letter has been issued to Russia over its downed jet [Simon 2016]. This itself came in the light of the Turkish invasion of Syria. Furthermore, since the invasion, the number of Turkish military deaths in Syria has reached 34.

## **2. STRUCTURAL CONSTRAINTS**

In this section, we plan to show theoretically and empirically how conditions were not inviting for Turkey to act unilaterally in the region; in fact, Turkey opted to sideline present structural constraints. To this end, we shall employ a neorealist epistemology. It is a well-known and generally-admitted fact in realist lore that states operate in the condition of anarchy, which in turn creates the principle of self-help, stemming from the material distribution of capabilities. In such an international system, every state will be wary of the intentions of other states and therefore, according to Waltz, its predominant interest will be in surviving, and hence maximizing security [Waltz 1979]. In a similar vein, Snyder warns how a number of states have brought themselves to ruin, risking even their survival, due to the misreading of structural constraints and an irrational wish for expansion. Snyder goes even further than this, and traces causes of such self-damaging over-expansionist behavior to three variables: offensive realist, cognitive and domestic [Snyder 2013]. Another scholar, Van Evera, by developing his offense-defense theory gives insights on *when* a war, or in this case unilateralism, will be more

likely to happen. He relegates the “cult of the offense” to dimensions which Snyder would certainly recognize as cognitive and domestic variables [Van Evera, 1984]. In his other work, Van Evera and Roussel show how states will be more likely to engage in offensive behavior if they believe that conquest will be easy or indeed if their military capabilities would have the advantage [Roussel and Van Evera 2001]. We believe it is important to mention Walt as well, who arguably introduced a dose of constructivism into neorealist thinking. For Walt, state perceptions regarding their security and therefore alliance behavior will be influenced not only by relative material capabilities, but also by other factors, which largely depend on perception, such as proximity, offensive capabilities and offensive intentions of other states [Walt 1985]. Randall Schweller attempted to rectify Walt’s logic by pointing out security bias in his thinking; he therefore brought back the concept of revisionist state which has even greater propensity for bandwagoning than Walt gave it credit [Schweller 1994]. Rowe also showed how tighter alliance formation and offensive/preemptive behavior does not result only from the perception of relative capabilities of other states but also on states’ perceptions of its own capacities [Rowe, 2005]. From this we see how alliances and balancing are crucial for realist material-based thinking.

As we mentioned earlier, pre-2011 Turkey was practicing policy of civilizational geopolitics which was mainly revolving around mutual recognition and “low-level” politics [Bilgin, 2004]. Part of such conceptualization of foreign policy revolved around presenting Turkey as a soft power who had great amount of ideational capacity and willingness to utilize it rather than a more coercive, material one [Economic Review, 2013]. The elements of this soft power approach can be found in Turkey’s own democratic consolidation, which made it more attractive in the eyes of third parties as a potential partner for political and economic reforms; moreover, its proactive foreign policy enabled Turkey to play a role of a mediator in regional conflicts [Altunışık 2008]. Furthermore, Turkey showed interest on reconciling various issues in the region such as long-standing water problem with Syria, opening programs in favor of visa liberalization with Syria, Jordan and Lebanon, reconciling Syria and Israel and helping to re-integrate isolated Syria and Iran into the world politics [Omait, 2014]. During 2000s, previous points of contention with Syria in particular have been converted into opportunities through the neo-Ottoman identity policy and zero problems with neighbors catchphrase; securitization, security cooperation, multilateral water management, deepening trade relations all took place [Hinnebusch 2015]. What was also characteristic was number of mutual high-level state visits and courteous rhetoric between statesmen of both countries; while in 2009 Davutoglu met with Syrian foreign minister al-Moualem and smiled for the cameras not even 10 years prior both countries were at the state of combat readiness [Zalewski, 2011]. Erdogan was even known for referring to Syrians as “his brothers” while Assad called Turkey Syria’s “best friend” [Chris Phillips 2009]. But as Copeland succinctly showed in his critique of Wendt’s constructivism, the nature of international anarchy is such that regardless of current intersubjective practices of states, which certainly can be of integrative and cooperative nature, states cannot help but be preoccupied with uncertainty regarding future developments; the question is not whether current distribution of interests favors revisionism but rather that future system will contain revisionist states. This critique points out ever-present implications of domestic-level pathologies into an international rationale which realists can never completely dispense with [Copeland 2000].

When it became clear that Turkey cannot influence Assad to abandon his position and open way for democratization of the country, a realist reasoning came into the picture. Despite their previous good relations, Turkey immediately started creating and sponsoring anti-government militant groups which later came to be known as the Free Syrian Army [O'Bagy 2013]. Hence, Turkey attempted to indirectly influence the course and outcome of the Syrian war. This can be seen as a clear move from attempts to shape region multilaterally to a more unilateral fashion. Despite mutual understanding between Erdogan and Assad on a multitude of issues, Turkey wanted to empower elements of the Syrian society which would, should they come into power, enable them direct influence over the Syrian government. Seen through a realist lens, one can certainly notice how this would be beneficial for Turkey. Not only would the issue of water and the manipulation of Euphrates river become a non-issue, it would also allow Turkey to influence how future Syrian governments dealt with the Kurds in the Northern regions of the country. In line with this, at least certain sections of Turkish society, such as Kemalists who mostly inhabited bureaucracy and military structure of Turkish state, argued for Turkey to take a hardline in its dealing with Syrian Kurds, due to fears of Syria granting them bigger rights and autonomy under the auspice of liberal West and USA in particular [Taşpınar 2012].

Furthermore, the claim can be made that if new government came to power with the involvement of Turkey, there existed a possibility that the century-long issue over Hatay province would be solved favorably for Turkey once and for all. The neo-Ottoman current of Turkish foreign policy orientations, to which Ahmet Davutoglu belonged, argued that Turkey should take on a more involved regional role, which would help it influence regional realities through a soft power focus on diplomacy, economy, and culture [Taşpınar 2012]. But we see how this thinking was a sham, and was consequently abandoned when the first opportunity presented itself for a military solution. Indeed, we can notice how Turkey acted in the Syrian case more in line with precepts which would deem it to be revisionist rather than a status quo state. An attempt to unilaterally change Syrian realities by direct or indirect involvement was bound to create a balancing behavior by other actors in the region. We use the word “actors” on purpose, as the act of balancing was not conducted solely by states themselves, but also by sub-state groups aligning themselves with the mentioned states. A pertinent example of this can be seen in the Syrian Kurds' vying for the USA's support [Gunter, 2015]. In the early years of the Syrian war, namely, prior to 2015, we see coalitions forming between Syria, Iran and Russia to counter Western attempts (from which Turkey was seen as a part) of changing geopolitics of the Middle East [Thongin 2017]. Thus, if we follow Schweller's balance of interests categorization, then Russia, Iran and Syria were seen as status quo states, not Turkey.

Nevertheless, while Schweller does mention that states who are revisionist might bandwagon with the most powerful revisionist state we do not see such behavior here. This implies that Turkey was not seen as powerful actor who could pull off something like this in the first place; furthermore, due to the fact that Turkey was torn between its unilateral objectives and loyalties to the West, it was not likely that Turkey, even if successful, would manage to accommodate interests of other actors who had a stake in the Syrian war. Instead, the type of behavior we notice is more in line with a traditional understanding of alliances as proposed first by Waltz and Walt. States on the opposite spectrum of interests relative to Turkey decided to

balance against it, rather than jump on the bandwagon, or simply let it slide. By understanding this, one can see why Turkey's half-hearted attempts to find a multilateral solution in 2012 through involvement of Russia, Iran, Egypt and Saudi Arabia provided no results.

This indirect balancing behavior was certainly apparent in the case of Saudi Arabia and Saudi-led coalition that included most of the Gulf states as well. It is important to note that certain Gulf countries like Qatar did not agree with the Saudi regional hegemony, thereby carving their own independent foreign policies, especially in relation to the Muslim Brotherhood, Iran and Turkey. This led to a plethora of problems with Saudi Arabia, ultimately culminating in Qatar's regional isolation and the blockade imposed on it that is still ongoing [Al Jazeera, 2018].

Due to their long-standing animosities with Iran, it was obvious that the Saudis could not join that camp, but it also became apparent, as time progressed, that they would not take Turkish revisionist meddling idly either. Due to the constraints of necessity, Turkey and Saudi Arabia were willing to cooperate on certain issues at the very outset of Syrian conflict, primarily to counter pro-Assad forces. But their differences were also obviously manifesting. What guided the Saudi rationale in Syria was the threat of Iran gaining greater geopolitical influence, something which was not present in initial Turkish calculations. The second issue of significant importance for Saudis was to balance out against the Muslim Brotherhood and other factions, most of which were backed by Turkey, which they perceived as a threat to their regime [Quilliam 2017]. This ensured hitches in workings of multilateral organizations which were dependent on the support of Saudi Arabia and Turkey among other countries; the National Coalition for the Syrian Revolutionary and the Opposition Forces and Friends of Syria being some of them.

Similarly, with the USA, Turkey witnessed a downturn in relations. This might be due to two reasons. Domestic changes and the weakening of democracy in Turkey can be seen as an ideological factor which contributed to this downturn not only in relationship with the USA, but also with the European Union. Stephen Walt certainly took ideological proximity into account when analyzing security behavior [Walt 1985]. The fact that Turkey deviated from the democratic norm might explain the shifting alliance behavior between Turkey and the USA. The second factor which might have contributed to this is the row over the Syrian Kurds. While Turkey wanted to weaken Kurdish presence in Northern Syria, the USA saw Syrian Kurds as its main trump card against ISIS and other radical jihadist elements, some of which Turkey supported; to this end, the US rhetoric against PYD/PKK, which were deemed as terrorist organizations, was weakened, while support consequentially increased [Gunter 2015]. The case of the US support to Kurds in Erbil and Kobane is especially telling. One instance of this is Turkey forbidding any help from entering into Kobane, in terms of either weapons or fighters, from its side of the border, as the US-led coalition attacks ensured a Kurdish victory over the Islamic State. Turkish inability to cooperate or reach any sort of accord with the USA and Europe over the Syrian Kurds further contributed to its diplomatic and military isolation propelling further unilateral behavior. Thus, although Turkey was initially seen as a revisionist power by Russia and Iran, the United States of America ultimately started regarding Turkey in a very similar fashion as well. As we can see, not only did Turkish selective support for certain groups which were not internationally-backed cause this, but the Turkish-American dispute over Kurds as well. Isolated by the Western camp, Turkey had no choice but to ultimately

bandwagon with Russia in favor of tackling the Kurdish threat in Northern Syria that was affiliated to its own Kurdish terrorist movement. Although Turkey's bandwagoning with Russia falls outside the scope of this paper, it is important to mention that Turkey's military operations in Syria sanctioned by Russia leave Turkey outside of the bounds of NATO, which puts it in a very precarious security position.

Turkey overestimated its capacities on multiple counts in Syria. First of all, Turkey overestimated the unity of the Syrian opposition; while backing certain parts, it was inevitable to isolate others, such as secular Sunnis, Christians, and Syrian Kurds [Christopher Phillips 2012]. Turkey had also estranged other state-actors like Saudi Arabia and USA due to its selective backing of certain groups and undermining others which did not sit well with wider policy programs of aforementioned states. Secondly, it underestimated Assad's power and wish to maintain the government; while Turkey predicted that Assad is going to go down as fast as other Arab dictators which were swept away by Arab Spring this did not happen [Christopher Phillips 2012]. Question one needs to pose is whether due to this miscalculation Turkey also underestimated amount of capabilities both diplomatic and military/economic necessary for the overthrow to happen? Empirical evidence indicates that when these calculations were not met Turkey was not willing to overreach any further. Great commitment of Russia to status quo in Syria complicates the situation even more; again something which Turkey probably was not expecting guided by the hope of swift victory by the opposition [Demir, 2017]. In light of this I can conclude that due to the misreading of structural and material constraints Turkey received a bad end of the bargain in Syrian case. When Turkish statesmen realized that Assad is there to stay and that further isolation due to its unilateralism is untenable, Turkey switched sides in 2016 and turned to multilateral solution in an earnest manner. But this switch did not come out of the blue, it came from structural prerogatives.

### **3. UNIT AND INDIVIDUAL LEVEL MISCALCULATIONS**

According to Rathbun, neoclassical realism is at the same time prescriptive and proscriptive theory of international relations [Rathbun 2008]. This means that when structural constraints are not obeyed state will necessarily be punished. I have shown this in previous sections. But neoclassical realists often argue that reason for this misreading of structure stems from unit (state) and individual levels of analysis. Therefore, in order to further elucidate why Turkey acted against structural constraints I will explore these two levels of my independent variable. My contention is that degree of harmonization between structural, unit, and level factors decides on the quality of foreign policy; if the discord is obvious between them then we can witness failure in the foreign policy which is exactly what happened here.

Now, it is important to understand that the modern Republic of Turkey was created by war through the revolutionary struggle of Mustafa Kemal Atatürk. Therefore, since the formation of Turkey in 1923, military played a great role in Turkish social and political life as carriers of Kemalist legacy. The role of military can be best seen through its direct involvement in Turkish politics in the case of four successful coups [Kadercan and Kadercan, 2016]. It can be argued that Turkish military and Kemalist intelligentsia further contributed to the divide between center and

periphery which has been subject of much theorizing in Turkey [Özbudun 2013; Serif 2005]. Due to such and similar experiences, Turkey became a country with weak institutions and strong personalities which dominated Turkish politics for decades [Selçuk, 2016]. The example of Erdogan falls neatly into this characterization. What differentiated Erdogan and the JDP from previous cases was his successful domestic consolidation of power and reigning in of the military [Yildiz 2012]. Regardless, Kemalist elements (secular) remained a strong part of Turkey's bureaucratic machinery and overall Turkish *Weltanschauung* [Gjorshoski 2017]. This is also evident in political life as well, which can be inferred from the principles of the current second-largest political grouping in Turkey: the Republican People's Party. We hold that the Turkish state, due to the nature of its weak institutions, is a perfect example of politics based on interest-based coalitions and politicking.

Having shown some insights into the workings of Turkish state, we can better understand why it opted to go against structural constraints and intervene in Syria. Since the formation of the Turkish Republic, Kemalists had an interest in maintaining the *status quo* while only reacting to international events, rather than having any clear plan of action when it comes to instigating them. The only clear precept they held was maintaining a strong pro-Western course. This changed as periphery came to power, most famously under Turkish former president Turgut Ozal, who had a vested interest in liberalizing and diplomatically opening up the country, showing that the way of the West was not the only way to go. Self-admittedly, the JDP itself carries most of Ozal's understanding when it comes to handling of foreign policy [Laçiner 2003]. When the JDP – as a liberal conservative party – came to power in 2002, it was allowed to exist in a sort of a cohabitation with a Kemalist state structure [Robins 2007]. In the early years of the JDP rule, foreign policy was in accordance with Kemalist secular, pro-Western principles. This was best shown in two cases: the 2004 Turkey's EU accession negotiations and 2003 US war in Iraq [Robins, 2007]. While neither Kemalists nor Islamists/conservatives wanted a military solution to the standoff, by 2003 it became obvious that both of these factions would support the US invasion of Iraq simply because it was a pragmatic thing to do, considering the USA's global position and status at the time. Moreover, in 2002, Erdogan and the JDP surprised everyone when they announced that Turkey was ready to start accession negotiation to the EU. This was especially interesting considering Erdogan's history with political Islam and the Welfare Party (Refah Partisi) that considered the EU and the West to be a "Christian club". The JDP was looking to gain European support to further liberalize the country and make the political spectrum more plural, which would ultimately free it from the secular/military constraints and army interventions within civil processes.

With further advents of liberalization, Kemalists started slowly turning away from the European Union in particular, and the West in general, due to two reasons. First, the EU's great demands on liberalization required Turkey to solve its decades-long Kurdish problem by granting Kurds greater rights and liberties; this was something Kemalists, due to their strong republican tradition, were not too keen on doing [Moustakis and Chaudhuri 2005]. Secondly, the EU demanded further liberalization in terms of human rights, which meant allowing greater religious liberties (allowing headscarves in universities, opening up of Imam Hatip schools, etc.) and rights for minorities, which again went against Kemalist republican principles [Mühlenhoff 2014].

The rigidity of the Kemalist ideology caused shifts in its thinking especially pertaining to foreign policy. After all, that was the one of few possible areas of convergence with a socially conservative, yet economically and diplomatically liberal ruling party. Ömer Taşpınar calls this the “third vision of Turkish foreign policy” or the “Turkish variant of Gaullism”, which was centered around the emphasis on the country’s grandeur and independence [Taşpınar 2012]. From this we can see that interest-based coalition between Kemalists and conservatives was stemming from ideological reasons. Turkey wanted to act according to realist precepts when the Arab Spring started, particularly in the Syrian case, but this “realist” undertaking was bound to fail due to mistaken, idealistic elements upon which it was constructed. Thus it turned into revisionism influenced by domestic factors [Snyder, 2013; Van Evera, 1984]. Namely, the interest-based conflict between the strongest political currents within the country (the Kemalist bureaucracy/intelligentsia/CHP and the conservative JDP) came into being due to their disagreement around ideal notions which ensured that their cooperation and anything that amounted from it in the foreign sphere was *ad hoc* and a complete miscalculation of structural constraints. Points of agreement which were based on Turkish grandeur and independence were itself too utopian, and were strongly reminiscent of Neo-Ottomanist thinking as defined by Davutoğlu. This explanation agrees with Snyder’s explanation of logrolling, where different interests within country logroll or trade their policy preferences and expansionism, or in this case unilateralism, arises as a misfortunate side-effect on which all interest parties can agree [Van Evera, 1984]. Understood as such, were it not for the coalition, Turkey would probably not take the hard stance against Syrian Kurds, while at the same time, it would not progressively start turning its back on the West and the EU integration process. Snyder goes on to explain that logrolling behavior is less likely to occur in democracies due to the presence of diffuse interests, yet should we understand Turkey as a country with weak institutions and democracy which is not consolidated enough, especially in the liberal sense of the word, the emergence of logrolling should not be all that surprising.

Furthermore, the unilateral, revisionist role of Turkey in Syria can be seen as resulting from the nature of the government itself. Namely, Zakaria argues that states are more willing to take on more unilateral and stronger roles in international relations where durable, centralized government exists [Zakaria 1999]. Turkey in 2011 fits this description. Not only did JDP had majority government, but the centralization of power was strong as well, which can be seen as an outcome of JDP’s rule over the country since 2002. Furthermore, greater centralization was ensured by coalitional participation of bureaucracy, military and other elements of Turkish state described above. This might be a reason why Turkey decided to take a unilateral approach after decades of engaging in reactive foreign policy. During most of its existence, Turkey was plagued by weak, coalitional governments due to the military’s penchant for removing strong parties and leaders. This was especially felt during 1990s, which Turks refer to as “the lost decade”, due to an abysmal economy and inter-party bickering. With the DP re-establishing order alongside a greater participation of Kemalist elements, a proactive foreign policy was to be expected.

Turkey’s public support for military intervention in Syria was rather intense. In a poll conducted in 2013, the ORC found out that 71.8% of people supported the military intervention in Syria for the toppling down of Assad. Research claiming that

public support for wars will be greater when there is flagrant violation of human rights has already been conducted [Weeks and Tomz, 2017]. This certainly might be one of the explanations for such intense support for the intervention. Yet rather than obeying public opinion, we believe that Erdogan shaped it in the first place in favor of his narrow and personal political interests. In the early years of the Syrian conflict, Erdogan was adamant in his belief that Turkey was a model of *ummah* (community of believers) that needed to be followed by Muslims worldwide. This gave him domestically moral high ground over Assad, whom he saw as illegitimate, and which he used as an impetus to initiate institutional change in favor of a more politically-centralized presidential system [Nation, 2012]. Furthermore, he often reinforced his speeches by religious rhetoric making it seem as he is has direct “mission from God” [Gursel 2016]. Research has been done on this topic, and claims that “mythical discourse” shapes what public considers to be legitimate have been considered [Esch 2010]. Erdogan’s post-2011 utilization of religious discourse can be seen as a supplement to his socially conservative policies. Moreover, religion-imbued rhetoric serves as an additional legitimizing tool in light of the weakening democracy levels in Turkey proper.

This certainly might be one of the explanations for such a high support for the intervention. Erdogan certainly obeyed the public opinion, which can be argued to have been partially shaped by him and the ruling structure in the first place. Be that as it may, the war effort, due to the reasons described above, proved to be insufficient, and Turkey got mired in Syria through its proxies while at the same time getting internationally isolated. Mesquita *et al* argued that democracies should rarely go to wars due to the punishing by the domestic audience; even if they do opt for war, they should make sure to devote all resources necessary to win it for the same reason [De Mesquita, Morrow, Siverson, & Smith, 1999]. Their prescription can certainly apply to Erdogan and the JDP’s case. The failure to back his rhetoric with some tangible results almost cost the JDP its majority government in the 2015 general elections, where they won only 41% of votes. Due to the failure to form the government, the elections were repeated, and in the following iteration, the JDP received enough popular confidence to form a majority government. This can be explained as due to the public disdain of coalitional governments which cost Turkey too much during the last decade of the 1990s. Erdogan’s expectation for a quick victory proved to be unfounded, and the entire rhetoric against Assad (including an unsuccessful proxy war) almost cost him the elections in 2015. Similarly, Fearon argued that the larger the escalation is, the larger the domestic audience cost upon the leader will be [Fearon 1994]. This might explain why in 2016, Erdogan opted for military involvement in Syria and moved away from small-scale border skirmishes and support for anti-Assad elements. Eventually he realized that structural constraints needed to be obeyed, and hence we can see a Turkey-Russia-Iran axis forming by 2016. It can be argued that due to domestic pressure, Erdogan needed to “fix” his Syrian blunder through tighter cooperation with Russia. Nevertheless, this also has its potential downsides. Mankoff claims that by doing this, Erdogan gave Russia the upper hand in all areas which were subsumed under their strategic partnership during the first decade of 21<sup>st</sup> century [Mankoff 2016]. Thus, in fixing one problem, Erdogan created a plethora of others, but only time will tell how the electorate will react and whether or not will it punish him.

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# IMPACT OF THE EUROPEAN UNION MEMBERSHIP ON ILLICIT TRADE IN SELECTED GOODS (CASE OF SLOVAKIA)

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## **Abstract**

Membership in the European Union also brings regulations and directives that are adopted at the supranational level. Excise duties on tobacco products are highly harmonized in the EU countries. The same types of products are applied, the same regimes in intra-communitarian trading are used, and the same bans are applied in relation to the sale to minors, advertising ban in media or ban of sponsorship donations. Their consumption is connected with adverse health effects on consumers, which often result in premature deaths, which subsequently cause additional economic costs and reduce the productivity of a country. The illicit cigarette trade increases the demand as well as the availability of tobacco products. The aim is to show the impact of the changes in the rates of excise duties on tobacco products on the state budget revenue and subsequently on the development of illicit trade.

**Key words:** *legal consumption, excise duty on tobacco products, illicit cigarette, cheap whites*

## **INTRODUCTION**

Directives and regulations adopted at supranational level within the European Community by the competent bodies of the European Union bring the consequent need for their incorporation into the legal systems of the Member States. Free movement of citizens and goods brings a need for joint action by the Member States of the European Union. The first harmonized products included tobacco products aimed at preventing shopping tourism at the borders of the states, limiting illegal trade, and eliminating the negative externalities that arise in the sale and

consumption of such goods. What is the impact of the EU membership on illicit trade in selected goods is shown in this article on tobacco products and the excise duty.

One of the most important adjustments in area of our analysis is the European Tobacco Products Directive (EUTPD) (2014/40/EU), which sets out rules for the manufacture, presentation, and sale of tobacco related products. Tobacco and related products are mainly cigarettes, roll your own tobacco but also popular electronic cigarettes, and herbal products for smoking. The regulation covers a number of areas covering this area, which also covers consumer protection in addition to the manufacture of domestic cigarettes as it obliges manufacturers to report to the EU countries on the content of substances that are part of their products or to put health warnings on the packaging of such products. In order to emphasize the political - security context of the issue under our consideration, it is important to note that such precise rules are also part of measures to combat illegal trade and smuggling of such products. It is therefore necessary to perceive this issue in wider socio - political context, not only as an exclusively economic instrument.

However, there are differences in the price of tobacco products among the Member states. This difference represents one of the determinants of illicit trade. The others can include e.g. the level of corruption, the existence of informal distribution networks or involvement of criminal networks in the illicit trade. Illegal trade is a worldwide phenomenon. Its existence has several unwanted consequences, which are specified in more detail in the chart no 1. As a result of them the illicit trading ruins public administration and the aims of public health.

**Table 1. Illicit Trade with Tobacco Products and Unwanted Consequences**

Illicit Sale of Tobacco Products	Unwanted Consequence
they are not subject to indirect taxation	the loss of stable state revenue in the form of taxes
it makes the offer and the availability of tobacco products wider, so they are cheaper than their legally sold equivalents	smuggling can make the range of tobacco products wider by the types which are not legally represented on the domestic market.
those products usually do not meet various health criteria and limits	impaired health of population, premature deaths and the loss of productivity, all of which negatively influences the economic activity of countries

Source: own processing

A characteristic sign of the consumption of tobacco products is its transfer to developing countries, which do not apply strict rules of tobacco control. In developing countries the consumption decreases. The consumption of tobacco products, which were subject to illicit trade, decreases, too. Within illicit tobacco products, the new types of products come to fore, so called "illicit whites" or

"cheap whites". It is characteristic for these products that they are unknown brands. Their producers are not subject to any regulatory rules. They also rob legitimate companies off the share on the market and profit. It results in the fact that illicit trade influences public sector as well as private sector represented by tobacco industry. Since the illicit trade has a worldwide impact, the worldwide cooperation is necessary for the fight against it. Countries in all parts of the world get united and adopt mutual rules for the fight and elimination of illicit trade with the aim of the protection of their revenue as well as the health of their citizens.

## **1. LITERATURE REVIEW**

In addition to a wider range of international treaties and EU directives governing this issue, it is necessary to base our research on specialized economic literature as traditional possibilities of increasing revenues, such as the growth in tax rates and the introduction of new types of taxes, increase the tax burden but there is no significant impact on the budget revenues. The opportunity to examine the behaviour of taxpayers, in order to prevent the generation of negative externalities along with the preventive measures mainly focused on various tax areas [Heady and Mitra 1980; Callison and Kaestner 2012; David 2010; Dragone, Manaresi and Savorelli 2013]. David [2010] deals with the selected aspects of the taxation of cigarettes in the EU member states, while the limitation of the consumption puts negative externalities on the first place. According to the author the fiscal effect of excise duty is secondary. When monitoring, respectively modifying, tax system it is necessary to take in consideration economically reasonable taxation rate and also psychological limit of taxation [Cnossen 2005; López-Nicolás, Cobacho, and Fernández 2013]. The relation between taxes and economic stimuli and tobacco products and health of inhabitants was investigated by Sassi, Belloni, Capobianco and Alemanno [2014]. They analysed economic, legal and public motives for the application of taxes and other fiscal measures on unhealthy commodities. Moore and Hughes [2000] made a research about the impact of tobacco taxation on the reduction of costs spent on health care. Pros of taxation, as the best means for the limitation of smoking, mostly include the fact that it is a good source of tax revenue, it is possible to impose it at low administrative costs and it simply financially affects smokers to pay for externalities, which are caused by companies. Cons of taxation of tobacco and tobacco products include the fact that it is regressive [Colombo, Galmarini 2017]. Consumers of lower earnings groups have to spend bigger proportional part of their income for their acquisition than consumers of higher earnings groups, which are able to save. The rate of smoking is also higher among low earnings groups. As a result of increased excise duty some consumers stop smoking. However, the other ones will continue. Since the price of cigarettes rises, the costs for other, often important goods will reduce [Lucas 2012]. However, in Gruber and Köszegi's words, excise duties are not regressive, if consumers of lower earnings groups more react on the changes in price when making decisions about tobacco products consumption [2008].

The enforcement of "taxes on sin" aimed at the protection of public health, is not perceived as sincere by all authors, because even after the implementation of the rates of these taxes, the costs still result from them. Instead of being used for the purposes related to the reduction of the number of smokers, they are used for financing of common government projects or repayment of government debt. They

also state that government loses a citizen with the death of a taxpayer, who took from public budgets, but also paid to them. The state will lose money only in case that this person took more than paid. However, it is unambiguous that smokers meet this condition. Although smokers require more health care during their work life, but there are higher expenses in form of pensions, nursing care and social contributions in case of non-smokers. Expenses for the society caused by smokers are largely non-financial and the financial ones are beard by smokers themselves. They state that on the one hand the excise duty on cigarettes helped to reduce the number of smokers in the past, especially among young people, since it is an effective stimuli in discouraging smoking, but nowadays we can observe its unwanted effect in the form of expanding black market. Higher prices lead to the consumption of alternative products, whether they are legal or not. The international market with tobacco products have a double nature consisting of legal and illicit part. The global impact of illicit market means that illicit market is also of global nature and it is a problem for many countries. Illicit market comprises many participants including customs administration, tax administration, law enforcement agencies, consumers, private sector or consumer protection. It results in the typical interaction of offer and demand [INTERPOL, 2014]. There exists an interesting statement about the decrease of cigarettes consumption resulting from their higher price, what leads to increased use of marijuana [Snowdon 2012].

## **2. METHODOLOGY**

The methods, which we used, were influenced by the set aim, which is pointing out the impact of the changes of the rates of the excise duty on tobacco products on the development of illicit market. Mathematical methods were applied within the investigation of the revenue share of excise duty on tobacco products on the total tax revenue and within the calculation of the share of "illicit whites" on the consumption of smuggled and forged cigarettes in the European Union. The consumption of cigarettes represents the biggest part of the consumption of tobacco products. It enables the use of these data. We acquired the data about tax revenue to state budget from the database of Eurostat. It is purely tax revenue without social contributions. The selected period from 2010 to 2016, this represents the last year with the major part of data available. The supporting part was the development of the illicit cigarette trade. The data about the consumption of illicit cigarettes were acquired from the studies of the consulting company KPMG, which were annually published until 2012 under the name of STAR Report and since 2013 under the name of SUN Report. The information of the European Commission on the number of retained cigarette packs in the EU member states were stated in order to provide objectivity. They are annually published in Reports on EU Customs Enforcement of IPR. The analysis of the application of the excise duty on tobacco products was focused on Slovenia, Estonia and Poland, while all of these countries entered the European Union at the same time and their entry was conditioned by the implementation of the common principles of taxation even in the area of the indirect taxes.

### 3. RESULTS

The excise duties on tobacco products are characteristic by high rates, which are then mirrored, in the higher price of these products aimed at discouraging consumers from the purchase and consumption. This state is a result of a several-year-pointing out the adverse effects of tobacco products consumption, especially cigarettes, on the health of consumers. However, despite the harmonization there are certain differences among the countries. The harmonization did not determine one rate of excise duty, which would be applicable in all countries, but a certain range and minimal rate were determined and they must be met by the member states. Therefore, there are differences in the determination of proportional and specific part of excise duty among the countries. These differences are shown in the different excise duty revenue in the European Union member states. In relation to the total tax burden, despite the differences it is almost the same in all EU member states. However, the price of cigarettes remains different. The price is generally lower at the Eastern border of the European Union compared to the Western and Northern Europe.

However, high prices are a reason for the existence of illicit trade, because these cigarettes are often sold for lower price. It weakens the effort of public officials to discourage the consumption by the means of increasing prices through the higher rates of excise duty. The illicit trade has several triggers. They include the differences in the price of cigarettes, which are a consequence of various tax rates, but also other factors, such as the level of corruption or the presence of criminal groups in the country. The illicit trade has many faces, but it is mostly striking in the form of cigarettes and forged cigarettes smuggling in the European Union. The structure of the market has changed in recent years. Smuggled cigarettes and forged cigarettes of the most known producers have been substituted by so called "illicit whites" or "cheap whites". Although being legally produced in a home country, they are illegally sold on the European Union market.

According to estimates, the black market with tobacco creates 10.4 % of total global market, meanwhile it diverts tax revenue and it is the source of financing organized crime and terrorism. So called Tobacco Directive of the EU and the protocol to the Framework Convention on Tobacco Control (FCTC) of WHO are focused on the issue by some of their parts. Also under the influence of countermeasures the black market with cigarettes is subject to trends, while the biggest problems in the EU and in the Slovak Republic are "illicit whites" which largely replaced forged products of known and verified brands. Illicit whites are produced legally, but they are then smuggled to markets where they are illegally distributed and sold. Cigarettes leave the factory with necessary documents, but they do not have the same control of distribution networks as big producers do. There is not a measure talking about the monitoring of the sale of products and the origin of money. Nowadays they are the most dynamically growing group of illicit tobacco. This fact is driven especially by demand. The regulation of the illicit market in the EU is not sufficient. Therefore, the support of legal industry is necessary. It assumes that they have good knowledge about the market and are better informed about the illicit part of the market. According to the study of KPMG the primary source of illicit cigarettes which come to the EU is Belarus. It is estimated that 5 billion pieces were consumed in the EU in 2015. Belarus also supplies the countries of the Eastern Europe outside the EU - Ukraine, Moldavia

and Russia. There are two producers in the country. One of them, Grodno Tobacco Factory Neman (GTFN), is a state-owned producer and the other one is Tabak Invest company, which produces under the own brands as well as the brands of international companies it has a licence for. 1 of 10 illicit cigarettes which are smoked in the EU comes from GTFN. It is estimated that the tax evasion in the EU represents 3 billion EUR. Illicit whites also come to the EU from the United Arab Emirates. Illegal factories are also situated in the EU member states, especially in Poland and Baltic States and they mainly produce forged cigarettes. It is expected that the illegal production will increase, because it is difficult to detect the import of raw tobacco no customs are applied to. Therefore, many states implement excise duty on raw tobacco which will be applied to the separated part of tobacco principal which is not processed yet.

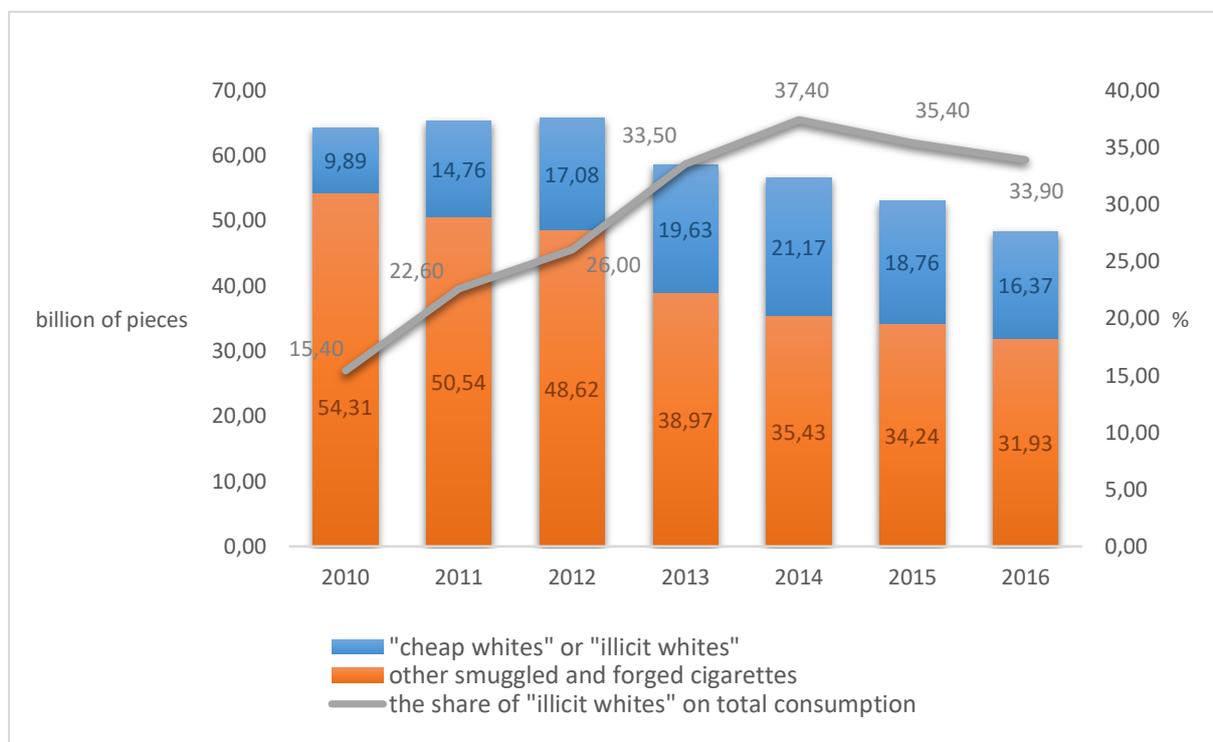
The problem within the EU is also "cheap whites". They are cigarettes of the brands with no legal distribution in the EU. Therefore, they are sold illegally without paying taxes. The EU adopted the directive on tobacco products and the protocol aimed at the elimination of illicit tobacco products market (Protocol FCTC). It strengthened the legislative frame in relation to the fight against this type of illicit market. One of the solutions for the elimination of this tax evasion is also the fact that the European Union signed the Memorandum of Understanding with Belarus in 2016, which relates to "cheap white" cigarettes and it is of technical and operational nature. It was designed to practically assist the cooperation in investigation; meanwhile it should help to make the common effort in the fight against the illicit tobacco market more effective. From May 2019, the Tobacco Directive anticipates the introduction of new extensive system of track and trace of cigarettes situated on the European market or intended for it. On the other hand, FTCT Protocol includes the key requirements for the production of tobacco products and technologies for their production, tools, improving the control of duty free zones and also the measures against money laundering. From the long-term point of view this protocol aims at the creation of the global monitoring system.

All types of tobacco products can be actually smuggled. However, they are mostly the cigarettes. It is mostly thanks to the high consumer demand, their low weight that enables easy movement, high profitability, since their production is quite cheap and high price resulting from the high taxation level. The level of detection and possible fines are quite low. Except from the given types, the illicit trade also include illegal production, which represents the production of tobacco products in conflict with the law including the forgery of tobacco products and undeclared production. These products can be sold on domestic markets or smuggled to another jurisdiction.

The volume of illicit trade can be generally expressed in billion pieces, as a percentage of the market, which is illicit and by the means of tax gap or the loss of tax revenue. The total volume of the smuggled and forged cigarettes consumption of has dropped, because the consumption of cigarettes in the whole European Union dropped too. Twenty years ago, smuggled and forged cigarettes of the biggest tobacco producers were the biggest problem of illicit trading. There has been a significant progress in this area. It has reduced this threat. The success is a result of the cooperation among tobacco industry, its supply chain and the representative of the governments, such as customs office, tax administration and law enforcement agencies. However, new threats in the form of sophisticated

fakes, so called "illicit whites" appear. The following graph confirms this development. "Cheap whites" or "illicit whites" are produced legally in one jurisdiction with the aim to be smuggled to another country, where there does not exist legal market for them. The tax might be paid in the country of production, but it is not paid in the country of destination.

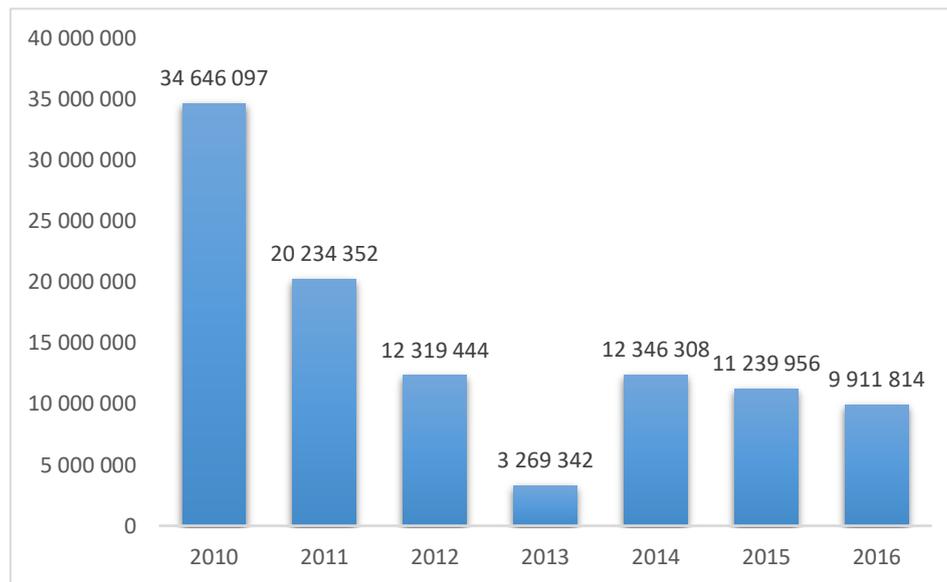
**Graph 1. Volume of Illicit Cigarettes Trade according to Their Types in the European Union**



Source: own processing according to the data of KPMG Project Star for the period from 2010 to 2013 and Project Sun for the period from 2013 to 2016

The data of the European Commission about the amount of retained cigarette packs for the period from 2010 to 2016 are presented in the following graph in order to provide greater objectivity.

Every year the European Commission publishes the report about the amount of retained products where there is a suspicion that they might violate intellectual property rights. We can see that the number of retained cigarettes annually reduced until 2014. The reduction was probably caused by the fact that it was difficult to control big deliveries. The subsequent growth in 2014 mirrors the improvement in the efficiency within the control of small deliveries. China was the largest source country except 2015, when Montenegro overtook it.

**Graph 2. Number of retained cigarette pack in the European Union Customs Office**

Source: own processing according to the data of the European Commission for the period from 2010 to 2016

Excise duties represent a relatively small, but significant source of state budget revenue. The effort to provide the revenue generation from the excise duties on tobacco products seems to be antagonistic aiming at the health of citizens. It is partially true, but it is possible to reach both aims as we can see in the example of the EU countries. The revenue from excise duties is more or less stable despite the decreasing consumption. It can be explained by the fact that increasing excise duty, which should cause lower consumption and the reduction of income, is compensated by the growing excise duty rates. The development of the revenue from the excise duties on tobacco products in the monitored countries of Poland, Estonia and Slovenia can be seen in the following chart. The share of the excise duty on tobacco products on the total tax revenue dropped in the monitored period. The share of indirect taxes on total tax revenue in Estonia is high. It is even above the average of the European Union. The long-term aim of tax policy is the transfer of tax burden from income and employment to consumption and environment. This trend is registered in the increase of excise duties. During the monitored period the government regularly increased the rates of the excise duty on tobacco products. It was also registered in the annually higher revenue from this type of indirect taxes. In 2013 in Poland the revenue from the excise duty on tobacco products dropped. The lower yield of the excise duty is a consequence of lower cigarette sale, which might be a result of a higher excise duty rate, but also a consequence of the growth of illegal cigarette consumption or the increase in the number of consumers who stopped smoking. The following stagnation in revenue, but not a further drop, can be explained by the growth of the legal sale of cigarettes for higher price, which led to the growth of tax revenue despite the decreasing cigarette consumption. In 2010 and 2011 in Slovenia the excise duty revenue grew in line with the growth of the rate of the excise duty on tobacco products. This development was convenient from a fiscal point of view. In 2012, the reform of excise duty on tobacco products was realized. It increased the specific part of excise duty and reduced the proportional part. It led to the situation when cheaper cigarette brands went up in price. It

negatively influenced the substitution within this group of tobacco products. Despite the growth of the excise duty in the following years, we can observe the decrease in tax revenue. It was caused by the above reform, but also other phenomena, such as the decrease of the consumption related to the higher price, VAT increase that also proved in the higher price of tobacco products and lower price of fine-cut tobacco.

**Table 2. State Budget Revenue from 2013 to 2016 in million EUR**

Estonia	Tobacco products				Σ Excise Duty on Tobacco Products	Total Tax Revenue	Excise Duty on Tobacco Products as Percentage of Total Tax Revenue
	cigarettes	cigars	cigarillos	other tobacco			
<b>2010</b>	110.91	0.04	0.59	3.12	114.66	2990.30	3.83%
<b>2011</b>	139.48	0.05	0.74	4.26	144.53	3288.50	4.40%
<b>2012</b>	153.40	0.06	0.91	3.87	158.24	3649.90	4.34%
<b>2013</b>	161.29	0.07	1.02	4.23	166.61	3882.00	4.29%
<b>2014</b>	172.76	0.06	1.00	4.33	178.15	4228.80	4.21%
<b>2015</b>	177.99	0.06	1.07	4.35	183.47	4539.60	4.04%
<b>2016</b>	184.44	0.04	1.11	4.76	190.35	4803.10	3.96%
<b>Poland</b>	cigarettes; cigars; cigarillos; other tobacco						
<b>2010</b>	4249.65				4249.65	74178.00	5.73%
<b>2011</b>	4082.94				4082.94	78358.50	5.21%
<b>2012</b>	4561.76				4561.76	77854.10	5.86%
<b>2013</b>	4370.25				4370.25	77302.90	5.65%
<b>2014</b>	4162.94				4162.94	80716.20	5.16%
<b>2015</b>	4141.47				4141.47	85080.40	4.87%
<b>2016</b>	4189.31				4189.31	87311.60	4.80%
<b>Slovenia</b>	cigarettes	cigars; cigarillos	other tobacco				
<b>2010</b>	389.14	0.15	1.70		390.99	8024.10	4.87%
<b>2011</b>	426.38	0.18	2.74		429.30	8072.20	5.32%
<b>2012</b>	435.35	0.23	6.68		442.26	7948.90	5.56%
<b>2013</b>	410.99	0.26	15.58		426.83	7970.30	5.36%
<b>2014</b>	405.93	0.51	16.13		422.57	8286.80	5.10%
<b>2015</b>	403.00	1.49	17.35		421.84	8540.00	4.94%
<b>2016</b>	395.01	1.26	15.60		411.87	8901.30	4.63%

Source: author based on the data of the European Commission

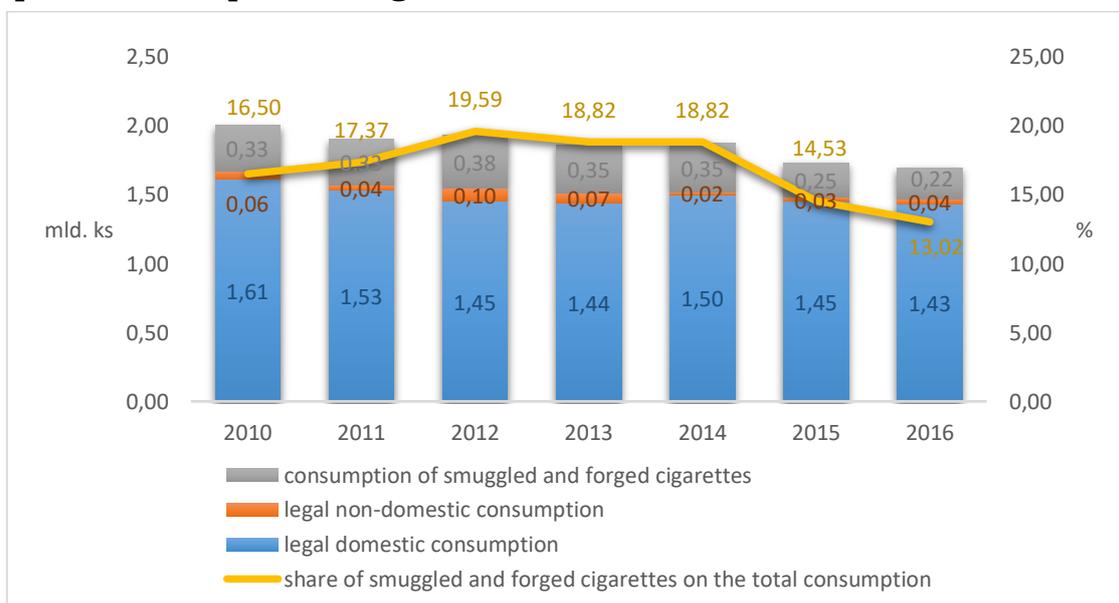
In the following chart we can observe the loss of state budgets of the surveyed countries resulting from the illicit cigarette trade. This loss expresses the additional revenue from the excise duty, which the countries would have gained if smuggled and forged cigarettes were legally consumed.

**Table 3. Loss of State Revenue from 2013 to 2016 in million EUR**

Country	2013	2014	2015	2016
Estonia	38	41	31	31
Poland	685	730	887	785
Slovenia	27	31	34	39

Source: author according to the data of KPMG Project Sun for the period from 2013 to 2016

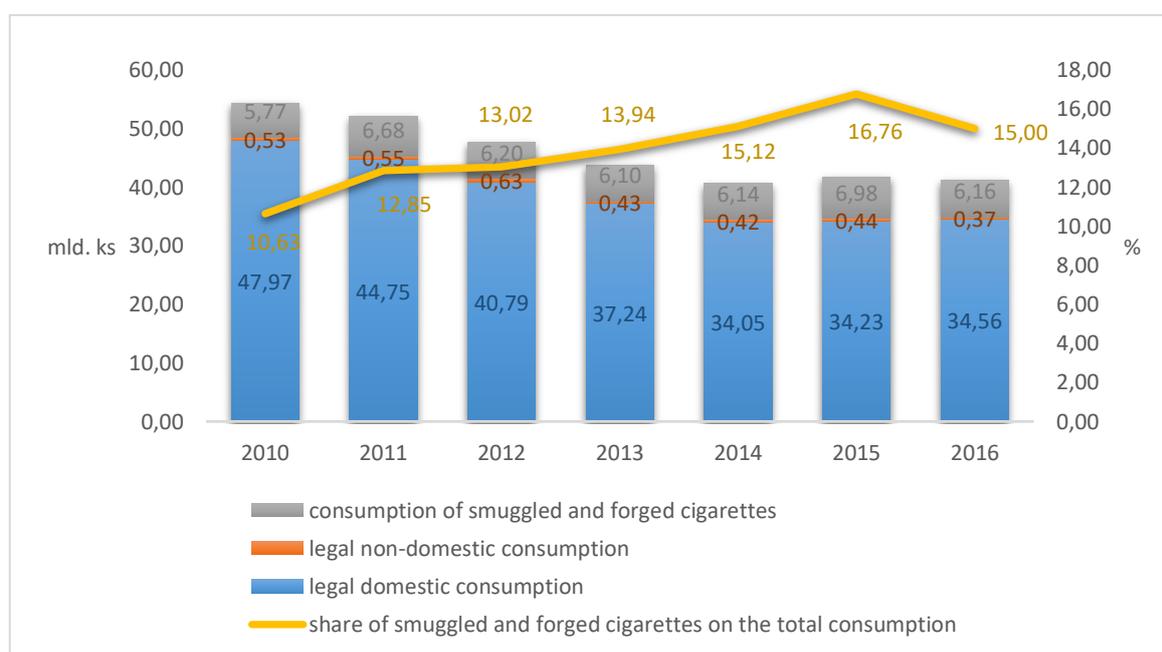
In 2010, Estonia experienced the decrease of non-domestic consumption. It was also expressed in the reduction of the consumption of smuggled cigarettes and their fakes, but their consumption was still above the average of the European Union. The year 2012 was characterized by decrease in the consumption of legal domestic cigarettes. The consumption of the cigarettes from non-domestic sources that year grew due to the increased inflow from Russia, which was caused by the growing number of the tourists travelling between Estonia and Russia. The number of smuggled cigarettes and fakes from Belarus increased, too. They year 2013 was characteristic by the decrease in the consumption of non-domestic cigarettes due to their inflow from Russia. The application of stricter rules limiting the amount of the cigarettes tourists can bring from the countries outside the EU is behind the development. That year the inflow from Belarus doubled and it partially equalized the drop of the inflow from Russia. The legal domestic consumption in 2014 grew despite the growth of prices. Economic conditions participated in the growth. It expressed in the GDP growth and the decrease in unemployment. The total consumption in 2015 decreased thanks to the decrease in the consumption of smuggled and forged cigarettes. Credit for this should be contributed to the increased regulation and law enforcement. The inflow of cigarettes from Russia also decreased due to the implementation of sanctions. It led to the decrease in the number of illicit cigarettes, but also the purchases of legal cigarettes due to the decrease in the number of cigarettes travelling to Russia.

**Graph 3. Consumption of Cigarettes in Estonia**

Source: author according to the data of KPMG Project Star for the period from 2010 to 2013 and Project Sun for the period from 2013 to 2016

Poland mostly represented a transit country. The cigarettes were consequently transported to Germany and Great Britain. Legal domestic sales in 2011 fell in response to the further growth of prices and the full implementation of the smoking ban in public areas. The consumption of non-domestic products in 2011 grew in relation in accordance with the growth of the inflow from Russia. It also led to the growth of the consumption of fakes and smuggled cigarettes. In 2012, the legal domestic sales of cigarettes dropped in accordance with the growth of the consumption of tobacco leaves, which had not been subject to tax until 2013. Since there were the agreements between the European Union and Belarus, and significant differences in prices predominate, the inflow of cigarettes from Belarus grew. Therefore, it became one of the most important source markets of "illicit whites". The response was the determination of a new limit for the import of cigarettes from Belarus in the amount of two packs per a person. Legal domestic sales of cigarettes in 2013 decreased as a response to the availability of cheaper cigarette alternatives, e.g. e-cigarettes, which were not subject to tax, and tobacco leaves, in case of which only dry tobacco leaves were subject to tax. Therefore, consumers started to sell tobacco leaves as wet, and so they used the gap in the law. Legal domestic sales of cigarettes in 2014 were adversely affected by the growth of tobacco consumption determined for cigarettes rolling. The year 2016 was characteristic by quite stable legal domestic consumption, which resulted from a slight increase in prices and stable excise duty rate. The consumption of forged and smuggles cigarettes fell. It was caused by making the conditions for tightening the conditions for the intervention of tobacco brokers. It was reflected in the decrease in the number of tobacco traders. Borders control at the border with Belarus tightened and the borders with the area of Kaliningrad in Russia was closed. However, Poland remained the biggest output market. It was reflected in the low price of cigarettes and also in the number of Polish citizens working abroad.

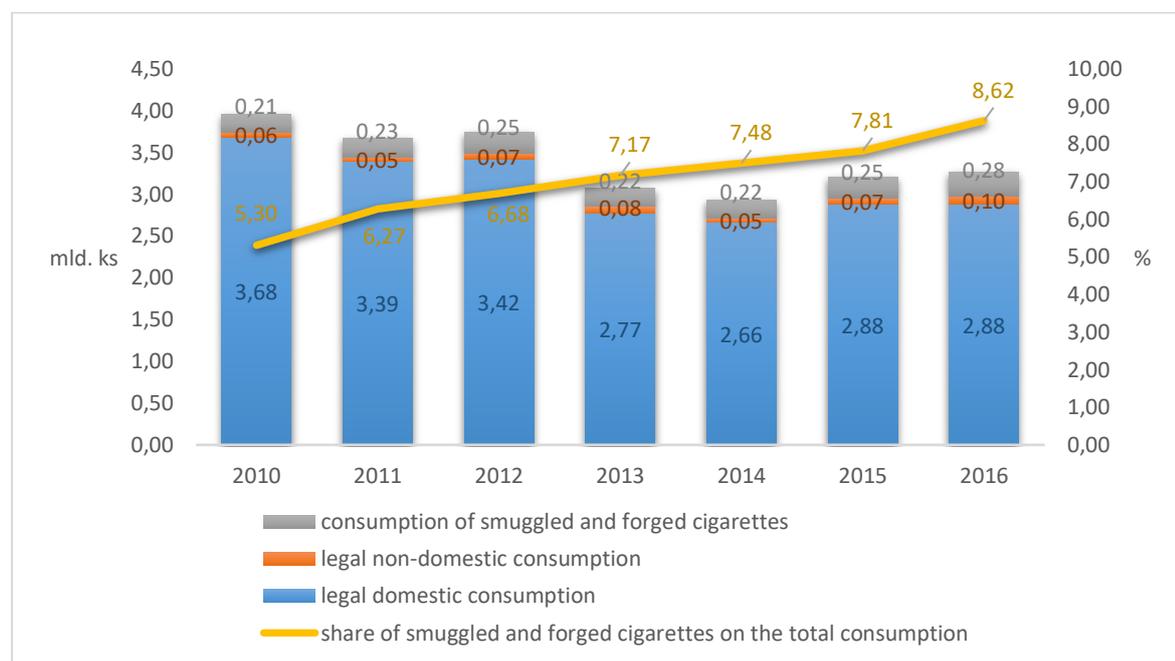
**Graph 4. Consumption of Cigarettes in Poland**



Source: author according to the data of KPMG Project Star for the period from 2010 to 2013 and Project Sun for the period from 2013 to 2016

Legal domestic cigarette consumption in Slovenia in 2010 fell in comparison to the previous year due to the growth of price. The consumption of smuggled and forged cigarettes fell, too. This development reflected the decrease in the import from Bosnia and Herzegovina. The excise duty rate increased in 2011. It was reflected in the higher price of cigarettes, which lead to the decrease in legal domestic consumption and the increase in the consumption of smuggled cigarettes and their fakes. The decrease was also registered in 2013. It was caused by the growth of prices and also by worsening economic conditions. It resulted in the growth of unemployment. The following year the growth of cigarettes was faster than the growth of the prices of other tobacco products. It implies that consumers started to substitute cigarettes. The share of smuggled cigarettes and their fakes on the total consumption remained stable. The main source of the cigarettes of non-domestic legal consumption and also smuggled cigarettes and their fakes was Bosnia and Herzegovina. The increase in non-domestic legal consumption in 2016 reflects significant increase in the number of tourists travelling from and to Croatia, where the cigarettes were cheaper.

**Graph 5. Consumption of Cigarettes in Slovenia**



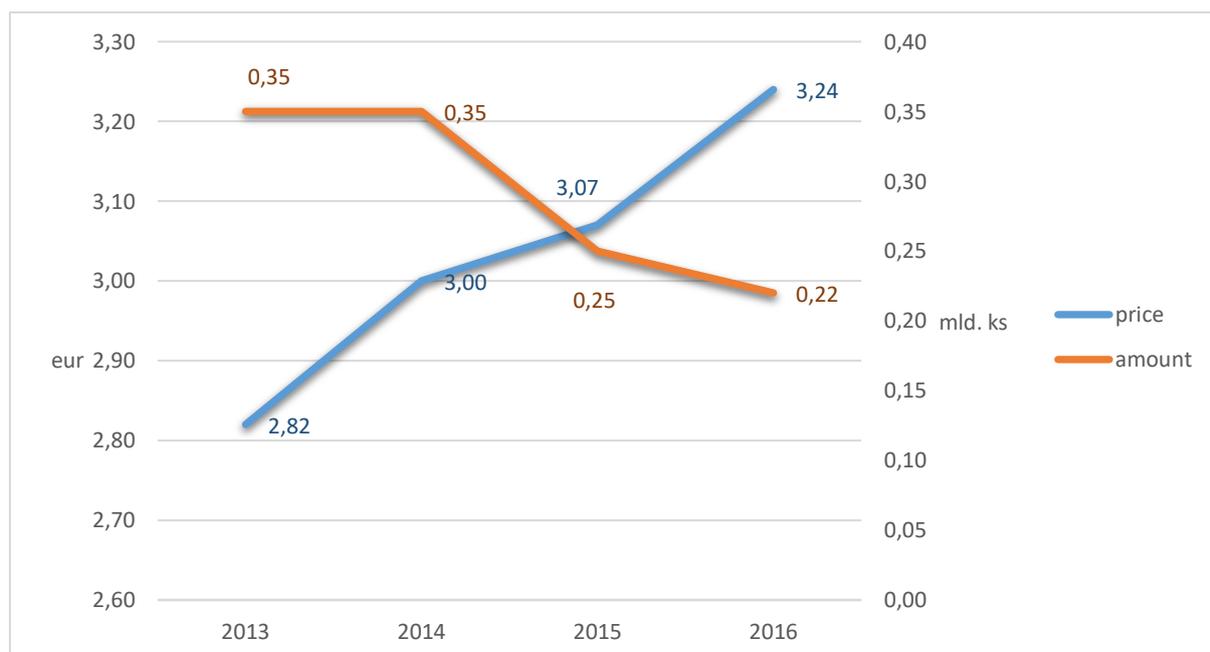
Source: author according to the data of KPMG Project Star for the period from 2010 to 2013 and Project Sun for the period from 2013 to 2016

The cigarette consumption was decreasing in the surveyed countries for the monitored period. However, its composition changed. The decrease in the legal cigarette sales was partially compensated by the growth of legal non-domestic consumption, but also by the consumption of smuggled cigarettes and their fakes. Estonia is the only country, which registered the decrease in all three areas. Several factors contributed to this development. They include effective application of law, effective tax and customs administration and improvement of border controls at the Eastern border of the European Union. The decrease of the total consumption of cigarettes in Poland and Slovenia registered in the decrease in legal consumption,

domestic as well as non-domestic. The consumption of smuggled and forged cigarettes increased. When comparing the consumption of illicit cigarettes with the price of cigarettes we can observe the trend of growing price and decreasing consumption in Estonia. In Poland, the decrease in consumption related to the increased price can be observed in Poland only in 2016. Nor in one year it is not possible to observe such a trend in Slovenia.

The representatives of tobacco industry think that illicit trade is a global threat. In words of one of the producers, illicit trade is the fourth biggest "tobacco company". Tobacco industry believes that the reason for the existence of illicit trading is the differences in the excise duty rates among the countries. It is true that differences in prices and rates can motivate individuals to smuggle, especially in border and transit areas. However, a threat for the governments is smuggling in large volumes. In that case, the connection between the differences in prices and rates proved to be insignificant. The factors, which influence the presence and extent of illicit trade, are poor management, the lack of determination, ineffective customs offices and tax administration, the corruption and complicity of producers, the presence of informal sectors and distribution networks, perception of population and social-economic status. The indirect proportionality between the increase in prices through the increase in the excise duty rate and the increase in the volume of smuggled and forged cigarettes consumption is significant when monitoring the change in cigarette price and the consumption of illicit cigarettes in Estonia.

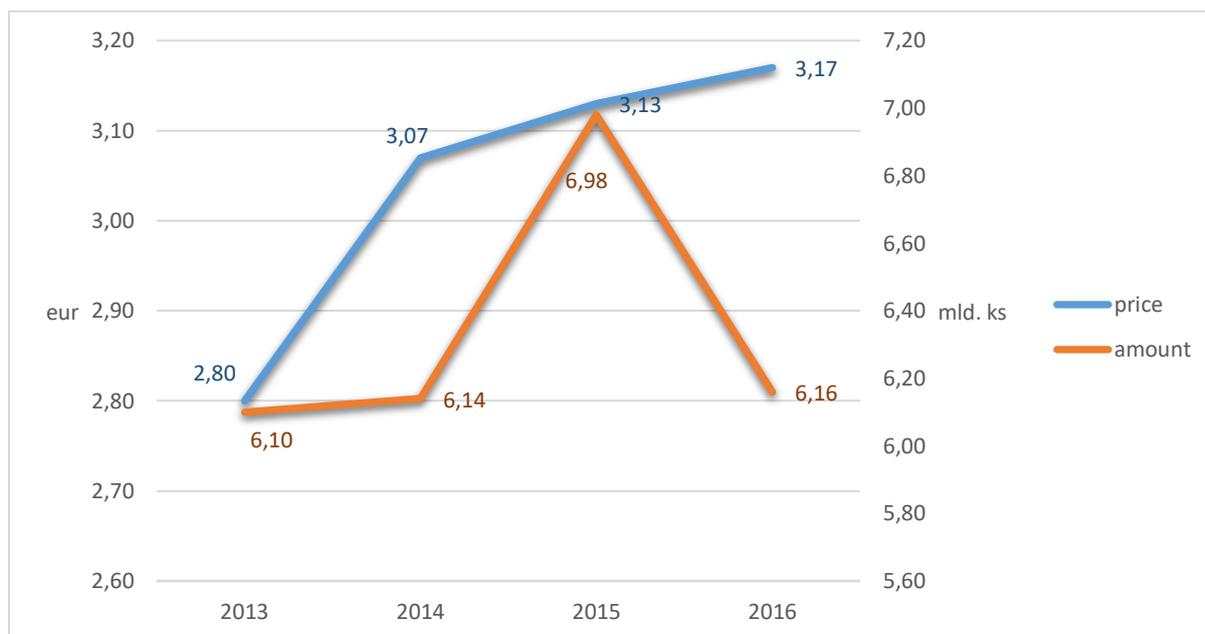
**Graph 6. Consumption of Illicit Cigarettes Versus Weighted Average Cost of Cigarettes in Estonia**



Source: author according to the data of KPMG Project Sun for the period from 2013 to 2016

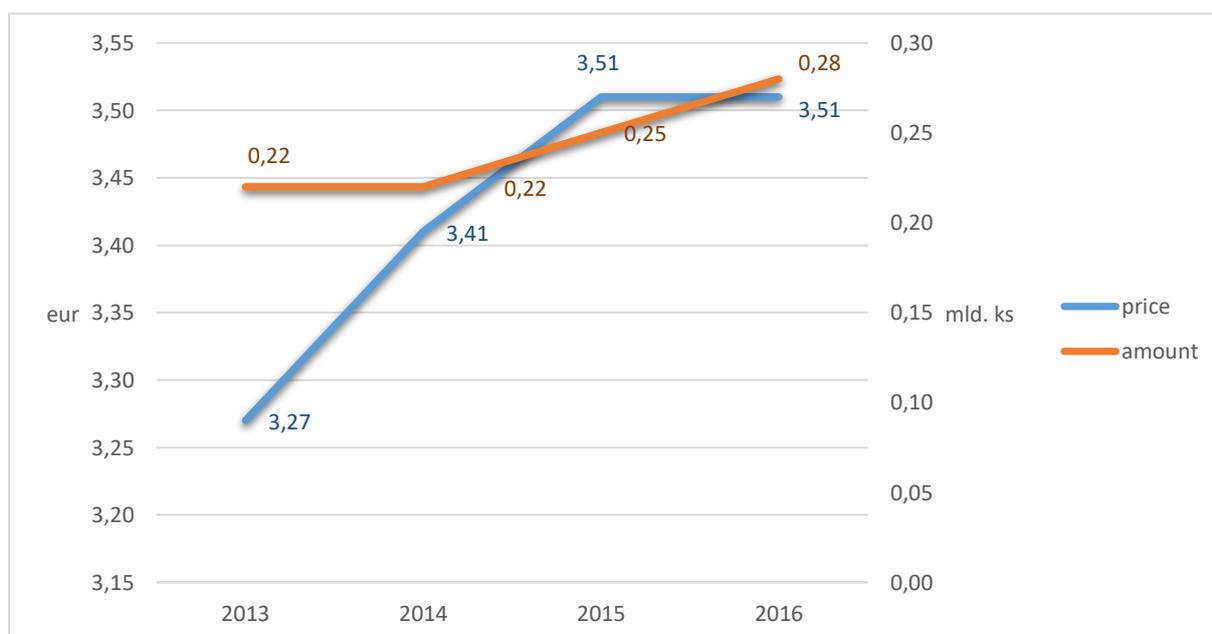
For the sake of completeness, we also present the development in Poland and Slovenia. However, the indirect proportionality between the weighted average cost of cigarettes and the amount of consumed illicit cigarettes is not so obvious.

**Graph 7. Consumption of Illicit Cigarettes Versus Weighted Average Cost of Cigarettes in Poland**



Source: author according to the data of KPMG Project Sun for the period from 2013 to 2016

**Graph 8. Consumption of Illicit Cigarettes Versus Weighted Average Cost of Cigarettes in Slovenia**



Source: author according to the data of KPMG Project Sun for the period from 2013 to 2016

## CONCLUSION

Since there is free movement of persons and goods in the countries of the European Union, a common approach of the MS is needed. The directives and regulations that are approved at the supranational level within the European Community in the relevant European Union bodies bring the consequent need for their incorporation into the legal system of the Member States, as was pointed out by Slovakia during its presidency of the SR in the Council of the EU. This European legislation needs to be seen in the context of the international obligations of the Slovak Republic, also in the context of the 2003 Protocol to Eliminate Illicit Trade in Tobacco Products, adopted by the 56th World Health Assembly based on a consensus on the WHO Framework Convention on Tobacco Control.

The effects of the EU membership and the country's joint action on illegal trade in these goods were shown, due its high harmonization, on the example of tobacco products and the existence of excise duty.

The illicit trading with tobacco products is low- risk, highly convenient activity, which enable to earn significant financial means with a very low possibility of revelation or strict punishment. From the international point of view it encourages organized crime, corruption and terrorism. It also robs states of tax revenue. It results in the inability of governments to spend expenses on health care, education, government services and law enforcement. Smuggled products do not meet various health regulations and violate many laws. The participants in illicit trading trade with various types of tobacco products which can be smuggled, forged or they are part of the grey market, i.e. they were produced by a legal producer and determined for legal consumption, but they were diverted to another jurisdiction within a supply chain. These cases are most often in free trade zones and a producer usually does not know about the diversion of products. Free trade zone were paradoxically created with the aim of facilitating legal businesses and economic growth. However, it turned out that they are susceptible to illegal activities, since they provide preferential environment for production, wholesale, warehousing, import and export facilities. The products, which are placed in free trade zone, can undergo a scale of economic operations, such as processing, re-packing and re-loading. For example the deliveries, which arrive to these zones, are subsequently reloaded to other containers, so that illicit cigarettes can escape. Then they leave the zone as the goods of low value (e.g. textiles), and so they are incorrectly declared or hidden in other consignments. So-called phantom markets are also interesting. They are the countries, such as Moldavia, Luxembourg or Andorra, which are listed as final destinations in export documents. However, there is small demand in those countries to absorb the amount stated in export documents. It implies that there exists an intention to launch excessive offer of cigarettes on black market in the neighbouring countries.

The excise duty on tobacco products represents a source of tax revenue, the amount of which is not subject to fluctuation too much. Within this commodity it is actually possible to monitor the increase in the yield despite the statement that growing excise duty rate will cause lower yield, because more consumers stop smoking. In that case it is possible to explain stable to growing revenue by the fact that smokers who continue to smoke bear higher excise duty and so they compensate the loss of other smokers. Another possible explanation is that consumers start to use other tobacco products. This might explain the growth of

excise duty yield. In addition, several tobacco products, which are classified in the category of other tobacco products, are not subject to tax. The attempts for the decrease in the tobacco products consumption are the result of a long-standing effort of the governments and non-governmental organisations to the control of tobacco products consumption. The issue in tobacco products consumption and specifically cigarettes are new types, which get to the European Union from the third countries. They are "illicit whites" or "cheap whites". They moved up from quite insignificant market to almost one-third market share. Their share on the overall cigarette consumption nearly doubled in the last couple of years. The characteristic of these cigarettes is that their production is legal in one jurisdiction and therefore better quality can be achieved at their production than in case of fakes. They do not violate intellectual property rights and so it is not possible to prosecute producers. Therefore, it is necessary to spend finances on the fight in this area. The best means will be building consumer awareness about the adverse effects of the consumption of these products and strict application of law, which showed to be effective even in the fight against smuggling and forgery of cigarettes, as well as the cooperation with the countries of these cigarettes origin. It is also important to point out the link to other illegal activities, such as human trafficking and support for terrorist groups.

Tobacco industry believes that behind the existence of illicit trading with tobacco products there are high prices that reflect high excise duty rates. However, the extent of the illicit trade depends on other factors. They include effective functioning of state administration bodies, especially tax and customs administration and law application. This development was proved in Estonia. According to tobacco industry, another reason for the existence of illicit trading is strict regulation of this industry, which is shown in the prohibition on promotion of products or generic cigarette packs. However, the regulation is proper, because tobacco products have a negative effect on human health. Therefore, it is necessary to limit their sales. In order to avoid negative consequences in the form of illicit trading, it is necessary to improve the operation of tax and customs administration and international cooperation. Despite the decrease in the consumption of illicit cigarettes, the share of "illicit whites" increases in illicit consumption. This type of cigarettes brings new risks. Therefore, it is necessary to focus the attention of the European Union on the effort to eliminate the consumption of these cigarettes.

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**INTERREGIONAL EUROPEAN INTEGRATION,  
TRADE AND TOURISM COOPERATION  
OF THE COUNTRIES OF EASTERN  
AND CENTRAL EUROPE  
(ON THE EXAMPLE OF UKRAINE AND THE CZECH  
REPUBLIC)**

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**Abstract**

The purpose of the article is to make a comprehensive analysis of the Czech experience of reforming society in such spheres as European integration, trade and the tourism industry on the basis of general scientific research methods. For solving research tasks, general scientific methods are used, in particular: analytical, logical, systematization (classification), generalization, periodization; special historical: comparative historical, retrospective, problem chronological, and others. The personal contribution of the authors is the conceptual setting and comprehensive study of cooperation between Ukraine and the Czech Republic in the field of European integration, trade and tourism. In particular: the analysis of scientific views on the dependence of development of bilateral cooperation on the nature and content of transformational reforms is improved; the system of new

knowledge on the content and nature of the Ukrainian-Czech cooperation in these areas is expanded; the approaches to the use of Czech European integration experience in Ukraine have found their further development.

**Key words:** *Ukraine, Czech Republic, tourist service, tourist infrastructure, economic relations, culture, politics*

## **INTRODUCTION**

Events, which have been taking place in Ukraine since the end of 2013, show the desire of Ukrainian society to integrate into the European community. One of the advocates to protect these aspirations of Ukraine has always been the Czech Republic. The experience of transformation and Europeanization that the Czech nation have carried out in the various spheres of Czech society during 1993-2003, nowadays can be successfully taken into account by the Ukrainian Government for the effective construction of the standards of European democracy and rapid integration into the European Union.

Possibilities of mutually beneficial interregional cooperation between Ukraine and the Czech Republic are conditioned by historical, cultural, partner political relations, economic contacts, common goals on implementation of the course on European and Euro-Atlantic integration, mutual regional interests, as well as the existence of the Ukrainian national minority in the Czech Republic and Czech one in Ukraine.

It should be noted that Ukraine's borders prompt the development of such geopolitical strategy that takes into account political experience and objective realities of the modern age. Therefore, relations with the Czech Republic and other countries of Central Europe are the priority directions of Ukraine's foreign policy. The formation of the Czech and Slovak Federal Republic and the emergence of the independent Czech and Slovak republics on January 1, 1993 have created the necessary conditions for the development of mutually beneficial cooperation between the ethnic groups of the Czech Republic and Ukraine.

Despite the relevance of the research issue, we should state that the analysis of the works of Ukrainian researchers on the possibility of using Czech experience on the Europeanization of society by Ukraine and its impact on Ukrainian-Czech cooperation is inadequate. Thorough scientific works with complex analysis in this area – European integration, trade and economic cooperation, and tourism at the beginning of the XXI century are not published yet.

A similar situation applies to Czech researchers and foreign scientists, including Russian scholars, for whom the issue of Ukrainian-Czech cooperation in these aspects has no clear orientation towards Ukraine. This is especially noticeable, as after the loss of the common border with Ukraine and the entry of the Czech Republic into the EU, the Czech scientists actualize less the interstate cooperation with Ukraine. Czech researchers are avoiding consideration of issues regarding the conceptual foundations of Ukrainian-Czech cooperation, forecasting and modeling its development. In turn, Russian scientists only in recent years are beginning to study the problems of cooperation between the countries of Eastern Europe and the countries of the Visegrad Group, mainly in the political sphere, which is connected with the enlargement of the EU and NATO to the east. Accordingly, other spheres of

bilateral cooperation are not fully integrated yet. Therefore, the practical significance of the results obtained is the possibility of using concrete factual material and conclusions of research by specialists in contemporary history, geography and international relations. Also, the scientific contributions of the authors will be useful in foreign policy activities of the governments, ministries and departments of Ukraine and the Czech Republic. The authors of the article for the first time gave an assessment of the research problem of the interstate relations between the post-Soviet and post-socialist countries of Central and Eastern Europe in the mentioned areas of internal reform and cooperation, and also highlighted the main factors of their influence on the development of the Ukrainian-Czech cooperation. Finally, the authors improved the system of new knowledge on the content and nature of the Ukrainian-Czech European integration, trade and tourism cooperation.

## **1. LITERATURE REVIEW**

Describing Ukrainian-Czech relations in European integration, we can group together the Ukrainian scientists' work on the following issues: 1) reforming societies in the countries of Central and Eastern Europe; 2) the membership of the Visegrad countries in the EU and NATO; 3) the development of bilateral political cooperation between Ukraine and the Czech Republic; 4) geopolitical problems of bilateral cooperation.

Reforming of post-communist societies in Central and Eastern Europe, including the Czech Republic, was analyzed by H. Zelenko, comparing the totality of political and legal institutions and mechanisms under the influence of which transitional societies acquire the features of civil society [Zelenko 2006].

L. Kitsyla investigated the foreign policy of the Czech Republic on the eve of its accession to the European Union. The author concluded that the ultimate goal of the political system transformation of the Czech Republic was to liberate society from the systemic features of the totalitarian communist past and the gradual democratization ("Europeanization") of society [Kitsyla 2004].

The analysis of works by H. Zelenko and L. Kitsyla testified that the policy of acquiring membership in the EU and NATO can stimulate the processes of institutionalization of civil society, since integration processes involve accession to countries with a high level of democracy development, a large-scale legislation adaptation of the candidate countries to European norms, under the influence of which the political and legal conditions of the civil society institutions functioning are improving.

The research study on cooperation between the Czech Republic and Ukraine was conducted by O. Tsup in her candidate's thesis *The Czech Republic and Ukraine in international relations at the end of the XX – beginning of the XXI century* (Lviv, 2009). In the dissertation the author made a concrete historical analysis of the process of formation and development of the system of modern Czech-Ukrainian relations, highlighted the evolution of the main directions of cooperation, revealed the formation peculiarities of the foundations of good-neighborly relations and the main aspects of the Czech-Ukrainian interaction in the 90's and at the beginning of the XXI century. Also O. Tsup has analyzed bilateral relations on improvement of the legal and contractual framework, factors and mechanisms for making trade, economic, scientific and technical contacts, as well as the specifics of interregional

cooperation. The researcher noted that at the beginning of the XXI century as a result of the change of the geopolitical situation and the accession of the Czech Republic into the European Union in May 2004, the state and prospects of the relationship between the Czech Republic and Ukraine required a serious rethinking in the context of European integration and the formation of a civilized European model of intergovernmental relations. At the same time O. Tsup pays much attention to the political component, thus does not sufficiently reveal the economic aspects of bilateral Czech-Ukrainian cooperation [Tsup 2009].

The system of regulation of foreign economic relations in the Czech Republic is considered in the candidate's thesis by V. Fedurtsia. In the dissertation work the author studied Czech experience on regulation the foreign economic relations, considering that insufficient scientific substantiation of the system of regulation of foreign economic relations, lack of clearly defined directions for its improvement, as well as lack of systematic construction of mechanisms for the formation of a qualitatively new effective model of economic relations prevents the Ukrainian economy from obtaining the effect from globalization of world economic system and foreign economic cooperation. The author did not carry out a thorough study of the trade and economic cooperation between Ukraine and the Czech Republic, restricting by the analysis of the formation of a new system of foreign economic relations in the Czech Republic in the course of the implementation of the Associated Agreement with the EU and by the trends of development of trade and investment components of Ukrainian-Czech economic relations [Fedurtsia 2006].

In the article by P. Chernik there were analyzed the geopolitical factors that influenced the development of bilateral relations between Ukraine and the Czech Republic. The author noted that the "Ukrainian question" had a rather significant place in the policy of the Czech Republic and proved that the positive experience of the Czech Republic on integration into the Euro-Atlantic structures could be used by Ukraine. But in the article P. Chernik avoided analyzing the problems of energy security and "The Yamburg debt" of Ukraine and did not analyze the approved state geopolitical concepts of the foreign policy of the Czech Republic [Chernik 2009].

Some aspects of bilateral cooperation and the transformation of Czech society are considered in the researches of R. Korsak and in co-authorship with A. Berets and V. Furtii. These articles do not reveal the depth of the European integration, trade and tourist component of Ukraine's cooperation with the Czech Republic and the influence of the Czech experience on these processes. Therefore, an attempt is made for a given scientific search in this study [Korsak 2013; 2014; 2016; 2017; Korsak, Berets 2016; Korsak, Furtii 2016].

A separate sores group is the unpublished documents from the current archives of the Ministry of Foreign Affairs of Ukraine. They include an analysis of the foreign economic policy and activities of the Czech Republic, its economic relations with the EU, the world and Ukraine, the analysis of implementation of bilateral economic agreements, business contacts, meetings with representatives of state structures and business circles, applications in the form of statistical tables of an economic nature, plans of work of the Trade and Economic Mission of Ukraine in the Czech Republic [Materialy do zvituu, 2002, 2003].

In the article *Chaotic Democracy Remains in Ukraine* L. Palata gives a critical assessment of Ukraine's domestic political life. He believes that the presidents L. Kravchuk and L. Kuchma, who came from the provincial bureaucratic aristocracy and who, even after the fall of communism, remained in power, are guilty in the

economic downturn, corruption, low wages, and slow pace of reform. We can state that this ultimately led to the revolution in Ukraine and the war with Russia [Palata 2011].

In the article *Two Decades of Independence of Ukraine* N. Veselá makes an attempt to analyze the years of the history of an independent Ukrainian state. She argues that, despite the domestic political situation, Ukraine has made significant progress towards European integration, and the Czech Republic is ready to provide its experience and assistance to the Ukrainian state in its approach to the EU [Veselá 2011].

Among the publications that submit an analysis of the Czech foreign trade policy there should be mentioned the works of Y. Hřich. The articles deal with the economic cooperation of the Czech Republic with the countries of Central and Eastern Europe. The subject of his research is the analysis of Czech-Ukrainian cooperation during the period of the global economic crisis. He has noted that the main principles of the Czech foreign policy must envisage cooperation, in particular, with Ukraine in the sector of economic relations [Hřich 2010].

The foreign policy of the Czech Republic is analyzed by M. Kořan in his publications, in particular, in the article “Political Context and Formation of Czech Foreign Policy” [Kořan 2009; 2010; 2011; 2012].

We should note that the study of cooperation between the Czech Republic and Ukraine is not a priority for Czech scientists. This cooperation is not considered in dissertations or monographs. The exception is the one single diploma paper *Trade Relations between Ukraine and the Czech Republic* by S. Fomenko, which was carried out in the direction of “International Trade” at the Faculty of International Relations at the University of Economics, Prague. It provides information on Ukrainian-Czech economic cooperation for the period from 2001 to the second half of 2006 and highlights the trade policy of Ukraine and the Czech Republic. In general, Fomenko’s work does not reveal the main economic problems that exist between Ukraine and the Czech Republic [Fomenko 2006].

Among the Czech scientific publications covering the foreign policy of the Czech Republic, our attention was drawn to the annual *Agenda of Czech Foreign Policy*. In the early periodicals, little attention is devoted to the analysis of the foreign policy of the CR of Ukraine, and in 2011, 2012 and 2013, these issues are presented in separate sections entitled *Relations with Ukraine*. This is due to the growing role of Ukraine in the Eastern Partnership project and the prospects for concluding the Association Agreement with the EU [Agenda pro českou zahraniční politiku, 2011; 2012; 2013].

An overview of used Czech sources shows that the vast majority of publications raise general issues of the transformation processes in Ukraine and the Czech Republic, the implementation of political, economic, trade and economic relations, cooperation with NATO and the European Union, etc. They only occasionally encounter some fragmentary information about the nature, content and trends of Ukrainian-Czech inter-state cooperation. The few publications that mention the Czech-Ukrainian intergovernmental cooperation in the political and economic spheres do not provide sufficient information on the nature, content, development trends and prospects of Ukrainian-Czech extensive relations. Instead, an analysis of Czech publications makes it clear that for Czech scholars in the first decade of the XXI century, the Czech Republic’s cooperation with the countries of the European Union, in particular Austria, Germany and Slovakia, is a priority study.

Russian scientists are also investigating foreign policy of the Czech Republic in conditions of the reform of Czech society at the beginning of the XXI century. In recent years, scientific centers of the Russian Federation have been systematically examining the transformational processes in Central and Eastern Europe, their place in NATO's enlargement strategy and the European Union in the East. In particular, in the monograph of Professor Yu. Matveevskiy, European integration in Western Europe has been analyzed, for example, by the member states of the European Union, including the Czech Republic. It explores the integration processes in Western Europe on an example of the European community and analyzes the various stages of "integration construction" that began with the economy, and then started to spread to other areas of public activity. He paid special attention to the issue of relations between the European Union and Eastern European countries in the monograph [Matveevskiy 2011].

V. Truhachev considered the controversial issues of the Beneš decrees on the eve of the Czech Republic's accession to the EU. The author stressed that this problem concerned not only the relations between the Czech Republic and Austria, but also the relations between the Czech Republic and Germany and Hungary. He considered the possibility of blocking the Czech Republic from joining the EU by Austria and Germany. Similar researches were done in other writings of V. Truhachev [Truhachev 2010; 2011].

The study of the transformation processes of the Czech society and problems of the Czech Republic foreign policy was carried out in the dissertation of N. Tamarchina. The author analyzes the foreign policy of the Czech Republic before joining the European Union. She believes that the experience of the Czech Republic was particularly interesting because it is the only country in the region of Central and Eastern Europe in which post-communist transformation does not suffer from serious social upheavals, with the preservation of the reform team that started the socio-economic and political system in 1989 [Tamarchina 2002].

Geopolitical aspects of the Czech Republic foreign policy were studied by R. Rot. The author analyzed the formation of the Czech Republic foreign policy within the framework of the geopolitical space in the context of the new political situation, and for the first time in Russian historiography he conducted a comparative analysis of the foreign policy courses of Slovakia and the Czech Republic in their integration into "Greater Europe". He emphasized that the main priority of the Czech foreign policy was the integration of the Czech Republic into European and transatlantic political and economic structures. With this task, the ruling Czech elite managed "perfectly". The author also noted that domestic democratic development, the completion of economic transformation, the building of a stable civil society and adaptation to European rules contributed to the achievement of the main goal of the Czech Republic – accession to the EU [Rot 2004].

In general, Russian researchers consider all these problems in order to identify the causes and possible consequences of the processes of political, economic and cultural development of the countries of Central and Eastern Europe for Russia. This approach makes it possible to understand the tendency of cooperation of the Czech Republic with the "eastern" neighbors, including Ukraine.

Finally, a separate group of sources is the works related to the methodology study of the mentioned problem. They reveal the methods of research of international cooperation, including the Ukrainian-Czech ones, the basis of which are general scientific principles, as well as a wide range of historical methods and transition to

the history and theory of international relations both from other sciences and from international practice [Korsak 2013; Zashkilniak 2019; Shepieliev 2004; Kiikufka 2000; Kosolapov 1998; Mesarovich 1973].

Thus, the topic of Ukrainian-Czech cooperation, for both Czech and Russian researchers, does not have a clear orientation towards Ukraine. In turn, Ukrainian scientists are beginning to develop problems of Ukrainian-Czech cooperation mainly in the political sphere only in recent years, while other areas of bilateral Ukrainian-Czech cooperation are almost not studied yet.

## 2. METHODS

The methodological basis for the study of international relations and, consequently, the systematic study of Ukrainian-Czech intergovernmental cooperation, is the general scientific principles and provisions of science, as well as a wide range of methods that went into the theory of international relations, such as philosophy, epistemology, ontology, axiology, dialectics, logic, history, mathematics, and practice. In the general sense, the scientific method is a systematic set of sequential steps that need to be taken to achieve a certain goal. The method of researching Ukrainian-Czech relations is a set of techniques and operations, through which one or another concrete activity is carried out in certain areas of bilateral cooperation. Special scientific methods prevail in the methods of Ukrainian-Czech cooperation research, and among them – qualitative and quantitative. According to the type of causality they are divided into uniquely deterministic, probable, multivalued types [Kosolapov 1998: 70; Mesarovich 1973: 59-63].

The application of the experiment is an important part of the theoretical and practical activities for studying Ukrainian-Czech cooperation. The experiment method is a set of specific techniques and methods that characterize this research in all its parts, as well as specific means and methods for obtaining, collecting, processing key information on bilateral cooperation between Ukraine and the Czech Republic, in particular, political and economic relations, data on mutual commodity turnover, etc. [Bertalanffy 1969: 32-33].

There are two approaches to the studying of Ukrainian-Czech interregional relations: a) a historical and political, that observes Ukrainian-Czech relations by analyzing the relationships, institutes and behaviors that arise and develop in time and space; b) geo-political and geo-economic, which explores Ukrainian-Czech cooperation by analyzing the political and economic interaction of partner countries. Given the significant number of schools, theories and methodological approaches, this separation is conditional. It is used by us exclusively to identify the main trends in the development of bilateral cooperation and issues that require further research and development. In both approaches the defining concepts are the states, that is, Ukraine and the Czech Republic, as the main subjects of international relations, their national interests, force, borders and territory [Shepieliev 2004: 73-76].

The methodology of the study of Ukrainian-Czech intergovernmental cooperation is based on the principles, which derives from the initial ideas about the object of research. The problem of a modern research of bilateral Ukrainian-Czech relations is the polemic of the primary principles of understanding of its own object. First of all, this is about the traditional discrepancy between the principles of subjectivism and objectivism. Subjectivism as one of the principles of the study of Ukrainian-

Czech cooperation is the system of views related to the interpretation of international relations as social contacts, deprived of an objective basis, which derives from the human nature; they form and direct a personality. This principle laid the foundation of theories and scientific schools – anthropomorphism and normativism. Objectivism principles of the study of Ukrainian-Czech relations necessarily take into account the real character, driving forces and tendencies that are independent of the will and desires of a person [Kiikufka, 2000: 102-105].

Deductive and inductive methods, analysis and synthesis as general scientific methods of cognition are also used in the process of research study of bilateral Ukrainian-Czech interregional cooperation. By the deductive method, the study of interregional ties between Ukraine and the Czech Republic occurs from general knowledge to individual ones, and when using the inductive method, the study of Ukrainian-Czech cooperation takes place in the opposite direction. Using the analysis, the bilateral relations are considered in the economic, political, cultural and tourist spheres. Synthesis has allowed to combine the studied directions of Ukrainian-Czech cooperation and to make complex generalizations [Korsak 2013: 66-75].

The study of Ukrainian-Czech cooperation is based on the dialectic method, which takes into account that the Ukrainian-Czech inter-state relations are a dynamic system, which is in constant motion and development, in the constant change of content and forms. In particular, dialectics makes it possible to study the development dynamics of trade in bilateral trade relations, to avoid a metaphysical interpretation of individual and general phenomena and processes. The dialectical approach covers the general features of the development of any phenomena and allows to objectively studying the driving forces of international processes, to find out the differences of individual phenomena. M. Shepieliev emphasized that the principles of general communication and development as the basic principles of the dialectical method are inextricably linked with each other and operate in organic unity [Shepieliev 2004: 85-89].

The opposite of the dialectical method in the study of Ukrainian-Czech cooperation is a metaphysical method. Metaphysics is understood as the scientific views that regard international relations as inconsistent, unchanged in their basis, and processes and phenomena in it are understood to be out of communication with each other. Metaphysics in the study of Ukrainian-Czech cooperation manifests itself in exaggerating the stability and rest, which leads to the justification of stagnation, to dogmatism. Thus, some Czech politicians are firm and skeptical about the European integration course of Ukraine; a stereotype that Ukrainians are poor workers, smugglers and representatives of criminal structures is traditional for the Czech Republic [Korsak 2013: 66-75].

The history methodology of the interstate relations study involves the isolation and theoretical understanding of the following main elements of historical knowledge: a) the object of definition; b) the subject of knowledge (historian), methods and logic of his research activities in the process of creating historical knowledge; c) historical knowledge, its structure, adequacy with regard to reality, social significance [Zashkilniak 1999: 7].

The study of bilateral cooperation between Ukraine and the Czech Republic is based on formal and informal methods. Informal methods began to stand out from the late 1960's. They are understood as an application of formal logic and mathematical analysis to the study or an explanation of international relations in general or their

individual phenomena and processes. The leading place among the informal methods belongs to the historical descriptive method (historical comparative, historical genetic, historical synthetic), which is the basis of the history of diplomacy, international relations and foreign policy, numerous works on the analysis of phenomena and processes of international life. A variant of the historical descriptive method is a politics descriptive method, which is to summarize documentary sources. Both methods provide preliminary factual information on Ukrainian-Czech inter-state cooperation, and all the following theoretical constructs are based on their basis. This group also includes a comparative historical method – a method of studying and explaining the content and nature of Ukrainian-Czech international relations at different stages of historical development during 2000-2013 [Korsak 2013: 66-75].

Thus, with a comprehensive study of Ukrainian-Czech cooperation, different methodological principles, that is, different methods of theoretical research, which are widely used in the theory of international relations, have been used. They gave an opportunity to get new knowledge characterizing the processes of formation and development of the system of Ukrainian-Czech intergovernmental cooperation as a set of stable, well-organized links. They can be seen as the main source of information on the nature of international relations in the context of European integration, which takes place in Central and Eastern Europe.

### **3. RESEARCH RESULT**

On the international scene, the Czech people have always supported domestic and foreign policy, democratic reforms that were conducted in Ukraine. In turn, for Ukraine during 2000-2012 the support of the Czech Republic of such important issues as ratification by the EU of the Association Agreement with the EU, the establishment of a free trade zone was important. In particular, the main work on specifying the provisions of the Eastern Partnership project took place during the Czech presidency of the EU in 2009. In this context, there were positive expectations among experts and politicians in Ukraine regarding the filling of the Eastern Partnership with real meaning [Korsak 2014: 115-118].

We believe that today, for the rapid integration of Ukraine into the EU and, accordingly, for improvement of interregional relations with the Czech Republic, it is important for the Ukrainian society to borrow Czech experience in domestic and foreign policy that will solve a number of state tasks in the European integration, trade, economic and tourism spheres.

#### **3.1. Eurointegration, political and legal sphere of relations**

Unlike Ukraine, the overall process of the real integration of the Czech ethnos into the European Union has found a continuation in the implementation of the “Position papers”. In particular, the EU accession preparation Programs have been developed. In 2000, the program “Common foreign and security policy and customs union” was implemented; in 2001 such programs were implemented: “External relations”, “Commercial law”, “Free movement of services”, “Free movement of capital”, “Social politics and employment” etc. In 2002, such programs were implemented: “Regional Policy” and “Structural Funds Coordination” [Materialy do zvituu, 2002: 2-5].

In the Czech Republic, there has been well organized the work on coordinating the activities of the Czech authorities and interaction with the EU authorities on the implementation of reforms, harmonization of national legislation with the requirements of the European Union. This work was being carried out consistently over a long period of time. For its organization and coordination in 1994, the Government Committee on European Integration was created. Over time, it was reorganized in accordance with the requirements and complexity of the tasks. So, in 2001 it was transformed into the Government Council on European Integration, and in 2003 – to the Government Committee on the European Union Affairs. The Government Committee on EU Affairs has become the main coordination body concerning issues of relations with the European Union in the structure of public administration. Its task was to promote the strategic role of the Czech Republic Government in the matter of formation and implementation of the policy regarding the European Union. The Committee has also coordinated the Branch Coordination Groups which worked out draft bills of the European Commission and influenced the development and preparation of these projects. Thus, all the time there has been provided continuous, consistent work on the implementation of strategic tasks. In contrast, in Ukraine several times the function of European integration was being added to the Ministry of Economy; it was even renamed to the Ministry of Economy and European Integration. The Cabinet of Ministers introduced the post of Vice Prime Minister on European Integration, but most likely, it was done for specific people, and then it was abandoned. No one particularly cared about the consistency and continuity of the work [Materialy do zvitú, 2003: 6-10].

In accordance with the time requirements, as well as political and economic challenges, the basic principles of domestic and foreign policy have been periodically reviewed and adjusted, while the Concepts of Economic Reforms and Foreign Policy of the Czech Republic have been approved (2003, 2006 and 2009). Particular attention deserves the Concept in the sphere of foreign trade, adopted in the context of the global financial and economic crisis. According to this Concept, the Czech Republic having narrowed down the circle of priority countries, at the same time has decided to concentrate on cooperation with Ukraine, which resulted from a detailed plan of cooperation, which contained 4 directions of events [Kořan 2009: 13-20; Kořan 2010: 15-19].

We must state the fact, that unlike the Czech Republic, in Ukraine the concepts of Ukrainian-Czech relations have not been approved. This issue was limited, in particular, by the Decree of the President of Ukraine dated September 14, 2000 No. 1072/2000 known as the “The Program of Ukraine's Accession to the EU” in the part of foreign economic activity (FEA). So, in the section 16.1.2 named as “Cooperation with the States of Central European Free Trade Association” concerning cooperation with the Czech Republic there were mentioned only the signing of the Memorandum on the liberalization of mutual trade. Specific tasks regarding collaboration were not set. In 2001, the Trade-Economic Mission of Ukraine in the Czech Republic developed and has sent to the Ministry of Economy of Ukraine a Draft Concept of Trade and Economic Relations with the Czech Republic for the period 2002-2005, but it has not been approved at higher levels of government. In 2004, the Embassy of Ukraine in the Czech Republic sent to the Ministry of Foreign Affairs of Ukraine proposals to the Concept of bilateral relations between Ukraine and the Czech Republic, which did not bring any results. Thus, in Ukraine, the work on the elaboration of the Concept of Ukrainian-Czech relations

has not been implemented consistently, deliberately and purposeful [Korsak 2013: 345].

To review the expediency and timeliness of the adoption of legislative acts on trade and economic cooperation between Ukraine and the Czech Republic, to simplify the system of national interdepartmental coordination of projects of bilateral contractual normative legal acts. In particular, by the Law of Ukraine dated March 24, 1998, No. 209-98 there was ratified the Protocol between the Cabinet of Ministers of Ukraine and the Government of the Czech Republic on the provision of loans for the financing of the exports of goods and services from the Czech Republic into Ukraine. It was signed in 1997 in order to equalize the balance and to support Czech exporters. However, the project was not implemented. The urgency of the law is lost since in the legislation of Ukraine during this time a lot of norms that prohibit this type of lending have been adopted. In addition, the Law can create benefits for Czech exporters and favorable conditions for Czech goods to access into the Ukrainian market, which would worsen the trade balance of Ukraine, which over the past 10 years is already negative in terms of trade with the Czech Republic. Therefore, it is expedient to consider the question of canceling the specified law.

Without adequate financial resources, in 2004 there was adopted the Law of Ukraine "On Amendments to the State Budget" which allowed the Cabinet of Ministers of Ukraine to make repayment of debt concerning the "Yamburg Agreements" to the Czech Republic in cash and / or commodity form at the expense of funds provided for the repayment of public debt of Ukraine. This law have not been implemented either.

With the two-year delay in April 2006, there was adopted the Law of Ukraine "On Ratification of the Agreement between the Cabinet of Ministers of Ukraine and the Government of the Czech Republic on economic, industrial and scientific-technical cooperation" which had been signed yet on April 15, 2004 [Korsak 2013: 347-351].

Ukraine also needs to reform electoral legislation on elections to the parliament of the country. It should be noted that the transparency of the electoral process and political traditions in the Czech Republic make it impossible to falsify election results, at the same time the national results of the voting are calculated by the Chief State Statistics Office as the only state authorized body in this sphere. According to this plan, such a procedure derives statistic experts from the party influence. Formation of the Central Election Commission pursuant to the Ukrainian model, that is, by the party's quota principle, creates beforehand the conditions for party preferences and defending the interests of certain political forces [Kitsila 2004: 5-7].

The following can be recommended to the Government of the country: the use in the activities of the State Financial Monitoring Service of Ukraine the Czech experience of the implementation of anti-corruption measures, as well as the fight against illicit trafficking and criminal proceeds laundering. To follow the circular letter of the Ministry of Foreign Affairs of Ukraine No. 103/21-020-114 dated February 18, 2003, the Embassy of Ukraine in the Czech Republic and the Trade and Economic Mission in its composition established proper working contacts and defined cooperation with the Financial and Analytical Administration of the Ministry of Finance of The Czech Republic (the leading state body in the country, which coordinates and directly implements measures to combat money laundering). The relevant legislative framework of the Czech Republic on this issue was analyzed. Work in this direction in the Czech Republic is carried out in accordance with the

Law of the Czech Republic No. 61 dated February 15, 1996. In this regard, deserves attention the cooperation between the Ministries of Finance and Internal Affairs of the Czech Republic, which regulates the interaction between them in this area through an interdepartmental agreement. Moreover, the main functions here perform exactly Financial and Analytical Administration. This work was being carried out to prevent measures against Ukraine which Financial Action Task Force on Money Laundering planed to implement and to improve the image of Ukraine in this sphere. It found the continuation in the proposed by the Czech side assistance on the transfer of experience and support of Ukraine in cooperation with international financial organizations, financial reconnaissance of other countries, and also in the Egmont group, a member of which the Czech Republic has been since 1996. As a result of the implemented work in November 2004, the Memorandum of Mutual Understanding between the State Department of Financial Monitoring of Ukraine and the Financial and Analytical Directorate of the Czech Republic was signed. Work on these issues should be certainly continued in the future [Materialy do zvituu, 2003: 16-19; Hetmanchuk 2005: 5].

### **3.2. Trade and financial sphere of relations**

The use of the Czech experience in conducting a coherent fiscal and monetary policy in the sphere of state finances among the central executive authorities should be offered to Ukrainian government officials. In order to harmonize the fiscal and monetary policy in 2000, the cooperation between the Ministry of Finance and the National Bank of the Czech Republic was initiated. In 2002, after the process of privatization of the leading state-owned enterprises “Tansgaz” and “Unipetrol” almost \$ 4 billion was earned. This led to a sharp increase in the Czech koruna by 20% (from 40 to 32 CZK). In order to avoid the negative impact on the exporters of products from the unbalanced financial market, the Ministry of Finance and the National Bank of the Czech Republic signed the Financial Market Agreement in order to “tie” the privatization proceeds from entering the financial market and provide other measures to achieve the necessary macroeconomic indicators. We believe that this experience is important for Ukraine in the period of exchange rate fluctuations and country’s loan borrowings from the international financial organizations [Materialy do zvituu, 2003: 18-21].

Experience concerning the implementation of the export policy of support and increasing of the competitiveness of commodity producers in foreign markets through the creation of the system of state insurance guarantee of export of products is valuable for Ukraine. At the expert level, the Czech side has supported the work being carried out in Ukraine towards the creation of a system of the state export insurance. In turn, the relevant government decisions were adopted in Ukraine, in particular, Resolution No. 498-r dated October 26, 2001 by the Cabinet of Ministers of Ukraine. To the request of the Ukrainian side, the Export Guarantee Insurance Company of the Czech Republic was transferred to the draft Law of Ukraine “On state support of insurance and export crediting” for the conducting of the expert assessments (Order of the Ministry of Economy of Ukraine dated 04.04.2003, No. 29-41/290). Based on expert assessments and proposals to the bill, the Czech government offered its assistance concerning the exchange of theoretical and practical experience for the creation of a new Ukrainian institution similar to the institution of the countries of Central and Eastern Europe. CEO of the Export Guarantee Insurance Company of the Czech Republic P. Parizek invited

Ukraine to join the regular meeting of the so-called “Prague club” on May 25-28, 2004, which was held in Minsk, Belorussia (although the club is called “Prague”, the headquarters is located in Paris, where representatives of European credit companies meet twice a year). However, the Ukraine did not respond to the invitation. It should be noted the fact that at that time, using the Central European experience, there have been established Belarusian “Beleksingarant”, the Kazakh “State Corporation of Export Credits and Investment”, as well as Russian State Concept on this issue. Unfortunately, Ukraine did not use the provided opportunity and by this time have not created a system of state guarantee of export. For almost 10 years, Supreme Council of Ukraine has not considered any bill on this issue. The last version of the draft Law of Ukraine “On Export insurance and crediting” No. 4145 was registered in the Supreme Council on March 3, 2009 [Korsak 2016: 89-92].

The Government of Ukraine, like the Government of the Czech Republic, needed to establish state bodies and funds, approval of state the programs for European integration reforms and cooperation with European Union support funds. In particular, the European Union coordinated assistance in the sector of economic and social interaction related to the use of EU structural funds. This coordination was related to the preparation concerning the use of structural funds by the Czech government, the Cohesion Fund, and concerned “Phare” programs in the area of regional and sectoral development programs, cross-border cooperation programs and instruments of “Ispa” and “Sapard” at the pre-accession stage into EU. The “Phare” program supported the preparation of the Czech Republic for the accession to the European Regional Development Fund (ERDF), as well as the European Social Fund (ESF); “Ispa” – to the Cohesion Fund (CF) while “Sapard” – to the European Agricultural Guidance and Guarantee Fund (EAGGF) [Materialy do zvituu, 2002: 12-15].

Today, under the terms of signing the Association Agreement, the use of the Czech experience in relation to existing approaches for securing state interests in the sector of foreign economic relations and provision of support to entrepreneurs in the implementation of their trade and economic activities abroad is very important for the country. In particular, in the Czech Republic trade and economic interests are represented by the following state institutions:

1. Trade-economic departments or sections within the Embassies;
2. Representation of “Czech Trade”;
3. Representation of “Czech Invest”;
4. The foreign centers of the Czech Republic [Materialy do zvituu, 2003: 11-14; Korsak 2016: 110-117].

Transparency in business, openness of all property registers, open access to the register of owners and founders of business entities – this all has created a favorable investment climate in the Czech Republic. By 2012, more than 140 billion US dollars of foreign direct investment has come into the Czech economy, which is three times higher than the inflow to Ukraine. The average salary was more than \$1,300 USA. In Ukraine, legislation on the establishment of registries has been just adopted, but they are not fully open yet. First of all, this is the register of property owners, owners and founders of business entities, and others. This significantly reduces the attractiveness of conducting business in Ukraine, undermining the trust of foreign investors. For example, in the current archive of the Trade and Economic Mission of Ukraine in the Czech Republic there is a correspondence to

the Tax Inspection of Ukraine and to the State Committee of Entrepreneurship with a request to provide information on the appeal of Czech entrepreneurs about the founders and owners of certain Ukrainian business entities. But there was no answer because it was closed information. The Czech businessmen perceived this information with a lack of understanding and subsequently in the future did not attempt to work in the Ukrainian market [Korsak 2014: 115-118; Agenda pro českou zahraniční politiku 2011: 49; Agenda pro českou zahraniční politiku 2012, 47-48].

The Ukrainian government needs to implement the export policy through the state support of the participation of the actors of foreign economic activity in presentation and exhibition events, business and economic forums in other countries. In particular, in accordance with the Concept of Foreign Economic Activity of the Czech Republic, the Czech Government considers advertising, information and exhibition activities as an important component of the export policy of the state. The amount of money directed to the Czech Republic at fairs and exhibitions has amounted to 1% of the gross domestic product, that is, about 260 million US dollars. In the country there has been introduced a program of the state support for the products of the Czech producers, represented at the international exhibitions. The Ministry of Industry and Trade of the Czech Republic has occupied one of the leading places in the system of the state support of exhibition and fair activity. It provided full or partial financing of participation of Czech companies in 50-60 international exhibition and fairs events taking place in foreign countries. At the end of each year, the Ministry has confirmed a list of exhibition events to be funded next year. Thus, an annual list of about 60 international exhibitions abroad has been approved, within the framework of which the state support for the participation of Czech companies was provided. Such a state approach is important to support Ukrainian exporters, in particular in the Czech market, due to their low level of participation in exhibition and presentation events, and the small number of representations of firms and companies in other countries [Korsak 2013: 361].

During 200-2012 Ukraine needed to liberalize and abolish visa regime with European countries. The visa regime between Ukraine and the Czech Republic has negatively affected trade and economic relations between these two countries. Ukrainian exporters and entrepreneurs found themselves in unequal and unfavorable conditions for doing business. According to the State Statistics Committee of Ukraine, after the introduction of the visa regime with the Czech Republic (2001), of the 624 joint ventures created with the participation of Czech capital, only a third continued to work actively in the markets of the two countries. Visa restrictions have significantly influenced cooperation, first of all, concerning small and medium business, interregional and interdepartmental cooperation, exhibition activities, etc. The terms of project preparation and commercial contracts have increased significantly [Materialy do zvitú, 2002: 21-23].

In the sphere of statistics of the bilateral Ukrainian-Czech trade and economic relations, it is necessary to improve the method of statistical calculations of the bilateral trade, bringing it closer to the methodology of the European Union. In Ukraine, to calculate the trade between countries, different sources of statistics are used – along with the state there are departmental statistics. First of all, this is the statistics of the customs authorities. During the whole period of the bilateral trade, there are significant differences in the statistical indicators in this sphere, accounted by Ukraine and the Czech Republic. First of all, this does not allow to

really assess the state of Ukrainian-Czech trade; secondly, it complicates the question of protecting the interests of Ukrainian exporters in the market of the Czech Republic, since in the process of conducting the investigations to protect domestic producers from undesirable imports using appropriate application of tariff and non-tariff restrictive measures, the Czech Republic determines the volume and value of import of “sensitive” goods from Ukraine exclusively on the basis of its own statistics. Instead, government authorities and business entities in Ukraine are guided by Ukrainian statistics that differ significantly from the Czech one. Thirdly, various statistical indicators may conceal abuse, illegal trading schemes, tax evasion, hiding of the real incomes and profits, money laundering, etc. [Korsak 2013: 399].

The most successful trade cooperation was in 2008. At that time, the highest commodity turnover rates were achieved. According to Ukrainian statistics, overall trade turnover (in comparison with 2007) increased by 29.3%. Ukrainian exports grew by 56.4% to \$ 670.8 million against \$ 428.9 million in 2007. During the investigated period, the crises in mutual trade between the two countries were in 2009, and for Ukraine – even in 2006, when Ukrainian exports amounted to only 90.6% to the level of 2005, respectively, \$ 341.6 million and \$ 377.3 million. The landmark was 2009, because the mutual trade turnover decreased from \$ 2046.8 million in 2008 to \$ 962.8 million, or more than for a half. Ukrainian exports to the Czech Republic in 2009 decreased by 50% to \$ 340.7 million. In 2012, it was reduced again. This testified to the insignificance of crisis phenomena in the Ukrainian economy. Uneven access conditions to the markets of two countries that were harder for Ukrainian producers, low competitiveness and a significant raw material component of Ukrainian exports, lack of investment in Ukraine, created a significant gap in trade flows and export growth rates in favor of the Czech Republic. According to the Czech statistical office, volumes of trade between Ukraine and the Czech Republic during 2012 increased by 2.4% and amounted to \$ 2852.36 million. Exports of Ukrainian goods to the Czech Republic decreased by 19.4% over this period and amounted to \$ 1137.25 million. Growth in commodity circulation was solely due to the growth of Czech imports. The volume of imports of Czech goods to Ukraine increased by 24.8% and amounted to \$ 1715.11 million. The negative balance for Ukraine amounted to \$ 577.8 million [Agenda pro českou zahraniční politiku, 2013: 46-47; Korsak 2014: 115-118].

The main branches of the Ukrainian-Czech trade and economic cooperation during 2000-2012 were machine building, heavy, chemical, light and food industries, construction complex, transport communications. The decisive factor in expanding the scope and improvement of the commodity structure of Czech trade with the European Union was Western capital invested in industrial production of the country. An economic consultative dialogue between Ukraine and the Czech Republic, starting from 1996, was carried out on a permanent basis. Every year in the Czech Republic there were more than 50 delegations of Ukrainian ministries, departments, regions and cities. The activities of these bodies and expert advice were directed by the Ministry of Economy of Ukraine, the Ministry of Foreign Affairs of Ukraine, other branch ministries and departments of Ukraine in accordance with their competences [Korsak 2016: 87-90].

### **3.3. Tourism industry**

In the XXI century, the cooperation between Ukraine and the Czech Republic in the sector of tourism service takes place through the prism of the relations of this country with the European Union. The western border of Ukraine has become a border between Ukraine and the EU – an embodiment of a course on European integration within the framework of implementation of the joint agreements and projects. The issue of realization of the tourism policy in Ukraine is urgent as tourism is recognized to be a priority sphere of the national economy and its development will determine country's specialization in the future. Cooperation with the Czech Republic and other EU countries, the use of their experience will serve as a guarantor of success and will help to develop a national strategy for the formation of tourism services.

For Ukraine, it would be appropriate to use the Czech experience in organizing the country's tourism industry. After leaving the Council for Mutual Economic Assistance, tourism development in the Czech Republic was characterized by the collapse of the old type enterprises such as tour agencies and travel agencies. An important feature of the development of the tourism industry was that these processes took place in conditions of transition of the country to a market economy. The modification of old tourist enterprises was carried out through the restructuring of a tourism product that had a demand from a Czech consumer. New enterprises were created, which later became known as tour operators and travel agents. At the beginning, actively began to develop mainly on outbound trips, due to the long-term shortage of outbound tourism in times of Soviet influence, which led to the formation of increased demand for an external tourist product. Some countries have introduced visa-free entry for the attraction of Czech tourists: Ukraine, Poland, Hungary, Bulgaria; but in Germany, Spain, and Italy, they simplified visa formalities [Fedurtsia 2006: 4-5].

Outbound tourism in the Czech Republic was determined by the following reasons: the novelty of a foreign product for the Czech consumer, the expansion of foreign business contacts, the facilitation of departure, the affordable price on outbound tours, and the high competitiveness of foreign tourist products. Today, among the main source markets of the Czech Republic are Germany, Great Britain, Russia, Italy, the USA, Poland, Slovakia, France, Spain, the Netherlands, Austria, and Japan. Of the new non-European markets, the highest dynamics is observed among the number of arrivals and nights of tourists staying from South Korea, China and Brazil. The value of initial markets should also be evaluated based on the average daily cost. Among the markets with the highest total daily average costs – Russia, the USA, the United Kingdom, Italy, Japan, France, Spain, as well as Norway, Denmark, and Sweden [Korsak, Furtii: 99-103].

We believe that the Government of Ukraine should take into account the experience of institutional development of tourism in the Czech Republic. In particular, the Czech Government has successfully applied the “British model” of tourism development. Key elements of this strategy were aimed at maximizing the popularity of the Czech tourist product, for example, castle buildings and palaces, and attraction and satisfaction of a huge number of visitors. This was due to the development of tourism infrastructure and the improvement of tourism services in the country.

In 1993, the Czech Tourism state organization was founded, which used a number of key activities promoting tourism in the domestic market and abroad. By 2003,

the organization was named the Czech Tourist Center (CCCR), the founder and curator of which is the Ministry of Local and Regional Development of the Czech Republic. Among the main tasks of the Czech Tourism is the increase of the number of repeated visits and the satisfaction of tourists [Korsak, Berets 2016: 98-101].

The Czech Convention Bureau (CzCB), founded in 2009, is promoting the Czech Republic in the field of congressional and incentive tourism in the domestic and foreign markets. The CzCB works closely with individual regional offices, controls the work of the regions, and thus contributes to the maximum use of the congressional capacity offered by the Czech Republic. The city of Prague has traditionally occupied leading positions in the world ranking of congress cities.

Significant importance in the development of tourism in the Czech Republic is the department of the Czech Tourism agency – the Institute of Tourism. It provides analytical and informational services to other agency's organizational components. The Institute also provides information on the development of the tourism market of the Czech Republic, etc. The Association of the Regions of the Czech Republic, established in 2001, plays an important role in the domestic tourism market. It is an open organization that united the interests of all 14 administrative regions of the Czech Republic – 13 counties and Prague. It is registered in the status of association of legal entities in order to protect the rights and interests of the inhabitants of the regions. One of the important bodies of the Association is the Commission, including on tourism and on culture and the preservation of monuments [Korsak, Furtii 2016: 128-131].

The Ministry of Local and Regional Development of the Czech Republic has a coordinating role in the country's tourism industry. The main tasks of the Ministry are to use legislative opportunities to create conditions for the development of tourism in the Czech Republic, to protect the interests of consumers of the Czech tourism product, to monitor and coordinate the activities of travel companies and tour operators. The Ministry is a permanent and active participant in well-known international tourism forums and regularly presents its activities at specialized conferences and exhibitions. In addition, it also implements a number of projects funded by the European Union Structural Funds. In addition to these institutions, the coordinating role in the field of tourism is carried out by the Association of Travel Companies and Agencies, the Association of Tourist Information Centers, the Association of Hotels and Restaurants of the Czech Republic [Korsak, Berets 2016: 98-101].

The tourist cooperation of Ukraine with the Czech Republic in the field of tourism takes place in accordance with the Decree of the President of Ukraine *On Measures to Ensure the Implementation of the State Policy in the Field of Tourism* and the Law of Ukraine *On Amendments to the Law of Ukraine On Tourism* of November 18, 2003 No. 1282-IV (Section VII, Article 35).

It is also necessary to note that the tourist office of Ukraine has applied for inclusion of Ukraine into promising programs of cooperation in the field of tourism. In particular, in Art. 72 Sec. VII *Economic Cooperation*, it is stated that Ukraine and the Czech Republic are expanding and developing cooperation, which will include cooperation between official tourist organizations, studying the possibilities of joint tourism and hotel-restaurant activities, and training of personnel involved in the tourism industry [Korsak 2016: 156-158].

Within the framework of the implementation of the tourism program in Ukraine, an interdepartmental working group was established with the Czech Republic, which facilitated the organization of important work visits at the highest level, in particular, the Ministers of Tourism and the heads of the relevant tourist departments of both countries (2003), the leadership of the executive body in the field of tourism of Ukraine to the Czech Republic and other EU countries (2004). The mentioned visits greatly contributed to establishing a constructive tourist dialogue, optimizing interaction in providing stable tourist flows, increasing the volume of tourist exchanges and providing tourist services and improving the economic efficiency of the tourist service, etc. Also, Ukraine's tourist cooperation with the Czech Republic continued during all the Ukraine-EU summits, which ultimately simplified the visa regime with Ukraine and significantly intensified the tourist relations between the two countries [Korsak 2017: 82-86].

We should mention that Ukraine participated in joint Ukrainian-Czech tourist projects funded by the EU government. According to one of them, the creation of a network of tourist service centers was foreseen in order to disseminate information and promotional material under the Twinning Projects [Agenda pro českou zahraniční politiku, 2013, 46-47].

The next direction of Ukrainian-Czech tourist cooperation is participation in order to ensure the effective functioning of tourism infrastructure in the directions of international transport corridors, in the TACIS program (having implemented since June 1999, it is an agreement on cooperation in the development of tourism in four regions of the Carpathian region: Zakarpattia, Ivano-Frankivsk, Lviv and Chernivtsi). Priority measures for the implementation of this Program have identified construction, reconstruction of highways, arrangement of their tourist infrastructure and objects of tourist service [Kořan 2011: 15-17; Korsak 2017: 82-86].

An important recommendation regarding the formation of a positive tourist image of Ukraine in its relations with the Czech Republic is the improvement of the cultural factor of cooperation. It should be noted that the countries and ethnic groups never conflicted in the historical past and did not exist between them a negative historical heritage. On the contrary, in 1918-1920, Ukraine made a number of steps that contributed to the consolidation of Czechoslovak statehood, and the Czech Republic adopted a large number of Ukrainian political and cultural emigration and created for it almost ideal conditions for cultural and national life, gave a positive impetus to the national development of Transcarpathia (Cultural and Humanitarian cooperation between Ukraine and the Czech Republic).

All this created a favorable ground for successful Ukrainian-Czech cooperation in the early XXI century. Before this Ukraine was supposed to move from quantitative actions and assessments to a systematic cultural presence in the Czech Republic through Ukrainian radio and television in the Czech Republic, days and months of Ukrainian culture, the opening and operation of Ukrainian cultural centers, the opening of permanent Ukrainian correspondent centers, regular interviews with the leaders of Ukrainian culture and science, through the spread of the Ukrainian press and the book, that is, through the creation of a holistic system of constant presence of Ukraine in the Czech society. All this together with the creation of web pages of the President, the Prime Minister, the Chairman of the Verkhovna Rada, the ministers of education and culture, the academics of the National Academy of Sciences of Ukraine, the expansion of activities of non-governmental organizations,

cultural and scientific exchanges between the Ukrainian and Czech regions, extensive cooperation with the diaspora, etc. would prove a permanent cultural presence of Ukraine in the Czech Republic. It should not be forgotten that broad cultural ties create good preconditions for a broad mutually beneficial political, trade, economic and tourist cooperation [Korsak 2016: 98-101].

At the same time, we have to state that during the first decade of the XXI century, the Ukrainian-Czech political and trade-economic cooperation completely neglected the cultural and humanitarian cooperation of two ethnic groups, the formation of a positive image of Ukraine in the Czech Republic. The conduct of several propaganda campaigns did not have any results. Ukrainian state agents forgot or did not know that an external campaign to form a positive image of the country should include propaganda and popularization of the national cultural heritage of its ethnic group, that is, the promotion of national history, cultural achievements, national democratic traditions, that is, everything created and created by Ukrainians. Therefore, the most successful popularization of national cultural traditions is the domestic promotion of Ukrainian ethnic values and achievements that will teach Ukrainian citizens to be proud of their history, language, culture and prospects for their development [Korsak 2013: 402-406].

It should be noted that after the Czech Republic's accession to the EU, the dynamics of tourist flows into the country grew. At the same time, we must state that the introduction of the visa regime with Ukraine has led to a reduction of Ukrainian tourist flows. Thus, the average Prague annual average of 6.5 million foreign tourists visited. Citizens of Ukraine accounted for 1% of visitors to Prague and ranked 15th in statistics. Mostly, in 2004-2012, there were tourists from Germany (14%), the USA (8%), Great Britain (7%), Italy (5%), and Russia (5%). Ukrainians stayed in the Czech Republic by an average for 2.7 nights. So, Ukrainian tourists took the 4th place in 2012 in the statistics of the number of nights spent in Prague. More time than Ukrainians was spent in Prague only by tourists from Spain (2.8 nights), Italy (2.9 nights) and Russia (3.9 nights).

The smallest indicator of Ukrainian tourists was observed in 2012 – 103 thousand. This is 11% less compared to 2011 (116 thousand people) and 28% less than in 2010 (144 thousand people). In 2012, Ukrainians accounted for almost 2% of Czech tourists and ranked 14th in national statistics.

At the same time, after the Orange Revolution (2004), which proclaimed the European choice of Ukraine, there was an increase in tourist interest from the EU countries. The largest number of them was from the Czech Republic in 2012, which was definitely due to the holding of Euro 2012 in Ukraine. In particular, the number of tourists from the Czech Republic increased by 15.6% compared with last years and amounted to 29.6 thousand people [Agenda pro českou zahraniční politiku, 2011: 49; Agenda pro českou zahraniční politiku, 2012: 47-48; Palata 2011: 2].

Nowadays, Ukraine is interested in continuing and deepening of the eurointegration tourism route, which envisages taking into account the tasks of adaptation of the tourist legislation of Ukraine to the relevant EU norms. Practical experience of the Czech Republic in the sphere of tourism proves the need to provide the state support to the development of tourism sector, in particular by financing the international tourism activity; formation of the tourism industry as a profitable sector of the economy; integration of Ukraine into European and world's globalization tourism processes [Korsak, Furtiy 2016: 128-131].

In order to develop tourism cooperation between Ukraine and the Czech Republic, it is necessary to conduct in Ukraine international specialized seminars, conferences with the involvement of domestic and foreign organizations to study the Czech experience concerning organization of tourism infrastructure and services. Also the Government of Ukraine needs to establish a system of exchange of experience on an ongoing basis with the relevant tourist structures of the European Union and the Czech Republic.

## 5. DISCUSSION

Our research proves that interregional Ukrainian-Czech ties and tourism service depended on the mechanism of coordination and decision-making by the state factors of both countries, which determined the directions and content of interregional cooperation. In comparison with other similar studies, in particular, V. Fedurtsia and S. Fomenko [Fedurtsia 2006; Fomenko, 2006], it was emphasized that Euro-integration reforms in Ukraine and the Czech Republic influenced the intensity of Ukrainian-Czech cooperation at the highest level, and not only foreign economic relations of the Czech Republic.

In contrast to O. Tsup [Tsup 2009], the dependence of the deployment of interregional ties on the degree of the unresolved contradictions and unresolved problems is underlined. Among them, from the Ukrainian side failed an attempt to propose specific actions to fulfill obligations provided by the “Yamburg Agreements”. Compared to previous author’s works [Korsak 2013; Korsak 2014; Korsak, Furtii 2016], our research proves that the level of tourism cooperation depends on the intensity of the development of bilateral relations between Ukraine and the Czech Republic: this cooperation is influenced by cultural relations, which is an indisputable condition for any interstate cooperation.

## CONCLUSIONS

Thus, in our research, the issues of Ukrainian-Czech relations are considered more widely. In particular, further development of the following is received:

- current assessments of the research problem of interstate relations between the post-Soviet and post-socialist countries of Central and Eastern Europe;
- coverage of the main factors of Ukrainian-Czech trade and tourism cooperation development;
- approaches to using the experience of Czech transformation reforms in Ukraine.

Consequently, the improvement of the Ukrainian-Czech interregional relations should occur with taking into account the Czech foreign policy experience and experience of reforming of the Czech society in accordance with the requirements and standards of the European Union.

In the field of trade and economic relations, an effective form of cooperation may be expert consultations on cooperation in the field of nuclear energy and nuclear industry, state regulation and supervision of safety in the use of nuclear energy, agriculture, banking, in the areas of certification, state statistics, social security, etc.

In the bilateral relations that influenced the trade and economic cooperation between Ukraine and the Czech Republic there were contradictions and unresolved problems. Among them, failed an attempt to resolve differences in the statistical

indicators and did not work out to propose specific actions to fulfill obligations provided by the “Yamburg Agreements” from the Ukrainian side.

Within the framework of the bilateral Ukrainian-Czech tourism cooperation, several important visits have taken place; in particular, visits of Tourism Ministers and Heads of the relevant Tourist Departments of both countries, as well as visits of Administration of the Executive Body in the sector of Tourism of Ukraine to the Czech Republic and other EU countries.

At the same time, due to the Ukrainian-Czech political, trade, economic and tourism collaboration, the cultural and humanitarian cooperation of two nations has remained completely neglected, the same way as the formation of a positive image of Ukraine in the Czech Republic.

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# INCOME BASIS OF REGIONAL SELF-GOVERNMENTS IN THE SLOVAK REPUBLIC

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## **Abstract**

Income sources and competences of regional self-government change with political, economic and social effects. The article is aimed at evaluating the development of the regional self-government income basis, the extent of fulfillment of functions and results of regional self-government performance within a decade reflection. We can state that tax income plays an important role within the regional income basis. The tax income represents the basis of financial strength indicator expression that is essential when evaluating income sources of particular regions. We applied multi-dimensional statistical methods to determine the order of particular Slovak regions in the context of chosen indicator. In order to demonstrate the relevant results, as well as to formulate the corresponding conclusions of the analysis carried out, we have chosen a ten-year period.

**Key words:** *regional self-government, fiscal decentralization, tax revenues, non-tax revenues, financial strength*

## **INTRODUCTION**

Regional self-government represents a significant part of public administration, one of whose tasks is to care of complex development of the territory and satisfaction of the needs of regional inhabitants. Fulfillment of tasks significantly influences the

funding sources. Self-government has right to acquire funds from its own activities, and to receive the funds from various state levels. Public administration in Slovakia has passed a few reform actions and fiscal decentralization represented one of them. Fiscal decentralization can be understood as a mean of public sector effectiveness and optimizing assurance. Its essence refers to financial responsibility for decision making, allocation of public property and provision for funds for public services. A fundamental condition is to allow the local governments to have an adequate income available in the form of tax income or transfers from other governmental levels [Hamerníková, Maaytová 2007: 202–203]. Basic idea of fiscal decentralization represents the precondition of public property provision on the lowest, i.e. local level, since it ensures higher effectiveness and economical effect. This concept should guarantee a more flexible response to the citizens' needs and preferences, and allow them directly participate and perform control more efficiently [Provazníková 2007: 44].

Fiscal decentralization in Slovakia acquired sharper outlines in January 2005, with the basis whose formulation started already in April 2004, when the Ministry of Treasury submitted the Act on Budgetary Determination of Tax Revenue to annotations by territorial self-government. Pursuant to the Act, share on physical entities' income tax has become an income to the local and regional self-government's budget. Efforts to strengthen local and regional self-government financial autonomy and eliminate their dependence on the state budget represented one of the public administration reform goals. Concurrently, the reform should strengthen the responsibility of higher territorial units and municipalities' bodies for creation and spending of funds, increase their funding transparency and ensure financial economy justice and stability. Fiscal decentralization as a result of fiscal federalism represented solution of the problem with optimum income allocation to ensure funding of the public needs.

Fiscal decentralization included two correlating areas. The first area referred to distribution of expense responsibilities and income sources among particular governmental levels. Within the second area, certain level of freedom was determined for regional and local governmental levels deciding on income and expenses. Based on the fiscal decentralization process, the Slovak Government assigned certain package of competences to the territorial self-governments; defining the way of their funding.

Strengthened right of local and regional self-governments to freely decide on the sources of their income and their allocation represented an outcome of the fiscal decentralization process. It is also important to evaluate the efficiency of spent resources. Assessing local government performance is a topic that has been given considerable attention in many countries in recent years, both in terms of enhancing its effectiveness and in its efforts to strengthen its democratic control by the public. An important role in this context was played by New Public Management approaches. These methods are characterized by T. Kostelecký and V. Patočková (2006). The whole range of empirically oriented publications deal with public administration performance measurement issue, focused on mutual comparison of various governments' performance. Theses of Savage, 1978, Barrileaux, Feiock, Crew, 1992, Hendrick 2004 are an exception. Their authors analyzed and explained the difference identified in the governmental performance, applying the whole range of independent variables that describe all possible potential explaining factors (economic and social-economic environment, political culture, etc.). In the stated

literature, common conclusion can be found that the public sector performance can be evaluated from various points of view and it is a multi-dimensional concept. Self-government of higher territorial units (HTUs) started forming itself in 2001. During period of years 2001–2004, HTU acquired many competences and related assets, financial and personnel resources. Regional self-government is considered a key player in regional development at the regional level. [Buček, Plešivčák 2017: 603].

## **1. REGIONAL SELF-GOVERNMENT IN THE SLOVAK REPUBLIC**

In the conditions of the Slovak Republic, the public administration structure refers to a 3-pillar system comprising the state administration, self-government and public-legal corporations. The state administration has the most important position in the terms of major state tasks and functions discharging. The state administration nature and structure resulted from the essence, position and mission of the state, as well as from the state power enforcement methods. Self-government refers to another significant component of the public administration. As indicated by its name, it is a free government of itself. Průcha [2011: 19] defined self-government as such a part of the public administration that is discharged by other public-legal subjects instead of the state. Self-government includes such area of public administration that has been assigned to subjects in compliance with law that it is directly associated with. It refers to empowerment of certain local community to independently control the area of issues specified by law, especially issues that are relatively independent on a broader societal organism that it represents a part of.

Territorial self-government as a sub-system of the public administration has passed through a long historical development and is indeed one of the most important parts of the society structure. From a political point of view, territorial self-government can be understood as a democratic and decentralized state administration discharged by elected representatives of the citizens in a particular controlled region. Citizen participation is usually seen as a vital aspect of democracy. Many theorists claim that citizen participation has positive effects on the quality of democracy. The article concludes that for a healthy democracy at the local level, aspects of democratic citizenship are more important than having a direct say in decision-making. [Ank, De Graaf 2010]. Another one is a legal point of view to which territorial self-government represents an independent public-legal corporation different from the state; with the territory inhabitants being its members [Grůň, Pauličková, Vydrová 2005: 46]. Peková, Pilný (2002, 2011), Belajová, Balážová (2004) and Žárska et al. (2007) understand territorial self-government as the exercised right of citizens for their own self-government, independent control of public matters in the territory smaller than the state territory, provided that the control or administration is performed pursuant to competences determined by law, and the economic conditions.

In the conditions of the Slovak Republic, territorial self-government has passed through intense development and it was reconstructed after 1990 when the Slovak National Council Act No. 369/1990 Coll. on Municipal Establishment was adopted. The development of the 2nd level territorial self-government represented a part of the public administration reform actions, pursuant to the Slovak National Council Act No. 302/2001 Coll. on Higher Territorial Unit Self-Government. In its 4th head, Article No. 64, the Slovak Constitution defines territorial self-government

considering its fundamental components, namely municipality and higher territorial unit (hereinafter „HTU“). The stated head contains also general characteristics of a municipality and HTU; details thereof are specified in the Slovak National Council Act No. 369/1990 Coll. on Municipal Establishment as amended. Pursuant to the Slovak Constitution and the said regulation, municipality and HTU are defined as „independent self-governing and administration units of the Slovak Republic that group citizens with permanent residence in their territories.“ Both units have a status of legal entity and are authorized to control independently their assets and finances in compliance with the terms stipulated by law.

Regional self-government in Slovakia represents one of the latest forms of public administration. Its establishment was conditioned with a range of significant circumstances. Efforts for more effective spending of public funds through regional governments that would be responsible for economic and social development of a territory represented the most important circumstance. Regional self-government competences are closely interconnected with coordination and control of territorial units on hierarchic-higher level of the state government than on local level, but concurrently on lower than national level [Hamalová 2008].

In the conditions of the Slovak Republic, regional self-government has been discharged through eight self-governing regions established pursuant to Act No. 302/2001 Coll. on Higher Territorial Unit Self-Government as amended. According to the Act, self-governing region is a legal entity that independently controls its assets and income upon the terms stipulated in the Act, and within the self-government, it supports general development of the assigned territory and the needs of its citizens. Pursuant to the Act, the Slovak regions have to ensure development and fulfillment of the territorial social, economic and cultural development program, perform the planned activities, their own investment and business activities, and create the terms of the development of healthcare, high school systems, culture, tourism, sport and leisure activities.

„Competences discharged by regional self-government bodies are mostly of original nature and cannot be restricted or cancelled by any other public administration body except if stated by special regulation. It doesn't mean that competences originally assigned to other sub-systems of the administrative system – so called transferred competences – cannot be delegated to these bodies [Klimovský 2008: 243]. Regional self-government's mission is to represent the needs and interests of citizens of all towns and cities within the region towards the state. Within the transferred competences, they as well represent the state interests in the regional territory, assigned to them.

Specification and discharge of competences and their funding represent the key and also problematic areas in the system of regional self-government functioning. These problematic areas are of dynamical nature and have passed certain development during the previous period.

Higher territorial units provide for funding of self-government competences and the activities of budgetary organizations within their competence, especially from tax income and own HTU economic earnings. Competences of transferred state administration in the education sector, tasks associated with regional development and environmental protection, as well as implementation of projects co-funded from the EU Structural Funds and Cohesion Fund are funded through the subsidies from the State Budget and respective chapters. Based on the resolutions passed by the Slovak Government, subsidies for funding of certain specific tasks within HTU

competences are provided from the chapter „Public Treasury Administration“. Tax income shares on the common budget with the highest proportion amongst the mentioned income types.

Public administration organizations are subject to the same rules of economic rationality and their managers face the same amount of uncertainty and risks as managers in the business world [Daňková, Čepelová, Koreňová 2017].

Currently, all economic preconditions of self-governing regions have not been met yet. The regions cover the economic needs from their budgets, controlling their assets and creating their budget from own income. Within their competences, they are allowed to influence only non-tax income and own capital income that are rather low. Regional self-government funds major part of the original competences from tax income. Tax income represents the second most important source of their needs funding. Since 2005, regional self-government has been authorized to decide on its own on allocation and spending of funds from shared tax and revenues from motor vehicle tax. Current model of funding the self-governments is mainly based on vertical financial settlement.

## **2. REGIONAL SELF-GOVERNMENT INCOME SOURCES**

The Slovak self-governing regions use their own budgets to control the economic performance. They control own assets and use own income to create a budget. However, they are currently competent only to influence non-tax income and own capital income generating, which is rather low. Tax income shares on the common budget with the highest proportion amongst the stated income types. Since 2005, regional self-government has been authorized to decide on its own on allocation and spending of funds from shared tax and revenues from motor vehicle tax. A current model of funding the self-governments is mainly based on vertical financial settlement.

Own income, budget and reasonable independency extent is a precondition of successful functioning of each territorial self-government section. The more complicated is the public administration structure, the more important is the decision on optimum income allocation, especially of tax income, and on funding of particular budget expenses within the budgetary system.

The needs of self-governing regions are funded especially through combination of tax income, non-tax income, capital income, subsidies from the state budget, subsidies from the state funds and credit sources. A tendency of own regional self-government income strengthening has been reported during the last decades. Increasing own irrecoverable income allows for increasing financial self-sufficiency of particular regions.

The structure of self-governing regions budgetary income changed mainly upon the change of the share on physical entity income tax. Subsidies from the state budget represent the major group of income, followed by subsidies from the state funds. Amount of subsidies from the state budget impacted upon transfer of competences from the state to self-governing regions. The following Table 1. presents the share of particular items of income on self-governing regions' budgets.

**Table 1. Self-governing regions budget income (HTU)**

Revenues of HTUs	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Tax revenues	46,1%	42,5%	44,9%	40,2%	39,8%	45,2%	44,0%	42,6%	46,9%	49,2%
Non.tax revenues	5,4%	5,1%	5,1%	5,8%	5,5%	6,2%	10,7%	9,5%	9,7%	7,0%
Capital revenues	13,2%	20,6%	14,3%	14,4%	22,7%	14,0%	11,4%	15,7%	10,4%	10,6%
Grants and transfers	35,3%	31,8%	35,7%	39,6%	32,0%	34,6%	33,9%	32,3%	33,0%	30,7%

Source: own processing on the basis of Ministry of finance SR

Tax income has been sharing with highest proportion on HTU needs funding for a long time, varying within 39.8 % - 49.2%. The second major funding source corresponds to grants and transfers that share on funding with 30.7 % - 39.6%. Capital and non-tax income also refer to important part of income. HTU budget includes also financial transactions, namely transfers from HTU monetary funds and recoverable funding sources, and their repayment. Provided loans and recoverable financial accommodations from HTU budgets and their repayment, as well as issued and accepted bills of exchange, and sale or procurement of capital participations also represent financial transactions. Financial transactions are not included in HTU budget income and expenses. (Act No. 583/2004 Coll.)

Development of tax income has been affected also by adopted legislation amendments and changed terms of funding. Efforts for assurance of transferred competences discharging by the state also played an adverse role therein. A remarkable contribution could be attributed also to the criteria determined in the process of physical entity income tax revenue redistribution among particular HTUs, pursuant to the Act on Physical Entity Income Tax Revenue Redistribution as amended.

EU Council recommends to EU member countries to draw tax income of decentralized governmental levels from taxation of particular residents, assets or companies located in the territory of particular self-government. The studies indicate (CDLR 1998) that if income and real-estate taxes represent an income to decentralized governmental levels; these territorial self-governments have higher tax autonomy.

Search for optimum tax income decentralization has been subject to many theoretical analyses and practical empiric verifications since the tax income represents major funding source. The theory defines (Musgrave 2004) taxes that should be allocated to the budgets of particular territorial self-government levels in the terms of income stability. This problem has been apparent especially during the last decades when the process of material competences and responsibilities decentralization in Europe has been accelerating. Competences and responsibilities decentralization to particular territorial self-government levels requires adequate decentralization of tax revenues but the state hesitates with losing control over major part of tax income in favor of territorial self-government. The problem is more present in the situation of tense management of the State Budget with the existing huge pressure on reduction of the State Budget deficit.

Since 2016, share on physical entity income tax has represented the only tax income of regional self-administration. Before 2016, local motor vehicle tax had represented a tax income of HTU. Physical entity income tax is a shared tax resulting from the reform efforts for ensuring higher effectiveness of public administration.

Act No. 583/2004 Coll. on Territorial Self-Government Budgetary Principles as amended, and Governmental Regulation No. 668/2004 Coll. on Distribution of Tax Revenues from Regional Self-Administration Income represent the main material-legal regulations determining the shared taxes as a part of income to municipalities and HTU. In its § 2, clause 1, the stated Governmental Regulation specifies the criteria and considerations of fair allocation of funds.

A possibility for regional self-government to independently decide on the funds utilization represents the biggest advantage of this tax type. Transparency of funding system is another advantage of shared tax. Favorable shared tax aspect has been supported by the fact that the shared tax represents one of the most stable taxes whose collection during a year is regular. Concurrently, shared tax revenues growth dynamics is interconnected with increasing employment and real income in the future.

Physical entity income tax as a shared tax supports stability of regional self-government tax income. Its advantage is that it enables interconnection of revenue tax with the economic cycle that makes regional self-governments to proceed parallel to stabilization strategy of the state government. Further advantages include the increase of regional self-government budgetary financial independence. Tax collection independence on the tax basis clearing point means that tax administration and collection centralization allows for reduction of the tax administration and collection of administrative cost. Thus, its main advantage refers to the ability to reduce spatial tax income differences, provided that the criteria of state-wide tax revenues among the regions have been properly set up. Personal revenue tax has been especially sensitively perceived by tax payers, thus its utilization by territorial self-governments applies pressure on local politicians' responsibility.

As for an adverse aspect of this tax type, we should state that regional self-government is not authorized to decide on the tax amount and thus also unable to influence the tax basis, tax rate, nor the tax administration. It means that interconnection between deciding on income and spending isn't allowed since the increase of particular HTU expenses doesn't directly affect the tax amount in its territory. Concurrently, the fact that regional self-government is aware of shared tax amount as late as at the end of a calendar year, when the state budget for the following fiscal year has been agreed on, is a big CON. Accordingly, HTUs expense planning for the following year is dramatically restricted. Before 2016, instability of physical entity income tax distribution system had represented a significant deficiency of regional self-government participation on central taxes. Constantly changing amounts of shared tax disabled the prediction of shared tax allocation to their budgets. Central governments tend to look at shared taxes as at their income, making efforts to regulate their allocation, similar to subsidies. [Nižňanský 2009: p. 18]. We should understand this tax as a stabilization policy tool that can be reduced during economic recession in order to stimulate the aggregate demand (along with serving as a built-in stabilization in case of progressive tax rate). Local governments often act contradictorily, trying to

increase a tax in case of a regional budget deficit. All tax requirements, subject of taxation, tax payer identity, method of tax basis calculation, its adjustments, tax rates, tax relief and exemption of tax have been regulated by the state-wide applicable law. Despite of proclaimed shared tax deficiencies, share on physical entity income tax refers to most frequent tax income of local governments in the majority of Central and Eastern European countries.

Act No. 564/2004 Coll. on Budgetary Determination of Physical Entity Income Tax Revenue as amended represents one of fundamental fiscal decentralization regulations. In 2015, the Act was amended through the Act No. 333/2014 Coll. and Act No. 361/2014 Coll. dealing with adjustment of physical entity income tax share by municipalities from 67% to 68.5% and HTU tax share from 21.9% to 29.2%, effective from Jan 01, 2015. Act No. 361/2014 Coll. has amended budgetary determination of a motor vehicle tax and originally own HTU income has become the state income.

A motor vehicle tax was a local tax whose rate was determined by HTU through generally binding regulations. A tax rate was reviewed on annual basis. A motor vehicle tax has been collected by the state since 2016. Motor vehicle tax isn't distributed according to company registered office but to a total length of roads controlled by the region, the area of region, population and density per 1 km<sup>2</sup>. The state controls the motor vehicle tax through locally competent Tax Revenue offices. Such change was substantiated with a different approach of higher territorial units to determination of tax rates and the terms of exemptions of a motor vehicle tax. Different rules have allegedly caused uneven tax burdening of companies/entrepreneurs. Legislation amendment resulted in uniform tax rate, uniform terms of exemption of tax, increased and decreased rates of tax paid in the whole territory of Slovakia.

Bratislava Self-Governing Region (BSK) reported the highest share on motor vehicle tax. Regions that had to control an extensive network of 2nd category roads share on this tax type often below 20%. Such a situation definitely required a change. However, such a change, when enacted, significantly affected the rights of self-governing regions. It shall reduce financial self-sufficiency and autonomy of regional self-government. Self-governing regions dependence rate on the central government decisions has increased. Tax Revenue offices paid the share of the motor vehicle tax to particular HTUs last time in January 2015 as a settlement for the preceding year (revenue from December 2014) in € 13,785.67 thsd. The data for 2015 represent additional payment of the motor vehicle tax for 2014.

Tax income shortage in the form of the motor vehicle tax should be substituted with increased share on revenues from physical entity income tax. Implementation directive to the above stated Slovak Government Regulation No. 668/2004 on Redistribution of Revenues from Physical Entity Income Tax as amended was amended in 2014, namely its Enclosure, with effect from Jan 01, 2015. In the Enclosure No. 6, coefficients for calculation of HTU share on revenue from the tax were adjusted. Namely, original coefficients were replaced with newly determined coefficients of redistribution – see the Table 2., regulating the way of redistribution of the increased share of HTU on physical entity income tax revenue. Current income basis of a few HTUs would have been adversely affected without new coefficients. The existing formula applies to redistribution.

**Table 2. Changes at physical entity income tax share in %**

Period	HTU	Commuity	State budget
2005 - 2011	23,5	70,3	6,2
2012-2013	21,9	65,4	12,7
2014	21,9	67,0	11,1
2015	29,2	68,5	2,3
2016	30,0	70,0	0,0

Source: own processing on the basis of Act No. 564/

Act No. 564/2004 Coll. on Budgetary Determination of Territorial Self-Government Income Tax Revenue, and Act No. 227/2015 Coll. stipulate that the tax revenue in a particular year represents an income of a municipality corresponding to 70% and income of HTU budget corresponding to 30%. Compared to 2012, share of municipalities on physical entity income tax has increased by 4.6% and HTU share has increased by 8.1%.

**Table 3. Development of physical entity income tax (in thous. Eur)**

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>BSK</b>	26 703	34 384	32 438	26 819	31 827	32 416	32 851	34 141	73 676	81 602
<b>TTSK</b>	35 340	43 388	40 936	33 908	40 184	40 904	41 744	43 318	65 659	75 407
<b>TSK</b>	39 874	47 331	44 600	36 818	43 576	44 204	45 101	46 629	66 244	75 998
<b>NSK</b>	48 677	58 258	54 720	45 062	53 268	53 951	54 877	56 868	83 695	96 008
<b>ZSK</b>	42 850	53 739	50 736	41 921	49 796	50 696	51 730	53 672	77 869	89 279
<b>BBSK</b>	55 930	64 799	60 982	49 947	58 925	59 832	61 615	63 948	85 996	98 731
<b>PSK</b>	57 735	67 276	63 478	52 490	62 493	63 703	65 615	68 188	91 801	105 472
<b>KSK</b>	49 833	59 031	55 592	45 859	54 446	55 396	57 427	59 894	81 404	59 279

Source: The final account of self-governing regions 2007-2016

Amount of tax collected influences the level of satisfying the needs of self-governing region territory inhabitants. The tax share on a total income in particular regions is an indicator of tax self-sufficiency. Redistribution of physical entity income tax can be considered a mechanism of financial settlement of municipalities and HTUs income and expenses. The problem of the existing redistribution method refers to too high solidarity, high share of not addressed redistributed sources, redistribution criterions' weight that doesn't correspond to changed situation in the area of increasing social care expense, and last but not least also the absence of economic criteria.

### 3. FINANCIAL STRENGTH OF SELF-GOVERNMENT REGIONS

An indicator of self-governing region financial strength serves for comparison of particular regions' income sources that further serve for an analysis of income

amount and structure. It is an expression of own income increased by the amount of subsidies per capita in a particular region, interpreting the stability when considering a repeatable income of regions or their dependency on other budgets, especially the State Budget.

$$\text{financial strength} = \frac{\text{local taxes} + \text{participating taxes} + \text{grants}}{\text{the population}} \quad (1)$$

Comparing the indicator of self-governing region financial strength, its weight should be specified. In this case, we applied a variation coefficient used especially when comparing the variability of more statistical signs, and expressing relative variability rate. We applied the standardized variable method and method of distance from a fictitious object to determine the order of particular self-governing regions in the context of the indicator of self-governing region financial strength during the monitored period 2007-2016.

The basis of the method of distance from a fictitious object referred to comparison of particular objects to so called fictitious object reaching the highest values within the monitored set. The order of self-governing regions was determined when applying the best object with the smallest distance from the fictitious one, i.e. with the smallest value  $d_4$ . Object/ region that reached the best indicator value reached the lowest possible value  $d_4=0$ . The fictitious object was modeled with this indicator. In the other used method of standardized variable, we took in account a relative variability of examined indicators. We determined the order of self-governing regions according to the average value of standardized variables, taking in account the rule: the higher was the value reached, the better order was allocated to the region within the evaluation. In relation to particular methods used, we followed the relations stated in the Table 4., representing these statistical methods. [Stankovičová, Vojtková 2007].

**Table 4. Expressed relations between the applied statistical methods**

	Method of standardized variable	Method of the distance from fictitious object	
weight of indicator $v_{ij}$	$v_j = \frac{v_j}{\sum_{j=1}^k v_j}$	$v_j = \frac{v_j}{\sum_{j=1}^k v_j}$	weight of indicator $v_{ij}$
standardized form of any indicator $z_{ij}$	$z_{ij} = \frac{x_{ij} - \bar{x}_j}{s_{xj}}$	$z_{0j} = \frac{x_{0j} - \bar{x}_j}{s_{xj}}$	standardized form of the best indicator $z_{0j}$
integral indicator $d_{3i}$	$d_{3i} = \frac{1}{k} \sum_{j=1}^k z_{ij} * v_j$	$d_{4i} = \frac{1}{k} \sqrt{\sum_{j=1}^k (z_{ij} - z_{0j}) \times v_j}$	integral indicator $d_{4i}$

Source: own processing on the basis of Stankovičová, Vojtková (2007)

Particular methods of multi-criterion evaluation respond in various ways to the relations between the indicators. Accordingly, they differently indicate the order of particular objects. In this term, we applied the non-parametric Spearman test to determine the order conformance.

$$r_{rx,ry} = 1 - \frac{6 \times \sum_{i=1}^n (rx_i - ry_i)^2}{n \times (n^2 - 1)} \quad (2)$$

Spearman's order correlation coefficient can vary within -1 and +1, where the values approximating 1 refer to equal order, i.e. positive dependence. On the contrary, values close to -1 refer to unequal order, i.e. negative dependence. If approximating to zero, we can talk about independent values. The following Table 5. illustrates the indicator values per capita of a respective self-governing region.

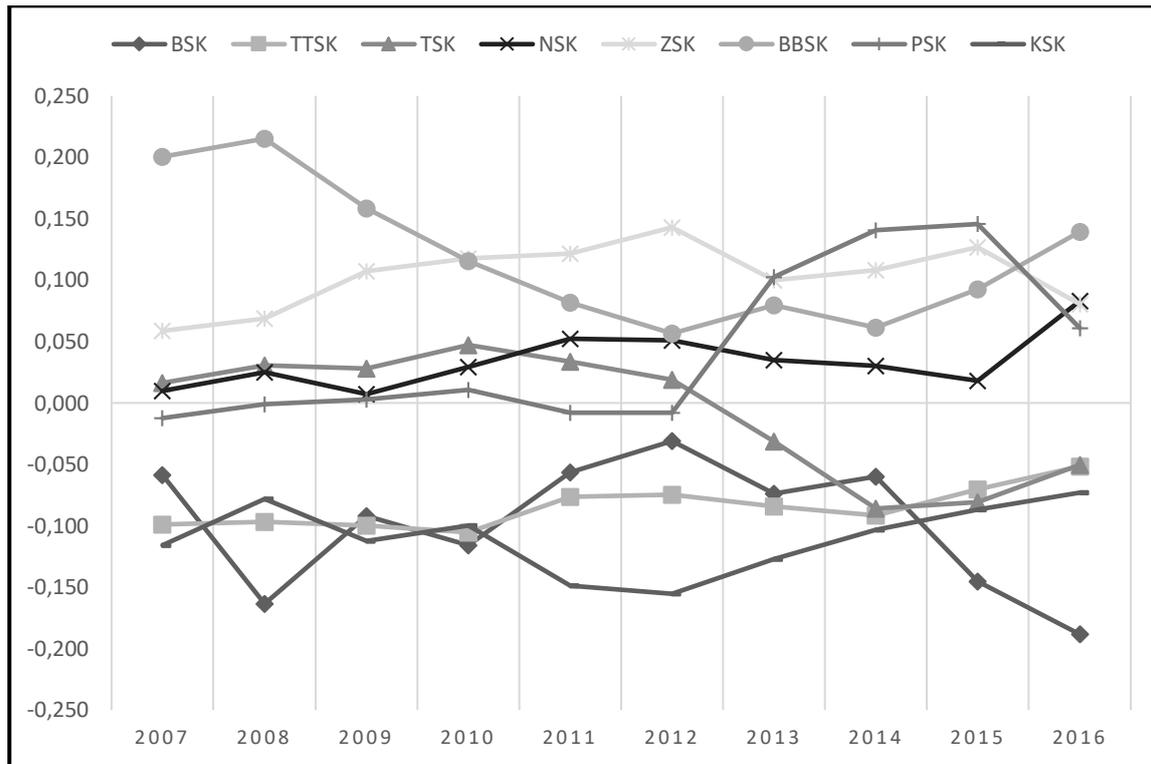
**Table 5. Development of financial strength indicator for HTUs per capita**

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>BSK</b>	152,25	152,58	168,40	156,72	170,86	172,65	174,69	182,21	188,41	193,43
<b>TTSK</b>	149,53	157,31	167,79	157,45	169,35	169,35	173,89	179,65	194,91	205,86
<b>TSK</b>	157,30	166,32	177,48	168,32	177,67	176,41	178,00	180,10	193,99	205,96
<b>NSK</b>	156,86	165,94	175,90	167,06	179,07	178,83	183,17	189,48	202,56	218,10
<b>ZSK</b>	160,15	169,03	183,48	173,35	184,31	185,80	188,23	195,79	212,03	217,88
<b>BBSK</b>	169,71	179,42	187,35	173,20	181,29	179,27	186,65	192,02	209,05	223,22
<b>PSK</b>	155,36	164,10	175,59	165,71	174,50	174,38	188,43	198,41	213,66	216,08
<b>KSK</b>	148,37	158,61	166,86	157,85	163,88	163,25	170,53	178,71	193,47	203,92

Source: own processing

During the monitored period, the development of the indicator showed an increase and unfavorable development was reported during the period of crisis in 2010. Tax income shortfall in particular self-governing regions was compensated by higher subsidies mainly from the State Budget. Within the subsidies, the highest subsidy was transferred to the Prešov self-governing region (PSK) budget and to Košice self-governing region (KSK) budget. Nevertheless, these regions showed lower average values of the financial strength indicator than other regions. Such value differences can be attributed to already mentioned different regional tax income. The highest average values of the indicator were reached during the monitored period by Banská Bystrica self-governing region (BBSK), Žilina self-governing region (ZSK), and Nitra self-governing region (NSK).

Applying the above stated method of standardized variable, we are able to detect self-governing regions position in the terms of financial strength indicator. Based on the method principles, regions with the highest values of integral indicator  $d_{3i}$  shall reach the best position. The following Figure 1. shows the values reached.

**Fig. 1. Order of regions according to method of standardizes variable**

Source: own processing

Using the other chosen method of distance from a fictitious object, we expressed the values of an integral indicator  $d_4$  as a financial strength indicator per capita. Within the monitored period 2007-2016, we allocated zero value to the regions reaching the best values, based on the method principles, i.e. the region has become a fictitious object. The following Table 6. shows the values reached.

**Table 6. Comparison of fictitious object**

$d_{4i}$	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>BSK</b>	0,8164	1,1099	0,3458	0,7523	0,5935	0,5784	0,5849	0,6431	0,8728	0,9944
<b>TTSK</b>	0,9435	0,9143	0,3738	0,7192	0,6601	0,7236	0,6190	0,7447	0,6481	0,5793
<b>TSK</b>	0,5802	0,5417	0,0704	0,2275	0,2930	0,4130	0,4438	0,7267	0,6799	0,5760
<b>NSK</b>	0,6008	0,5574	0,0000	0,2845	0,2312	0,3066	0,2237	0,3544	0,3836	0,1707
<b>ZSK</b>	0,4470	0,4296	0,3454	0,0000	0,0000	0,0000	0,0085	0,1041	0,0563	0,1784
<b>BBSK</b>	0,0000	0,0000	0,5228	0,0068	0,1333	0,2872	0,0758	0,2537	0,1593	0,0000
<b>PSK</b>	0,6710	0,6335	0,0163	0,3456	0,4329	0,5023	0,0000	0,0000	0,0000	0,2382
<b>KSK</b>	0,9978	0,8605	0,4164	0,7011	0,9015	0,9919	0,7622	0,7823	0,6978	0,6442

Source: own processing

The lower value  $d_4$  was reached by self-governing regions; the better was their position among other regions. Values reached for a decade indicate the existence of self-governing regions' differences.

Using the above described methods, we identified the order and representation of particular self-governing regions. The results indicate strong representation of BBSK and ZSK. On the contrary KSK and Trnava self-governing region (TTSK) reached the lowest income per capita. To confirm the conformance of the orders reached with both methods used, we applied the Spearman's order correlation coefficient. Accordingly, we can confirm that the values reached express a positive correlation, i.e. conformance of orders (values referring to zero).

#### **4. FUNDING IMPROVEMENT OPTIONS**

Tax flowing to regional self-government budgets shouldn't affect tax payers' economic performance save the situation when it is in the state interest to use tax up for drawing up certain change at tax payers' economic habits (within the state stabilization strategy). It applies on the regional self-government level that tax is not distorting if an individual doesn't have a choice of other decision. However, this applies only to lump sum tax. Other types of tax affect tax payers' economic decision-making, thus they are distortable. Such distortion should be as small as possible at regional self-government level and affect the tax payers' economic habits as low as possible, as well as eventual drop of tax revenues flowing to territorial budgets. [Kubátová 2010]

Budgetary allocation of taxes to regional self-government in Slovakia is typical with no tax income gained by the regions that could be called „motivation income“. Tax autonomy of self-governing regions is non-existent while self-governing regions are more suitable units than municipalities for the purpose of taxation decentralization or entrustment of a motivation tax, when considering their size. Speaking of self-governing regions size, we can expect smaller distortion in economic activities of tax subjects resulting from tax competition and migration, as it could be expected in case of municipalities.

Changes are required in the form of relocation of physical entity income tax from the category of business activities to local taxes category. Thus, only physical entity income tax from dependant activity would be redistributed. Territorial self-government share on taxes would result from the assessment of total cost required for law-defined extent of tasks (after the changed redistribution). Structure of the criteria should change and new criteria should be established. The criteria weight should also change in order to focus on demographic changes and related increasing need for social services, and the change at regional education system funding.

If harmony exists between responsibility for expenses between territorial self-government and the state government on one hand, and fiscal sources allocated to them for funding such responsibilities on the other hand, we can speak of a vertical fiscal balance. Such status is very hard to reach, though. Provision of certain tax autonomy to the decentralized governmental levels represents a natural and logical method of vertical fiscal balance assurance. Extent of income decentralization doesn't always have to correspond to exact rate of expenses decentralization (and it even cannot – for objective reasons); usually because of lack of own income sources. Partial expenses of decentralized governmental levels have been funded through

transfer means in all systems of multi-level public funds for two reasons (Boadway, Roberts and Shah 2000). At first, motivation to expense responsibility decentralization is stronger than to tax competence decentralization. Regions can be much more effective when providing public services to citizens also in case of targeted social transfer distribution. Main areas of public services, e.g. healthcare, education and social services, represent substantial part of public budget and are significantly decentralized in many countries. If expenses decentralization results in more effective provision of local public services, taxation decentralization advantages are not completely unambiguous. On the contrary, taxation decentralization could cause significant inequalities and ineffectiveness, considering the national economy. Centralized taxes can be controlled cheaper by a single tax authority. This allows for elimination of distortions witnessed in fragmented tax systems. Another reason – transfer of funds from central / state government down to decentralized levels can serve as a tool of the state government to reach the goals that are of major importance for the entire national economy. A properly structured subsidy system could correct ineffectiveness or unevenness caused by fiscal decentralization upon concurrently maintained decentralization advantages.

## **CONCLUSION**

High rate of tax income redistribution has been reported in the conditions of regional self-government in Slovakia, i.e. without influence of self-governing regions on tax income amounts. Such mechanism doesn't have stimulation effect on financial economy of self-governing regions. Within twelve years of the system operation, we can state that the principle of fiscal equivalence and responsibility that stipulates that public expenses related decisions should be made on such public administration level that is responsible for task fulfillment, has not been consistently fulfilled to date. Centralization in effect has caused both lack of sources and reducing motivation to utilize the territory potential in a controlled way. Concurrently, responsibility for public expenses has decreased because of separated responsibility for tax amount and collection, and decision on its allocation/ use (physical entity income tax). Transfers from the State Budget don't cover legitimate cost and their amounts depend on central government friendly approach. Nor is there any bond between service provision and taxpaying. Latest problems of municipalities and self-governing regions, e.g. demographic changes, unemployment, low income of households – all this has caused restricted possibilities to pay taxes, and places higher demand on funding public services.

In sake of further economic and social development assurance in Slovakia it is necessary to pay increased attention to further deepening and optimizing of public funds decentralization process that should be associated with strengthening and deepening of stability, effectiveness and efficiency of territorial self-government financial system. It is important to strengthen and deepen the regional self-governing financial independence, to increase stability of its income basis and encourage to more effective use of own income. Assurance of quality supporting infrastructure and further increase of multi-source income basis availability represents a principal condition of high quality and effective service assurance provided by regional self-government. These tasks resulted from shaping of new economic and social-demographic structure in Europe, supported by integration and globalization trends and principles of cognitive economy. Concurrently,

subsidiarity, solidarity, modernization and democratization principles should be supported.

Eventual continuation of competence transfer process from the state administration to territorial self-government and concurrent fair assessment of current sources sufficiency for territorial self-government duties prescribed by law shall require increased income to territorial self-government budgets. It is up to political decision whether it will be done through transfers or tax income increase. The latter solution, especially own tax income increase and reduction of transfers is more purposely. If self-government financial self-sufficiency increases, we can expect increased territorial self-government competences associated with assurance of public services provided on the territory controlled by a territorial self-government, as well as increased financial responsibility.

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# FRAMEWORK OF THE SICKNESS INSURANCE IN THE CZECH REPUBLIC AND SELECTED COUNTRIES OF THE EUROPEAN UNION

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## **Abstract**

The aim of the paper is to map and compare a systemic framework of sickness insurance in the Czech Republic and selected Member States of the European Union (Germany, Finland, France and Slovakia). The emphasis is placed on identifying both the identical as well as specific features of those systems in the analysed countries. The comparative analyses are based on country-specific adjustments and on the European Commission database available in the MISSOC system (the joint Social Protection Information System).

**Key words:** *Social policy, sickness insurance, social benefits*

## **INTRODUCTION**

The European integration process is steadily increasing. Comprehensive integration projects of both the internal market and the monetary union are complemented by a set of the EU policies. However, the degree of the coordination of individual economic, social and structural policies is still different. Social policy is one of the areas where the European Union and the individual countries share their competences. Each Member State of the European Union has built its own social policy system based on the financial possibilities, historical traditions and living values of the population. The same is true for the sub-sections of the social policy (sickness insurance, pension, family policies, etc.). The coordination at the European Union level relates in particular to the rules which affect the functioning of the free movement of workers and persons within the internal market.

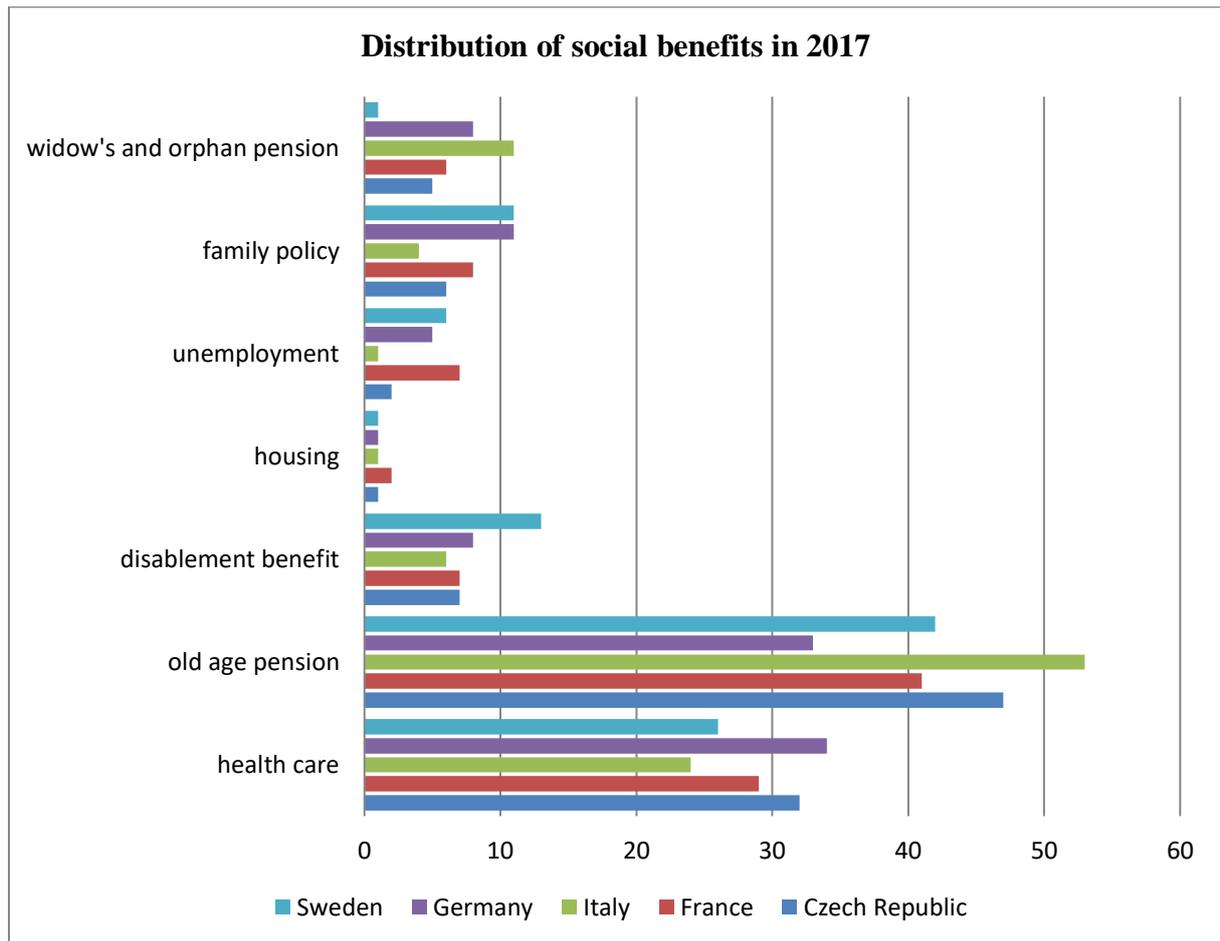
### **1. SOCIAL POLICY AND SICKNESS INSURANCE FROM BOTH THEORETICAL AND PRACTICAL PERSPECTIVES**

Over the last decades the health care financing in the Czech Republic has been provided largely through general health insurance. This insurance is based on regular payments to the sickness insurance fund by the insured citizens and the subsequent reimbursement of the health care costs in case of a social event. The sickness insurance funding is not a part of the tax system and is separated from the system of the current expenditures of the state budget. Improving the quality of health systems and the life age has led to a steady increase in health care costs in the Czech Republic. And in the perspective of the decades to come, together with the pension expenditures, they can represent a significant burden on future public budgets.

As noted above, health care policy and health insurance are an integral part of the social policy. The health policy can be understood as the activities of the state and other relevant entities that focus on protecting, supporting and restoring the health of the population, the quality of health services and their long-term sustainability. The health policy has neither a uniform definition nor a form. In different countries it is implemented differently, even within the European Union's membership base [Krebs et al 2010].

In the Czech Republic, the issue of the social policy is contained in the social doctrine and is usually understood as a set of legal norms governing social protection including social security assistance, as well as, for example, the protection of women and adolescents in labour relations as well as other social and legal protection [Chvátalová 2015].

The objectives of the social policy in the field of health protection are mainly provided by the provision of basic sickness benefits, including maternity allowance, sick pays, compensatory allowance during the pregnancy and maternity and nursing care contribution. For the sake of clarity, we provide an overview of the different areas of the social policy and the breakdown of the financial items that the selected states provide to their citizens (Chart 1).

**Chart 1. Structure of social benefits**

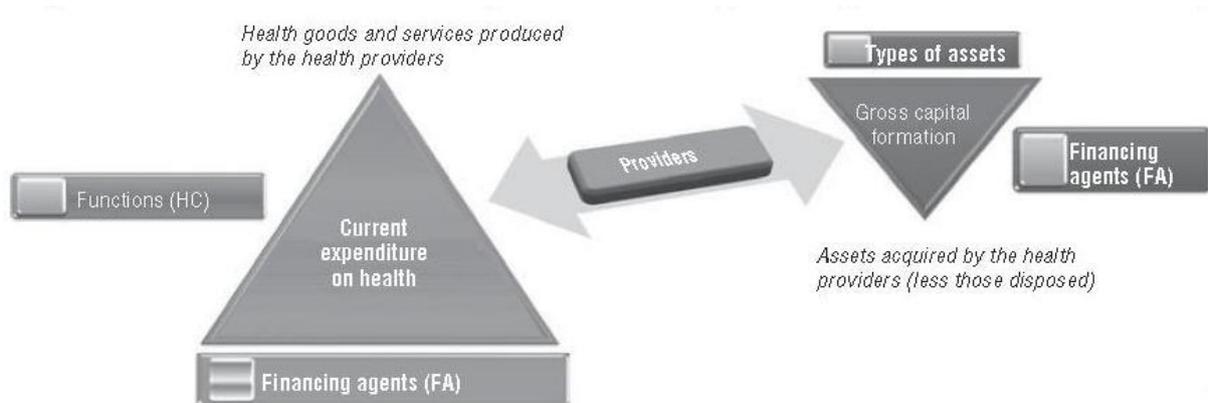
Source: own elaboration

The sickness insurance is used to provide financial security for economically active persons in the event of an adverse social affair in their life, such as illness, injury, pregnancy or maternity. If the statutory conditions are met the entitlement arises directly from the law, and thus all the sickness insurance benefits are perceived as the obligatory ones [Tröster et al 2013]. The role of the sickness insurance is regulated as insurance of persons in the event of their temporary incapacity for work, the quarantine regulations, pregnancy, and maternity and in case of nursing of a member of the household or taking care for him or her.

An important part of the social policy lies in the power of national governments and binding is only the social security system which is required to accommodate the free movement of labour within the European Union. It is up to individual countries how they organize their system. Somewhere the social policy is preferred, somewhere else a kind of social assistance is preferred. Nowadays, the European social policy is built on the quality of human life, which affects not only material and financial conditions but also emphasizes the preservation of human dignity. For instance, a loss of employment gets a person not only into the unpleasant financial situation, but also that person can feel frustrated [Francová, Novotný 2008].

The following text will compare the sickness insurance system in the Czech Republic with the systems in Germany, Finland, France and Slovakia. The emphasis is placed on the identification of specific features and differences between the individual structures. The system of health insurance expenditure in the European Union in the gross capital system is shown in the Picture 1.

**Picture 1. Health insurance expenditure in the European Union in the gross capital**

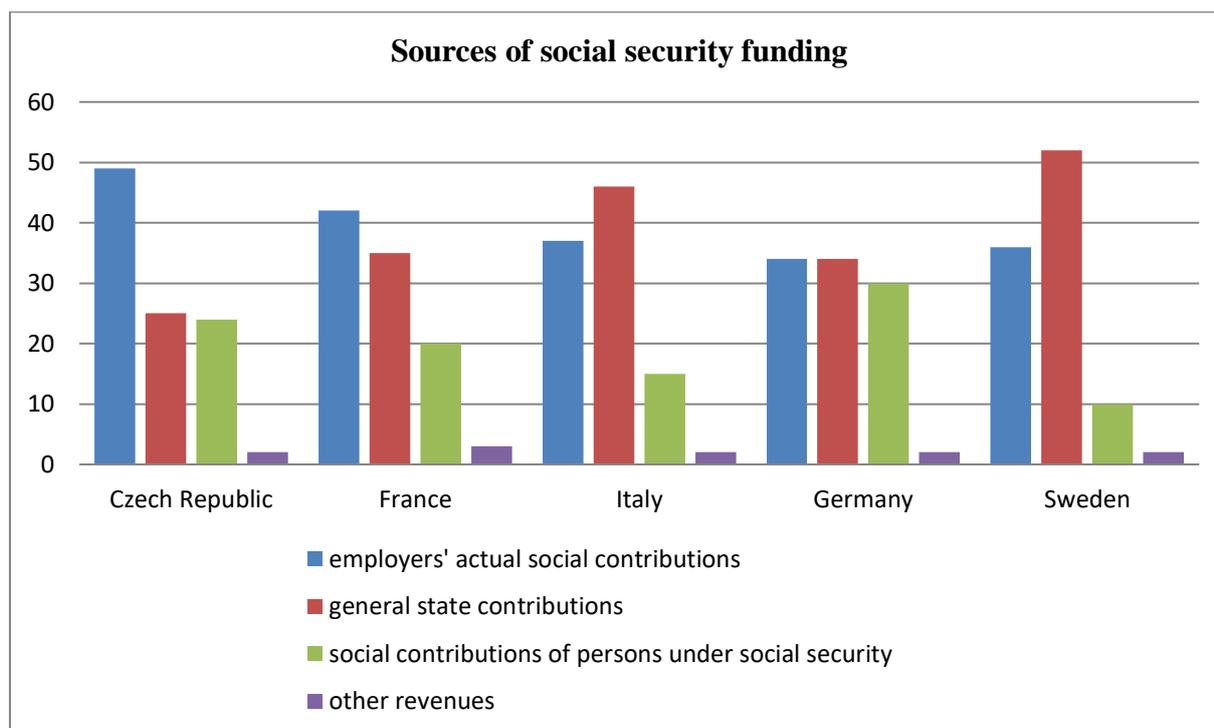


Source: <http://ec.europa.eu/eurostat/documents/3859598/7985806/KS-05-19-103-EN-N.pdf/60aa44b0-2738-4c4d-be4b-48b6590be1b0> [cited 2017-07-12].

The legislation on sickness insurance both in the Czech Republic and the Slovak Republic is based on a common system which had operated until 1993 when two independent republics emerged. After splitting, the both states opted for a pluralistic insurance system consisting of a larger number of health insurance companies. Both states retained the possibility of regulation their systems through the state insurers (general health insurance companies). During the first years of the last decade, the debates were held in Slovakia to create a single state health insurance company. The debates were closed in 2004.

The systemic difference between the sickness insurance in the Czech Republic and Slovakia can be identified in the legal regulation. In the Czech legislation, this area is governed by a separate law, while in Slovakia the legislation of the sickness insurance, together with other schemes (sickness insurance, pension insurance, accident insurance, guarantee insurance and unemployment insurance), is included in a single law [European Commission 2016].

From the viewpoint of a decision-making on health, some differences can also be found. In the Czech legislation, a large section is devoted to assessing the health condition of the insured, to decide on his temporary incapacity for work and to decide on the need for nursing. The sources of social security funding in each Member State are different as shown in Chart 2.

**Chart 2. Sources of social security funding of the selected European States**

Source: own elaboration

As a further difference, it is possible to state that in the Czech legislation the reimbursement of the sickness insurance premiums is regulated by the Act on Social Security Contributions and National Employment Policy Act, whereas in the Slovak legislation this is taken as a complex solution covering the payment of insurance premiums for individual types of social insurance, including the sickness insurance.

The differentiation is also within the scope of the law. In the Czech Republic, the regulation of the sickness insurance for employees, self-employed persons, members of the Police of the Czech Republic, the Fire Rescue Service of the Czech Republic, the Customs Administration of the Czech Republic, the Prison Service of the Czech Republic and the Security Information Services was unified. In the Slovak Republic, the regulation applies to members of the Police of the Slovak Republic, members of the Fire and Rescue Service, members of the Mountain Rescue Service. As for the members of the Slovak Information Service, members of the National Security Authority, the Railway Police and the Corps of Prison and Judicial Guards and Customs Agents the regulation does not apply to them [European Union 2016]. The sickness insurance also regulates the duties of healthcare facilities and the attending physicians. On the other hand, the Slovak legislation does not regulate decision on the need for taking care and temporary incapacity for work. The sickness insurance does not basically regulate the duties of attending physicians, and the activity of the medical assessment service is described only marginally. Another difference in the both legal regulations is in the definition of persons who are considered as employees for the sickness insurance purposes. The Sickness Insurance Act sets out the list of persons participating in the sickness insurance. Apart from the enumeration itself, it defines the other conditions for taking part in

the insurance. These conditions include the performance of work in the Czech Republic and the minimum amount of the agreed income. On the other hand, according to the Social Insurance Act in the Slovak Republic, the employee is considered to be a natural person exercising an activity under the labour law relationship and the participation in the insurance scheme arises from the date of the establishment of the employment relationship without meeting any other conditions.

There are several fundamental differences in the regulation of sickness insurance for the self-employed, too. In the Czech Republic, a self-employed person may be a person who has completed compulsory schooling and has reached the age of at least 15 years and is self-employed. On the other hand, in the Slovak Republic, as a self-employed person is classified a natural person who has reached the age of 18 years in a calendar year that is decisive for the emergence or the duration of the compulsory sickness insurance scheme, and in terms of the income from pensions the person has exceeded the minimum threshold set by the law [European Commission, 2016].

From the point of view of the types of benefits and entitlements to their payment, a significant difference can be found only for cash benefits in maternity, when the original support period was extended by almost one third in the Slovak Republic. Another important element is the Union's migration policy. The migration of an individual or a group of people in any case raises certain consequences influencing the individual, the country of origin as well as the target country in several spheres, most significantly at the microeconomic level. Moreover, it also interferes with the cultural processes linked to the integration of the migrants into the society, in terms of the inclusion, discrimination and security and does not obstruct the political sphere, too [Jankurová 2016]. Looking at the situation in Europe, it is possible to talk about the migration of its inhabitants, particularly towards the New World, over the centuries. The reason was the vision of a free and friendly space in America as such. However, at present there is a significant increase in the immigration to Europe, not because it is poorly populated, but also because the Europeans have become rich and even the European poor people do not incline to accept any heavy, humiliating or degrading work. In the target countries, therefore, the international migration can be used as a tool to address the specific labour shortage in the labour market [Olejárová Čajka 2016].

The Czech and German sickness insurance systems will now be compared. The systems compared resemble some basic components. The differences can be found in terms of the breakdown of sub-social security schemes and specific benefits. The German social security system has a long tradition. It is based on the Bismarck social insurance system. The German social insurance system currently includes four mandatory parts, namely pension, sickness, accident insurance, and insurance in the event of the loss of employment. The sickness insurance is included into one unit with a health insurance system. By contrast, the Czech Republic does not have a separate accident insurance system and the health insurance is separated from the sickness insurance, both in the field of regulation, as well as in terms of the organization, administration and financing. In the case of health insurance, the principle of absolute solidarity is applied, in the case of sickness insurance the principle of social solidarity is applied. In the field of the sickness insurance, it is mainly about the provision of cash benefits with a direct link to the income received, while in the area of health insurance there is no such

link. For both countries under consideration it holds that they respect the sources of both the international and European law [European Commission, 2016].

Looking at the individual benefits in more detail, the conditions for the entitlement to sickness benefits were found to be the same in the countries surveyed. The waiting period for the entitlement to sickness benefit is not set for employees. The payout length varies. In Germany, the sickness benefits are paid for a longer time. Unlike the Czech Republic, in Germany, from the time perspective, the entitlement to sickness benefits does not arise immediately after the entry into employment, but it is conditional upon the entitlement to six-week wage compensation from the employer. The wage compensation is again conditioned by a minimum of four weeks of employment if this period is not shorter due to the stipulation in the collective agreement, in the employment contract, etc. The incapacity for work during which sickness benefits are not paid - the so-called slumping period, which is set for three days in the Czech Republic, is not established in Germany. The advantage of the quarantine period is observed in terms of the drop of short-term incapacities for work. The amount of the sickness benefit in the analysed countries is set at a percentage rate and is based on the previous income. The German rate is about 10 percentage points higher.

The differences were also noted for maternity benefits, family benefits and pregnancy and maternity benefits [European Commission 2016].

For both countries under consideration, there is the entitlement to a child care benefit. In the Czech Republic, this payment is entitled to a nursing employee who cannot practice his or her job either because of taking care of a child under the age of 10 due to illness or injury. Furthermore, the entitlement emerges because of the care of a healthy child in case the school or special childcare facility, in which the child is provided with daily or weekly care, is closed due to an accident, epidemic, quarantine, etc. In Germany, an employee is entitled to this benefit if he or she pays the statutory health insurance and his child under the age of 12 years is ill and needs care. In the Czech Republic, the care contribution can also be taken to care for another member of the household, whose health condition requires necessarily nursing due to the sickness or accident by another natural person.

In the Czech Republic, the legislation lays down the entitlement to a compensatory contribution in case of pregnancy and maternity. The payout period is set from the date of the transfer to another job until the end of the reassignment or the beginning of the maternity leave. In Germany, the sickness insurance benefit is not an equivalent to compensatory pregnancy and maternity benefits, but a so-called supplement to maternity. It is paid by the employer at a time when the insured person has a reduced income when receiving a maternity benefit. The supplement is paid in the amount of the difference between the maternity pay and the income that the insured person would have reached from the employer. If the employment relationship ends during the pregnancy or by the end of the retention period, the employer is obliged to continue paying the supplement up to this date [European Commission, 2016].

Another comparative analysis focuses on France, where the social security organization is based on the principles of national solidarity. Considerable emphasis to the social aspects of the economic development has long been put in France. The social policy system is extensive in both financial and administrative terms. In order to support the development of social policy, the Directorate-General for Social Cohesion was set up. There are also special social security funds (social

security fund, sickness insurance fund, pension insurance fund, family benefits fund, social security contributions and parental benefit fund, national solidarity fund for municipalities).

The system of social policy in France is structured into the four main areas, namely sickness, maternity, disability and death; the accidents at work and occupational diseases; age; family. Outside these areas additional insurance schemes are created, which mostly cover the situations caused by illness, accident, old age or invalidity. They arise on the basis of the collective agreements. The supplementary systems work as mandatory or voluntary ones (according to the current adaptation).

The social security is mainly funded via state insurance contributions from employees, employers, the self-employed, and via taxes. Most of the benefits paid in France are taxed at a rate of 0.5 %. The tax is taken back to the system [European Commission, 2016].

The health insurance is an integral part of the social security in France. It is divided into three main areas (the general system, the agricultural system and the social system for independent workers) and the successive sub-systems (e.g. the system of miners, seamen, National Assembly, etc.).

The benefits from sickness insurance are material or cash. The entitled to these benefits are persons who participate in the health insurance. The minimum number of worked-off hours or the minimum paid amount to the insurance system must take place in order to be entitled. If persons cease to meet these conditions, they are entitled to material benefits for a limited period of time, but not to cash benefits. The benefits from health insurance are paid in the events such as sickness, maternity, disability or death.

Based on a comparison of sickness insurance schemes in the Czech Republic and France, common features as well as differences can be mentioned. The quarantine period in France is set at three days (the same as in the Czech Republic) and in case of self-employed person it makes seven days, but if they are hospitalized, this period is only three days. The entitlement to the sickness benefit is also granted to a person who is unemployed and receives the unemployment benefit. The person on the sick leave is paid the sickness benefit from the fourth day not only by the insurance company, but also by the employer. Both of these entities share the burden of the sickness benefit in the Czech Republic, too. However, they do alter in the payment and there is no concurrence. In France, the promotion period starts from the third or seventh day to the 365th day. The amount of the benefit consists of 50 % pay from the insurance company plus 40 % pay from the employer. The insurance company favours a beneficiary with three or more children [European Commission, 2016].

Out of most of the benefits received under sickness insurance in France, the persons receiving the benefits must pay tax. The cost of the sickness insurance scheme and the amount of sickness benefits is considerably higher in France than in the Czech Republic; the funding comes exclusively from sources of employees, employers and self-employed.

A specific feature of the French model is the emphasis on benefits that support family development and population development. In this area, France enjoys a high-average performance in the European comparative profile. The maternity allowance is paid in France at 100 % (roughly 80 % paid by the insurance company and 20 % paid by the employer). The condition for the payment is the termination of the

employment relationship. The support period is shorter than in the Czech Republic. The support period in France is set at 16 weeks, plus two weeks for women with high risk pregnancy or 26 weeks for a woman with the third child's birth. In case of twins it is 34 weeks and for multiple births 46 weeks. In case of adoption, a person in France is entitled to 10 weeks, and in case of more children it is 22 weeks. Moreover, the support period can be divided between both the father and mother [European Commission, 2016].

In France, the care contribution is adjusted in a different way than in the Czech Republic. Both the length and the amount are divided depending on whether the parent stays fully at home, or when taking care of a family member limits his working time. If he stays fully at home, the entitlement to the support period is 24 days. If the care only reduces working hours, the support period is extended to 42 days and the amount of benefit per day is reduced. Such a choice in the Czech Republic does not exist yet.

The compensatory allowance in pregnancy and maternity in the Czech Republic is calculated by the difference between the previous income and the income in the situation that occurred due to the pregnancy or maternity. It is paid no later than the ninth month after the birth or throughout the lactation period. In France, this allowance does not exist.

The Finnish social model is based on the principles of the Scandinavian model, which determines its differences from the countries of Central Europe and the Czech Republic. To qualify for social security in Finland a permanent residence in the country is a key. The defined minimum length is a prerequisite for obtaining a social benefit. The same is true in the field of health services and benefits. In the Czech Republic, the sickness insurance is funded by contributions from employees and employers, with the employers paying more. In Finland, the employer contributes from the salary of his employee based on the assessed level of risk. The employees contribute to sickness insurance from their gross monthly income.

As for the sickness insurance scheme there are some differences of time and financial nature. In the Czech Republic, the sick pay is paid for a maximum of 380 days. The insured person is not entitled to a sickness benefit during the first three days, this time period is referred to as a quarantine period, and from the fourth day he is entitled to a wage compensation that is paid by the employer. Subsequently, he is entitled to sickness insurance. In Finland, the sick pay is paid for a maximum of 300 days. The insurer on the first day of his incapacity for work is not entitled to any financial support; from the second to the ninth day of his incapacity for work, the employer pays him wage compensation, and from the 10th day he is entitled to the sickness benefit, which is paid by the state. The sickness rate in the Czech Republic is 60 % of the daily assessment base. In Finland, the rate is calculated according to the annual income of the insured person. The rates are calculated as a percentage in a digressive way. The revenues are divided into groups. As the income increases, the percentage of the sick leave pay is decreasing. More precisely, the lower rate is for that part of the wage that goes beyond the defined band [European Commission, 2016].

The support period for nursing a family member in the Czech Republic is nine days, in case of the single parent, this period is 16 calendar days for a child who has not yet completed the compulsory school attendance. In Finland, the contribution for nursing the child is paid for 60 days and in the case of a serious illness of the child it is provided for up to 90 days. Parents who take care of a sick child under the age

of 16 are entitled to this benefit. In the Czech Republic, the amount of the benefit is set at 60 % of the daily assessment base. Finland has a minimum daily allowance. The support period for the maternity benefit in the Czech Republic is 28 weeks or 37 weeks, if the insured person has given birth to two or more children. In Finland, the support period for this benefit is 105 days. The rate of this benefit is 70 % of the daily assessment base in the Czech Republic. The compensatory allowance for pregnancy and maternity is not implemented in Finland [European Commission, 2016].

A specific feature of the Finnish system is that every employee is covered by the accident insurance without his or her own contribution to that insurance. The insurance is paid by the employer on the basis of the assessed level of risk. In the case of self-employed persons, this insurance is voluntary and their amount differs based on the number of injuries reported in the previous year in individual occupations. The employee is also insured on the way from and to work. There are four types of the accident insurance benefit - temporary drop in working capacity, permanent incapacity for work, reimbursement of medical expenses and rehabilitation, and pensions in the event of employee's death.

In summary, there are significant differences in sickness insurance systems, which are the result of different economic developments in recent decades as well as of various societal concessions in the social sphere. Even in the future, it is unlikely that the European integration will lead to the unification of the system frameworks in the Member States. On the other hand, it must be noted that, despite the cost and complexity, there are, in all the countries under review, the complex sickness insurance systems based on the principles of solidarity and Christian values. Due to that, they are different from other world regions, confirming the common foundations and developments in Europe.

## **2. BASIC PRINCIPLES OF THE EUROPEAN WELFARE STATE**

The welfare state expresses the society's own purpose, when it regulates the practices that the society sees acceptable. The welfare state provides the means to achieve the goal presented in the form of a coherent system of constantly evolving factors of production (including a human being itself) and the corresponding system of production relations. At each stage of its development, the welfare state sets priorities and implementation of the established principles. The priorities are determined by the degree of seriousness of significant social, economic and political problems. There is a strive to solve the problem of seeing the most significant contradictions of the existing historical situation and its solution to facilitate the transition of the society to a qualitatively new level of the economic and social development based on democratic principles and the rule of law.

The welfare state is currently a dominant form of the European social system and as such is the result of various historical processes and developments. However, it is still the subject of numerous changes. Social systems and policies are an integral part of the welfare state with all its advantages and disadvantages. This type of the state performs effectively designed policies and ensures balanced social systems for its citizens and state actors. This condition is linked to the commitment to keep social order, justice and equality of citizens. A harmonious link between the freedom of each member and the freedom of others is possible only in a developed civil society. The priorities of the welfare state in the current stage of the

development are the issues to which the government places the greatest attention to the development of socio-economic relations. They are defined at the macro level (to solve major problems), the middle level (to solve problems in the medium term) and the micro level (to address immediate priorities).

The European Union is still one of the most economically advanced regions in the world. The GDP per capita of the EU\_28 exceeds the values of the majority of the G-20 countries, lagging behind only the most advanced non-European economies. The achieved economic level is strongly differentiated within the current Member States of the European Union. In particular, the last rounds of enlargement, which took place in 2004, 2007 and 2013, contributed significantly to the deepening of the gap. If we express GDP per capita in the EU as a percentage of the European Union (EU\_28), we find that the most advanced Member State Luxembourg is close to 270 % of the EU average while the least developed Bulgaria makes less than 50 % (Table 1).

**Table 1. GDP per capita in purchasing power parity (EU\_28=100)**

Country	2000	2008	2016
Luxembourg	245	264	267
Ireland	131	132	177
Netherlands	134	134	128
Austria	131	125	126
Denmark	131	125	125
Sweden	127	126	124
Germany	118	116	123
Belgium	126	116	118
Finland	117	115	109
France	115	107	108
Great Britain	119	106	105
Italy	117	104	96
EU_28	100	100	100
Malta	84	81	95
Spain	97	104	92
Czech Republic	68	81	88
Slovenia	80	91	83
Cyprus	89	100	81
Slovakia	50	73	77
Portugal	81	78	77
Lithuania	39	64	75
Estonia	49	69	74
Poland	48	56	69
Greece	84	93	67
Hungary	55	64	67
Latvia	37	59	65
Croatia	51	63	59
Romania	26	47	59
Bulgaria	28	44	48

Source: Eurostat <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tsieb010> [cit. 2017-07-12].

Significant economic differences are evident between the original and the new EU Member States (those that joined the EU after 2004). The GDP per capita does not reach the Union average in any of the new Member States. Within the original Member States there is a significant gap at the economic level of the North-western and Southern Europe. The gross domestic product per capita of Italy, Spain, Portugal and Greece, alike the new Member States, is below the Union average. Based on the data in Table 4, depending on the achieved economic level, the European Union can be divided into three groups:

- the most advanced economies represented by the Benelux countries, the Scandinavian states, Ireland and Germany, whose GDP per capita (with the exception of Luxembourg) varies between 123 and 177 % of the Union average;
- a group of the medium-developed countries includes Italy, Spain, Cyprus, Slovenia, the Czech Republic and Malta (GDP per capita around the EU\_28 average, 80-109 % in 2016)
- a low economic level represented by the Balkan states, Poland, Hungary, Greece, the Baltic States, Slovakia and Portugal (48-77 % of the EU average in 2016).

The long-term goal of the integration process is to contribute to the reduction of disparities between Member States through the effects of the single market as well as the subsidy mechanisms. The following text will analyze the convergence process over the last 15 years (2000-2016). As a methodical procedure for testing the convergence of the EU membership base, a comparison of the results of the coefficients of variation of the gross domestic product per capita was used.

The relationship between the GDP per capita level and the amount of social protection expenditure in relative terms expressed in GDP cannot be documented on the example of Luxembourg. But here the cause is, rather than the low development of the social system, the abnormally high economic level. The expenditure on social protection in Luxembourg is very high in absolute terms, even after the per capita calculation. Only their share on gross domestic product is below average (Table 2).

**Table 2. Share of the expenditure on social security in percentage relative to GDP (years 2000, 2008 and 2015)**

Country	2000	2008	2015
Belgium	26.5	28.2	30.3
Bulgaria	–	15.4	18.5
Czech Republic	19.5	18.7	19.7
Denmark	28.9	29.7	33.5
Germany	29.3	27.8	29.1
Estonia	14.0	15.1	15.1
Ireland	14.1	22.1	20.6
Croatia	–	18.7	21.6
Greece	23.5	25.9	26.0
Spain	20.3	22.7	25.4
France	29.5	30.7	34.3
Italy	24.7	25.8	30.0
Cyprus	14.8	18.4	23.0
Latvia	15.3	12.6	14.5
Lithuania	15.8	16.1	14.7

Luxembourg	19.8	20.1	22.7
Hungary	19.3	22.7	19.9
Malta	16.5	18.8	19.0
Netherlands	26.4	28.4	30.9
Austria	28.1	28.1	30.0
Poland	19.7	18.5	19.0
Portugal	21.2	24.3	26.9
Romania	13.2	14.2	14.8
Slovenia	24.6	21.4	24.1
Slovakia	19.3	16.0	18.5
Finland	25.1	26.3	31.9
Sweden	30.7	29.3	29.6
Great Britain	26.9	25.9	27.4

Source: Eurostat [http://ec.europa.eu/eurostat/statistics-explained/index.php/Government\\_finance\\_statistics/cs](http://ec.europa.eu/eurostat/statistics-explained/index.php/Government_finance_statistics/cs) [cit. 2017-07-12].

In the context of the ongoing discussions on the necessary reduction in the cost of the European social models, it is interesting to monitor the development of the social protection expenditure in the recent years. The expenditure on the social protection in the European Union (measured according to EU\_28 average) relatively to the gross domestic product between 2000 and 2015 increased slightly, which does not confirm the reduction in social protection in the European Union. The growth, of course, was not the same in all countries. However, the faster growth was often seen in countries with a higher share of social spending per GDP, which did not confirm the convergence trends and the convergence of the social protection expenditure within the European Union's membership base. The basis of every social policy of a democratic society is to see the individual as the highest value. The institutions are designed specifically for him to develop and help [Dvořáková et al. 2007].

The social security systems in the European Union differ not only in terms of cost but also in the structure of the expenditure. There are some differences within the individual spending items:

- the majority of the expenditure is spent in the most EU countries on old-age pensions and survivors' pensions (orphan or widow's pension). Particularly high is the share of this item in the countries of Southern Europe (Italy, Greece, Portugal and Bulgaria), which is due, among other things, to a high proportion of people aged 60 and more in the total population. Also Romania, Luxembourg and Austria are well above the EU average. In contrast, in Ireland, the expenditure on old-age pensions and survivors' benefits was only 26.6 % of total social spending in 2008. There are two reasons - Ireland has the youngest population in the Union, and the protection of the elderly is not a major priority of Irish social policy;
- the second largest item of the social expenditure in the European Union creates sickness benefits. The exception here is again Ireland, this time, however, in the opposite meaning. It spends more than 40 % of its social protection resources on this type of expenditure. More than 30 % of the expenditure is directed on sickness and healthcare also by the Czech Republic, the United Kingdom, the Netherlands, Estonia, Slovakia and Slovenia. Significantly below the EU\_27 average are Cyprus, Greece or Luxembourg;

- the share of family policy expenditure is around 5 % in the Southern European countries, in countries such as the Netherlands or Poland. On the opposite range, there are Luxembourg, Ireland, Denmark, Germany, Finland, Sweden, the United Kingdom and Estonia, with a share of this spending three times higher;
- the expenditure related to unemployment is the highest in Ireland, the Netherlands, Denmark or Germany. The more economical system in this term is typical for Bulgaria, the United Kingdom, the Czech Republic or Slovakia;
- funding of the social exclusion makes in the EU Member States on average only 1.5 % share, which is a relatively small part, given the level of the attention it receives in the European Union's social policy documents. The Netherlands, Cyprus, the United Kingdom and Denmark are the largest contributors. On the contrary, Portugal, Greece, Croatia and Bulgaria are among the smallest ones.

In the transitional phases of the construction of a modern welfare state and transforming the economies, a radical reform of labour relations must be carried out, resulting in wage growth, the establishment of equal economic relations between employers and employees and more efficient functioning of the labour market.

In order to promote the growth of the sustainable development, it is necessary to create the conditions for the development of the priority social institutions (education, culture) and the development of social partnership mechanisms. The main mechanism for addressing the most important social problems is the consistent implementation of the state social development policy. Countries with a highly developed economy can afford greater focus on selected social issues. A much larger group of citizens can provide social support and assistance to vulnerable groups of the population.

Improving education policy will be based on basic macroeconomic indicators, including industrial development, and will be a condition for modernizing transition societies and ensuring the competitiveness of the economy. The modernization of the education system will take into account the actual current economic situation, the results obtained during the experiments and research and the implementation of the main activities in this area, as well as the emerging demographic trends [Horváthová 2016].

In the field of the pre-school education, it is necessary to create minimum requirements for the state. It is expected that there will be the need for the preschool education of children in the pre-school educational institutions to be separated on the basis of flexible educational programmes including an individual timetable for their visits (part-time, etc.). The strategic line represents the creation of a versatile development of the secondary education and the possibility of adapting to changing socio-economic conditions in the part of the education area and the organizational-economic mechanism of school activity and its management. In this respect, we consider the personal orientation and individualization of the educational process, the diversity of educational institutions and the variability of educational programs, an effective support for innovation measures and active participation of society in the development of education, strengthening the social and humanitarian focus of the general secondary education, orientation of the educational process and the development of thinking and practical skills as the necessary ones. The importance of the communication disciplines, particularly information technologies and foreign languages, must be greatly increased. In the

area of general secondary education, particular attention should be paid to the development of the standards and further improvement of the secondary education as well as to the development of the requirements for preparing graduates of different directions of the secondary education. Mechanisms and opportunities for the restructuring of rural schools should include the creation of training centres in rural areas and their different implementation, the development of transport services providing the connection to rural schools, the development of distance learning (including online learning) and ensuring training centres within appropriate distance. The decision on optimizing the network of rural schools needs to be taken in the light of local conditions.

National measures to raise the standard of living will be developed and implemented to determine this increase in the medium term. Another measure will be to prevent its decline through different mechanisms and approaches for specific socio-economic groups. In order to clarify the methodology for setting the subsistence minimum, measuring of poverty in accordance with the law shall be taken into account. As regards the reform of the social area of the consumer basket of the main socio-demographic population groups, this reform will be updated taking into account the regional differences in the cost of living for the citizen. Social work differs in each country due to different cultures, customs and beliefs. International social work aims to promote social changes and raise living standards for all population groups and all regions of the world, regardless of their economic maturity. Social work concept uses theories of human behaviour and social systems. In the place of interaction between people and their environment, it preserves the principles of human rights and social justice.

The main sources of social protection funding in the European Union are social contributions and tax revenues. The share of social contributions to total resources is almost 60 % in EU countries and as for the tax revenues it is less than 40 %. The share of the other resources is minimal. However, the structure of funding is quite different from country to country. In the Czech Republic, Slovakia, Estonia, Belgium and Romania, more than 70 % of all sources come from social security contributions. In contrast, in Denmark, Ireland, Cyprus or the UK, the social protection systems rely largely on tax revenues. Sweden and Luxembourg also have a fairly high proportion of taxes (Table 3).

**Table 3. Shares of the selected categories of social protection expenditures on public budgets of the EU Members (year 2015)**

Country	Shares of total public expenditures, in %					
	Old age pensions	Sickness benefits	Social exclusion	Family policy	Unemployment	Housing
BE	16.9	6.5	1.9	4.5	3.7	0.4
BG	24.3	0.6	0.2	6.0	0.2	0.1
CZ	18.2	5.2	1.1	2.6	0.5	0.6
DK	15.2	8.7	3.6	8.3	4.9	1.3
DE	20.8	6.9	0.9	3.6	4.0	1.0

EE	17.5	5.3	0.3	5.7	2.7	0.1
IE	8.2	5.6	0.3	6.6	6.3	2.8
EL	28.4	2.9	0.0	1.1	1.2	0.1
ES	-	-	-	-	-	-
FR	23.8	4.9	1.8	4.4	3.5	1.7
HR	14.2	10.5	0.3	2.8	1.0	0.0
IT	27.4	3.7	0.5	3.0	2.4	0.1
CY	14.4	1.2	2.2	6.0	2.1	0.0
LV	19.7	5.7	1.1	1.8	1.3	0.3
LT	16.6	7.9	1.3	2.8	1.6	0.2
LU	24.8	3.5	1.6	9.7	4.8	0.1
HU	14.5	6.1	1.6	3.9	0.7	0.5
MT	17.7	2.8	0.8	2.8	1.1	0.5
NL	15.1	10.0	4.2	2.4	3.8	1.0
AT	25.3	3.8	2.0	4.5	2.8	0.2
PL	21.9	6.3	0.6	3.4	1.3	0.1
PT	25.3	2.5	0.4	2.2	2.5	0.0
RO	23.9	2.8	0.4	3.2	0.3	0.0
SI	20.7	4.7	1.8	4.1	1.3	0.0
SK	17.4	6.2	1.0	2.9	0.5	0.0
FI	23.5	6.2	1.6	5.7	4.7	0.8
SE	21.2	8.9	2.5	4.9	2.6	0.6
UK	20.6	6.2	3.8	3.5	0.4	3.1
EU_28	21.7	5.9	1.8	3.5	2.9	0.8

Source: Eurostat [http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Main\\_categories\\_of\\_taxes\\_and\\_social\\_contributions](http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Main_categories_of_taxes_and_social_contributions) [cit. 2017-07-12].

Only in Denmark, Slovenia and the Netherlands, social contributions are mainly paid by the employees and self-employed workers. The contributions of people covered by social protection are also high in Poland and Luxembourg.

The basis of the social support reform represents the principle of focusing on social assistance, which works on the basis of testing the needs, the essence of which is to direct public funds on areas where it is most lacking. A gradual access to the revision and cancellation of several benefits is essentially connected with introducing the adequate compensation mechanisms for the poor and the most vulnerable. In socially-oriented economies, social assistance takes into account the

ethical and moral values of a society while respecting human dignity [Žofčinová 2017]. State social support will be provided only for low-income families whose total income is below the subsistence level and who are in a difficult situation. In this context, mandatory procedures for testing the needs of beneficiaries will be mandated to improve the conditions of all population groups in relation to their individual needs. It is envisaged the gradual introduction of the contractual system and ensuring the mutual obligations of the client in obtaining support (especially employment, participation in public benefit programs).

The functions of assessing the amount and types of social assistance as well as the creation of additional conditions for citizens in need of social assistance should be transferred to the regional level. The direct provision of social assistance is advantageously provided by local governments, since they are, by their very nature, closest to the inhabitants. In order to strengthen the state support for families with children the measures to ensure the timely provision of the total amount of monthly benefits will be taken. In recent years, we can claim that the number of people in difficult life situations has increased. The goal of government policy regarding the individual categories of socially weaker citizens is to create the conditions for the implementation and promotion of equal opportunities in the exercise of civil, economic, political and other rights and freedoms as laid down both by the Constitution and applicable law. In particular, measures must be taken to improve the social status and material security of the members of police, soldiers and veterans of the armed forces. There is also a need to increase health, professional and social rehabilitation for people with disabilities [Horváthová, 2016].

In the case of the social type of the state, it is expected to develop general requirements for the activities of the state legislation, municipal, private and other institutions providing different types of social services, based on state social service standards and quality assurance system for the quality of the implementation of social programs. The social model uses private funding along with state funding and develops the self-sufficiency of social services in areas where they are deemed necessary. In order to ensure an effective social process, the work on integrated social computerization will continue, allowing for a unified system of collecting, storing and providing information describing the state of social services in the country.

The welfare state is designed to create and maintain the legislative and legal preconditions for an effective economic foundation for the development of the society in order to maximize the material satisfaction and spiritual needs of the members of society and also to ensure consistency between the natural rights and obligations of a member of society. In accordance with these functions, the welfare state implements the following social functions:

- ensuring the employment for the largest number of citizens as well as for income growth;
- ensuring social security for all members of society;
- ensuring access to education, health care and spiritual and cultural development;
- ensuring social security for people in need
- compensating social inequality in society, creating decent living conditions for each social group of inhabitants;
- providing for adequate social services.

Functioning of the state social systems are the main activities of the welfare state which expresses its essence. Social functions associated into any state of matter appear in the form of general principles of the state activity or in the form of the economic functions. Unlike the economic function, the social function of the state reflects in the evolutionary state development and their approach is connected with the change of the dominance of the relation *state - society* into the relation *state - person*. Moreover, the social function of the state appears only in certain phases of the economic development. For example, the period in question was recorded in the past with the advent of the new evolutionary type of the industrial state, which occurred in the first third of the 19th century.

The creation and development of the social functions of the state is characterized by a dual process. On the one hand, there is an increasing number of social functions of higher levels of the state development; on the other hand, there is a dominant inclusion of social functions into the complex functional systems, together with legal, political and economic functions, resulting in the socialization of all state functions. The welfare state provides social needs to the populations that are reliant on it because its partial purpose is the development of the social market economy. In contrast to other state models, the welfare state has a number of functions that include:

- creating the legal basis for social policy;
- providing availability of social security systems;
- creating a budget for social benefits;
- putting into the existence the public system of social protection, social care and employment;
- ensuring availability of social support to all necessary members of society;
- accepting the state responsibility for socially disadvantaged population groups
- providing for the existence of civil society.

Each of these functions is essential for the proper functioning of the welfare state. They also have a specific focus on achieving social and economic goals. The most basic ones include:

- harmonization or catching-up of living conditions
- eradication of social inequality
- increasing the level of personal consumption
- addressing the social and economic challenges such as incentives to increase productivity, increasing consumer demand, preventing social conflicts, and changing the role of men in the labour market.

## CONCLUSION

The modern concept of the welfare state draws the attention to the relations between the state and the individual in the market economy. The term “social” binds the government to take care of the citizens in a certain risk life situations, e.g. in case of a sickness, agedness, occupational injury, unemployment, disability, etc. The social government provides not only the fundamental rights, but it is obliged to make positive “social activity” and create a social system focused on the implementation of a social justice [Žofčinová 2015]. Modern liberalism is committed to go on with the principle of equality and direction of the management of social

conditions of life. Civil society defines the fundamental boundaries that affect every citizen of the state. In addition, civil society has the following functions:

- socialization of an individual where citizens gain the ability to express themselves and develop their potential as social actors;
- organization of self-government and municipalities, where the (public) regulation maintains primarily the development of a network of private interests
- integrating society through a system of horizontal links and information channels and putting into existence the forms of social solidarity,
- creating a basic form of interpersonal solidarity on the basis of the identity or similarity of private interests,
- approval of different interests and the resolution of conflicts, which results in an effective organization of work, is a necessary tool for shaping the public awareness and social behaviour of people, social communities and other social systems in accordance with the principles of the welfare state and universal human values [Horváthová 2016].

A modern social state should combine the rule of law, liberal and political democracy, functioning of the state, harmonization of the interests of all subjects of public life, including various elements of market relations and the overall welfare needs. The combination of the factors we have mentioned allows for the transformation of an underdeveloped state into a truly effective welfare state.

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**WORKING PAPERS**

## **EFFICIENCY OF POST-COFLICT MANAGEMENT POLICY**

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### **Abstract**

In the article, the author analyzes what kind of post-conflict management policy can be effective. The criteria of effectiveness of post-conflict management policy are defined through its goal – the achievement of peace as a kind of the state of society. Therefore, the author identifies spheres of social life, where direct or indirect peacebuilding decisions and actions can be made. The author analyzes how decisions in these spheres can influence general peacebuilding tendencies, and why national and international actors of post-conflict management policy usually contribute to them.

**Key words:** *post-conflict policy, management decisions and actions, peacebuilding, effectiveness*

The reality dictates new conditions for Ukrainian political science. Today, as a result of the war in the East of Ukraine, a need arose to address new strategic issues that scientists and practitioners did not address either in Soviet times or during the time of Ukraine's independence. It is a matter of managing a non-typical form of military conflict - a hybrid conflict that is not a purely conventional form of the war. This list also includes the question of how to effectively manage the territory after the end of the conflict.

The policy of post-conflict management is a new phenomenon for Ukrainian political science. Instead, foreign political and legal studies are turning to this topic from the late 20th century.

The need to develop effective mechanisms for managing post-conflict territories is primarily driven by the high demand for such mechanisms from the international community. Thus, the category of "post-conflict peacebuilding" was included in the political lexicon as an activity to identify and support structures that must strengthen and establish peace in order to prevent a return to conflict. This

definition for post-conflict management was provided by the sixth Secretary-General of the United Nations Boutros-Ghali Boutros [Boutros-Ghali Boutros 1992].

Today different groups of political scientists study the issue of post-conflict management policy from different sides. Among the researches aimed at conceptualization of post-conflict territory and the system of management of such a territory we can outline Vincent Chetail [Chetail Vincent 2009], Chip Gagnon, Keith Brown [Gagnon Chip, Borwn Keith 2014], Paul Collier, Anke Hoeffler [Collier Paul, Hoeffler Anke 2002; Collier Paul, Hoeffler Anke, Soderbom Mans 2008]. The separate group of researches are reports and analytics from organizations (international and national non-governmental organizations) specializing in work in post-conflict society [see, f.e. UN Department of Economic and Social Affairs, UNDP 2007; African Union 2006]. The most numerous are those researches connected with post-conflict management and its separate models in concrete post-conflict countries, f.e. Laura Wicks's study of the conflict in Rwanda [Wicks Laura 2014], Derek Boothby's study of the conflict in Croatia [Boothby Derek 2004; Boothby Derek 1998] etc. Among Ukrainian scientists working on the topic we can outline the work of Anton Kisse on management of ethnic conflict [Kise, 2006], work of Mykola Nahirnyy on state and political development of Croatia in the period of conflict in Eastern Slavonia [Nahirhyy Mykola 2004] etc.

Post-conflict management is a complex process, and not only international actors are interested in achieving effective results of such management. The conceptual approach to conflict management determines that the post-conflict stage is an important stage in the dynamics of the conflict, and effective management decisions and actions at this stage will determine if the conflict can be regarded as completely finished. Consequently, like any political process, the management of post-conflict territories must have its goal, the achievement of which will determine the effectiveness of such management as a process, a set of consecutive decisions and actions.

In determining the overall goal of managing post-conflict territories, one must start with the study of the causes of the conflict. Connections between causes and results those causes have on post-conflict management policy can be meaningfully studied, using historical method, in works devoted to chronology and analysis of concrete conflicts [Wicks Laura 2014; Boothby Derek 2004]. Summarizing the detailed reasons for all armed conflicts is not considered possible and necessary, since in any case the set of preconditions for the conflict will be different. However, the struggle, the confrontation between two or more different groups is common to all conflicts. Under the monarchical form of government (until the 20th century), the order of the monarch was sufficient to call for a zone of military action as the undisputed power of authority. Instead, today, when the human right to life is determined to be the highest value, it becomes unjustifiable for the state as a party of the conflict to appeal to citizens to put their lives in the best interests of the state. Therefore, in the conflicts of the 20th and 21st century, the parties to the conflict - state and non-state actors - are turning to the value systems of their citizens.

Consequently, the key element in transforming the political conflict between the political actors (the authorities of different states or within the state) into a full-scale armed conflict is the peak growth of the level of confrontation between the parties to each other. In order to fuel the conflict and revitalize its supporters from among the various political and social groups, the parties of the conflict are turning to the confrontation of identities on the line "we-they", completing such

confrontation with additional elements from various spheres of public life (ideology, economy, cultural and social contradictions).

Thus, in order to resolve and complete the conflict fully, the conflict of identities must cease to have an influence on the social and political situation within a certain territory. Even with the achievement of political power by political actors through the process of negotiations, prejudiced population remains in the territory where armed confrontation took place. Without solving the problem of this prejudice, the conflict just goes into the latent phase, and appeal to conflicting identities by any political actors remains possible.

Actually, the interests of overcoming the conflict of identities in the post-conflict stage of conflict management coincide with the interests of both national and international actors. If we consider the interests of actors at these two levels, we can characterize them as follows:

- 1) International actors who are joining the management of post-conflict areas include international intergovernmental and non-governmental organizations as well as foreign states claiming the position of world or regional leaders or their international technical assistance projects (for example, the US Agency for International Development, projects of the European Commission, Danish and Norwegian Refugee Council, etc.). All these organizations have their own goals and priorities defined by their internal statutory documents. The normative goals that they need to achieve in the post-conflict areas are, for the most part, the creation of conditions for the establishment of sustainable peace, the restoration of managerial and economic potential in post-conflict territories [see, f.e. NRC Global Strategy 2018]. From the other side, some researchers connect the activity of international actors on the post-conflict territory with their desire to broaden their influence on such a territory (see, f.e. Gagnon Chip, Borwn Keith 2014). Nevertheless, the overcoming of conflict contradictions in a post-conflict society will fully contribute to these priorities;
- 2) National actors in the post-conflict area will include state authorities and local governance. For these actors, the main goal will be the approval of state sovereignty and their power over post-conflict territory. Therefore, by removing the conflict factors that contributed to the facilitation of the conflict and its transition to an active phase from the political field, national actors will be able to talk about the elimination of political rivals from among the representatives of the opposing sides of the conflict.

Therefore, interests of international and national actors mentioned above allow to give the synthesized definition of post-conflict management policy, Thus, the author proposes to define *the **main goal of post-conflict management policy** as creating conditions that will minimize the impact of pre-conflict confrontation of values, and the peace as a form of coexistence for the majority of the population of the post-conflict territory will be considered as the highest value.*

The definition mentioned above allows author to include the category of peacebuilding in the research, as an activity that will reach the goal of post-conflict management policy. The peacebuilding for post-conflict societies was described in the works of Sarah Hearn [Hearn Sarah 2015] or HoWon Jeong [Jeong HoWon 2008]. Peacebuilding primarily refers to initiatives that support and reinforce structures that promote peaceful coexistence and reduce the possibility of a renewed conflict. This process usually involves a set of tactical and strategic decisions, namely the parallel implementation of humanitarian measures with

measures of a political, economic and social influence. Nor such managerial decisions, which solve the problems existing in society immediately, will be effective, but those decisions that create opportunities for further peaceful development. Peacebuilding is a multidisciplinary process that includes the destruction of conflict-based structures and the building of structures of peace [Bush 1998].

However, it is evident that the development and democratization in a post-conflict management situation does not always equal peace. Development programs implemented without taking into account certain post-conflict indicators can restore a conflict situation (e.g., creating artificial groups of "winners" and "losers", challenging traditional values of communities, etc.). In such cases, only the nature of the conflicting parties and their position in the conflict may change.

The researcher of the international security system, adviser to the UN Mission in Somalia, political scientist Ken Menkhaus states that peacebuilding initiatives can be divided into: 1) "direct peacebuilding" as a decisions and actions aimed at promoting dialogue, building capacity for conflict management and conflict prevention; and 2) "indirect peacebuilding", where peacebuilding initiatives are integrated into specific sectoral decisions and actions (in economics, politics, etc.) [Menkhaus 2004].

According to such a division, for the achievement of peace as a goal of post-conflict policy management, it is possible to identify those sectoral groups of management decisions and actions that are proposed for the implementation. These are the policies from international practice as a specific post-conflict management policy system. Management practices in this area can be divided into groups as follows:

- 1) Management practices in the field of security and justice - activities for the establishment and/or restoration of security systems, law enforcement systems, the establishment of a system of prosecution of perpetrators and/or amnesty;
- 2) Management practices in the field of economics - activities aimed at creating/restoring a system of economic relations, establishing an "economic dialogue" within the post-conflict territory and between the territory and other economic entities;
- 3) Practices in the field of restoration of the governance - restoration and improvement of the system of providing administrative services, creation of the system of post-conflict management authorities;
- 4) Socio-cultural practices - activities to restore confidence on the psychological and social level through education, culture and informational policy.

The presented set allows us to speak about the policy of managing post-conflict territories as a set of decisions and actions in certain spheres of social activity. However, it is critically important that, within a vulnerable post-conflict society, managerial practices do not hurt, but demonstrate their effectiveness.

The assessment of the effectiveness of management decisions and actions in the post-conflict territory through the arguments set out above in this article can not be applied to the usual assessment criteria defined for the development or democratization of the territory. For example, the author has already turned to authoritarian tendencies in the post-conflict territory. In this case, the concentration of most powers and control over the post-conflict management in the hands of one person or one authority was characterized as the usual situation for such cases. To confirm this tendencies, the author has analyzed the experience of countries that fundamentally differ in geography, the level of economic development before the conflict resolution, and a number of other indicators - Rwanda, Croatia

and Tajikistan. Croatia succeeded in overcoming the prerequisites for authoritarianism of Franjo Tudjman through the parallel development of other democratic institutions in the post-conflict period; whereas, in Rwanda and Tajikistan, after the post-conflict period as a form of transitional period, the power of national leaders, Paul Kagame and Emomali Rahmon, was confirmed for many years. So, for a post-conflict management system, it is important not only to deal with the concentration of power in one's hands, but to create the preconditions for a peaceful transition from a kind of post-conflict authoritarianism to a democratic form of government [Mykhalska 2017].

These and other examples of post-conflict management policies suggest that defining a set of criteria for the effectiveness of post-conflict management policies in various areas of public life can be a tool for preliminary assessment of decisions and actions that are planned to be implemented.

The available scientific and analytical works in this area do not provide direct criteria for evaluating the policy of managing post-conflict territories. However, there is quite a lot of works devoted to the assessment of the impact of projects implemented with the support of international financial institutions.

One of the authors who thoroughly studied this subject is Ph.D. in International Relations and Comparative Political Science, specialist in post-war reconstruction Kenneth Bush. As part of his work in the Peacebuilding and Reconstruction Program Initiative (International Development Research Center), he has developed PEACE AND CONFLICT IMPACT ASSESSMENT (PCIA) tool. This tool contained a number of criteria to be used for projects international technical assistance organizations aim to support. Kenneth Bush drew attention to the fact that such criteria would allow the specialists of international organizations not to confuse the post-conflict recovery with development and democratization, since this tool takes into account those "sensitive" aspects that are inherent in a post-conflict society from a psychological and social point of view [Bush 1998].

Professor Bush's work in this direction was continued by other scientists and researchers - Ken Menkhaus, who complemented the practices proposed by Bush [Menkhaus 2004]; Oliver Jütersonke and Moncef Kartas, who used the created tool in post-conflict Madagascar, and also provided the prerequisites for its completion [Jütersonke et al. 2010]; Vincenza Scherrer, who complemented PCIA in its application in a specific area of governance - security and justice practices [Scherrer 2012] etc.

The Working Group of the Organization for Economic Co-operation and Development also advises to identify the theoretical basis for any political solution that is planned to be implemented in the post-conflict territory, the so-called theories of change. For example, when implementing peacekeeping projects in schools, theories about education and conflict are used; demobilization and reintegration projects of former combatants are based on economic theories of peaceful consolidation, etc. When implementing specific managerial decisions, it is necessary to analyze whether there is a public need for such decisions, and whether these specific decisions will lead to the desired result. The conclusions of the Working Group illustrate the example of Kosovo, where for a long time various political actors were intended to implement solutions that would "bring together" the former conflicting parties. Instead, after a certain period of time, it has been discovered that activities aimed at the formation of responsible, strong and legitimate leadership in the territories where different parties of the conflict live has

a higher efficiency for the social system. These bodies, while exercising their representative functions, were able to find consensus at the political level, and this process had a positive impact on the intergroup interaction of the entire society [OECD 2008].

Taking into account the fact that, as we have previously discovered, the interests of international actors (which include international technical assistance organizations) and national actors coincide with the goal of post-conflict management policies, it can be argued that PCIA can be applied to the assessment of the effectiveness of this specific policy in general. However, PCIA was created to evaluate projects drawn up (in particular, in writing) before the stage of their implementation, so its criteria are sufficiently detailed.

Therefore, to define the criteria of effectiveness of post-conflict management policy the author proposes:

- 1) to analyze the criteria defined in PCIA and similar tools, to highlight those of them that can be reached with the competence of post-conflict policy management actors; and also to generalize highly specialized criteria to the relevant sector of the politics;
- 2) to determine the results that have shown their efficiency on the level of separate case-study on post-conflict territories, to integrate these results in the model of efficiency, proposed in the p.1 of this paragraph.

The developed synthesized list of criteria of efficiency of post-conflict management policy after the work done is defined as follows:

- 1) Criteria for the security and justice sector:

circulation of weapons and ammunition - the number of mined and demineralized territories, the number of weapons in the hands of the population (registered and unregistered), including the number of attacks with the use of weapons;

number of offenses against the life and health of a person having a conflict background;

number of persons convicted of committing offenses during the conflict and in the post-conflict period, including from the representatives of the conflict parties;

number of riots activated by the conflict;

number of refugees and internally displaced persons returning to their place of residence, etc.

The data provided give an opportunity to assess whether violent forms of conflict-related interaction persist in society, and whether there are prerequisites for such violent forms of interaction to have an impact on the socio-political environment. These security sector indicators can be analyzed through reports from security agencies, courts and law enforcement agencies.

- 2) Criteria for the economic sector:

number of business representatives of different levels who left the territory during the conflict, however, return;

number of investors attracted;

number of innovative forms of business that were "born" in the post-conflict period, including at the expense of grant support for small and medium-sized businesses (due to the psychological factors for people who survived the conflict, the search for new opportunities in the new conditions is common, including through the creation of business projects, and therefore the international

financial institutions provide active grant support to such initiatives in the post-conflict area) etc.

What is important here is that it is not necessary to stimulate the rapid growth of the GDP of the post-conflict territory through the increased revenues from taxes, and therefore measuring the effectiveness of a post-conflict policy through any economic indicators of this kind does not seem necessary.

We suggests these indicators from the economic sector, since they will be able to demonstrate convincingly how many people 1) have returned to peaceful forms of coexistence, including legal and peaceful forms of business; and also 2) how many people are interested in maintaining a peaceful structure in society, not only from the moral and ethical, but also from the financial point of view. If a person connects his economic "decline" with the state of war, and his own financial well-being with a state of peace, it will be difficult to intensify his/her participation in conflicts, as he/she will defend the peace as his/her own interest.

These and other data can be analyzed using information from the state tax authorities.

3) Criteria for the public administration and local government sector:

number of voters attending elections in a post-conflict area (if conducted);  
 staffing of public authorities and local self-government bodies in the post-conflict area, incl. by internally displaced persons and refugees who have returned;  
 number of registered and functioning non-governmental organizations in the post-conflict territory, including the number of peaceful actions they are carrying out, and the projects implemented, etc.

Participation of citizens in the political and social life of society in various forms demonstrates the trust of these citizens to the existing socio-political system. In a post-conflict area, as in other transit territories, it is not considered necessary to assess the legitimacy of the political system by the level of trust in specific political leaders. In a post-conflict environment, assessing the trust to institutions and values will be more effective [Kokorska 2008].

This information can be analyzed through the statistics of state authorities and local governance, the elections data, etc. The authority for accounting for the projects and activities implemented by non-governmental organizations may be assigned to a specific body or organization.

4) Criteria for social and cultural sphere:

number of media engaged in post-conflict territory and the amount of media products they produce;  
 level and nature of social interaction between pre-conflict groups;  
 number of cultural projects and products where pre-conflict groups are commonly involved, etc.

These data is the most difficult to research and measure. However, precisely these projects are usually described by Ken Menkhaus as "direct peacebuilding". Therefore, separate bodies (such as the Commission for National Unity and Reconciliation in Rwanda, or the Commission for National Reconciliation in Tajikistan), analytical centers and non-governmental organizations may be set up for this activity.

We do not claim that this list of criteria for assessing the effectiveness of post-conflict management policies is exhaustive. The proposed criteria may be supplemented depending on the nature of the post-conflict situation and the

political context. When presenting these criteria, we sought, first of all, to prove that the post-conflict policy can not be measured by the usual indicators set for transit systems. With the development of management practices for a post-conflict territory, at first it is important to restore confidence in the people to power and to each other. It is this kind of activity that can convince each citizen that peace for him is more valuable than any form of the conflict, not only from a moral and ethical, but also from a political and economic points of view.

## **CONCLUSION**

The research done allows the author to give the definition of the goal of post-conflict management policy as creating conditions that will minimize the impact of pre-conflict confrontation of values, and the peace as a form of coexistence for the majority of the population of the post-conflict territory will be considered as the highest value. To answer the question whether the goal of post-conflict management policy will be achieved in some practical model of such a policy the author proposes criteria, that is concrete indicators to be achieved so that the activities of post-conflict management policy can be defined as effective. The criteria are grouped up according to the sectors of policy: criteria for security and justice sector, economic criteria, criteria for the public administration and criteria for socio-cultural policy. Independently from the sector the criteria are used in, they are achieved in purposeful activity of peacebuilding character. That is why peacebuilding becomes not only the process, but also a principle actors of post-conflict management policy need to apply.

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# **POLITICAL OPPOSITION IN TRANSITIONAL DEMOCRACIES: CATEGORICAL ANALYSIS OF THE PHENOMENON**

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## **Abstract**

With the help of etymological and institutional approaches, the article analyzes theoretical aspects of the activity of opposition as a new legitimate participant of the political process in the context of democratic transformations in the post-communist states. In order to distinguish other actors of opposition activity through the concept of “opposition”, the author intentionally narrowed down the concept of “political opposition” to the institution of political parties as they are main potential subjects of power.

**Key words:** *political opposition, power, transitional period, transitology, post-communist states*

## **INTRODUCTION**

Scientific research of democratic transitions in post-communist countries gives a significant empirical basis for comparison, generalization and modeling of transformational processes. Their modern comprehension in political science mainly takes place within the transitological approach. The classic work in this field is a book of the well-known political scholar S. Huntington “The Third Wave: Democratization in the Late Twentieth Century”. The book outlines that “a wave of democratization – is a series of transitions from non-democratic to democratic regimes, which take place within a certain period of time and quantitatively exceed the number of reverse transitions during the same period” [Huntington 2005: 574]. The third wave of democratization began in the mid-1970s in Southern Europe, and

in the late '80s and early '90s it has already covered Eastern European countries and was accompanied by the collapse of the Socialist and Soviet Blocs.

Because of suchlike linear dynamics, many researchers considered political transformations as a certain natural transition from the collapse of various types of authoritarianism to the gradual construction of a consolidated liberal democracy. The argumentation of this approach was strengthened by the comparative research of the results of democratic transitions in Latin America and Southern Europe. As a rule, the transitional period is understood as an interval between the “partial opening” of a non-democratic regime and the formation of new rules of a political game and the establishment of a competitive democracy [Bakirov 2008: 420]. With all the differences in the specific versions of the transition, a country was supposed to pass several typologically identical phases: the liberalization of the democratic regime; institutional democratization; democratic consolidation.

## **1. POLITICAL OPPOSITION AS A FACTOR OF DEMOCRATIZATION**

However, while having relatively equal starting conditions, each of the post-communist countries has demonstrated sustainable differences in transformation results. For example, “hybrid”, semi-democratic, neopatrimonial political regimes, which combine the features of democracy and authoritarianism, were formed in the post-Soviet countries instead of the expected consolidated democracy [Chikhladze 2017; Fisun 2016; Gel'man 2015; Matsiievskiyi 2016]. Political opposition may operate under such conditions, but its potential cannot be realized due to significant violations of democratic rights and freedoms. With the strengthening of authoritarian methods in politics and the growth of competition in a party environment, the opposition acquires attributive forms and can be pushed out to the periphery of political life.

According to data provided by Nations in Transit (Freedom House), in 2018 none of the post-Soviet states, except for the three Baltic states, has achieved the condition of a consolidated democracy. Only Ukraine, Moldova and Georgia are classified as semi-consolidated democracies, and Armenia is classified as a semi-consolidated authoritarian regime. All the rest, including Russia, Belarus and Kazakhstan, have obtained the features of consolidated authoritarian regimes [Nations in Transit 2018]. The growth of various forms and models of the post-Soviet political regimes (for example, the political regimes of Yeltsin, Putin, Kuchma, Lukashenko, Karimov, Aliyev, Saakashvili) gives relevancy to research aimed to clarify the influence of internal political factors on democratic changes in the post-communist area.

Political opposition is one of the determinants of democratic change. Comprehension of the complex and contradictory specifics of democratization processes reveals the varying influence of opposition on the nature of a transition and its effectiveness. According to M. McFaul, the advantage in favor of opposition has contributed to the origin of “democracies” in nine cases (Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia) and “partial democracies” in three cases (Armenia, Bosnia and Herzegovina, Georgia). The balance of powers in one case has led to a “dictatorship” (Tajikistan), in six cases it has resulted in “partial democracies” (Moldova, Ukraine, Russia, Albania, Azerbaijan, Macedonia), and in two cases – “democracies” (Bulgaria and Mongolia). Domination of the old regime has given rise to a “dictatorship” in five cases (Belarus, Kazakhstan, Kyrgyzstan, Turkmenistan and Uzbekistan), and in two cases

“partial” (Serbia) and “complete” (Romania) “democracies” originated [Melvil 2007: 5]. All this proves that the classical theories of transition are unable to explain all the complexity and specificity of democratic transformations. One of the reasons for this is insufficient research of political opposition, in particular, of its categorical characteristics. This issue is rather topical since its covering will reveal the specifics of the formation of political opposition as a subject of democratic transformations in the post-communist countries. Therefore, the purpose of the article is to conceptualize the theoretical aspects of the activity of opposition as a new legitimate participant of the political process in the conditions of post-communist democratic transformations.

Transitology pays significant attention to the studying of the opposition's role in the transformation of society. S. Huntington, A. Przeworski, A. Stepan in their works analyzed different models of interaction between the power and the opposition during a transition to democracy. Political scientists have made a thorough comparative analysis in order to establish how the specifics of the political forces' configuration and situational factors influence the dynamics of political processes. To some extent this allows us to consider the opposition in a complex of sequential factors that affect the nature of the political regime. However, the works primarily summarized the experience of democratic transformations in Europe and Latin America but did not pay enough attention to the countries of East-Central and Eastern Europe.

As for the definition of the place and role of the political opposition during a transitional period in the post-communist space, this issue remains largely unexplored. The theoretical aspects of the formation of the political opposition, in particular, its functional role in democratization processes, are partially analyzed in the works of A. Melvil, A. Tsygankov, L. Shevtsova, A. Glukhova, A. Kolodiy. The institutional conditions of the activity of the opposition in the post-Soviet countries were investigated by Y. Abdulaieva, G. Gavrilov, T. Tkachenko, L. Chervona, A. Friszke.

The transition towards democracy in the countries of East-Central and Eastern Europe largely depended on a new alternative political force – the opposition. It was the opposition political forces that created a political alternative and real political competition by undermining the monopoly of the “party of power” and creating thus preconditions for democratization. The constructive activity of the opposition became a foundation for civil society since its initial pluralism gave rise to different groups of political interests, values, programs, ideologies, and so on.

It should be noted that the understanding of the political opposition as a subject of politics has undergone a certain evolution in Europe. The first half of the twentieth century was marked by the establishment of democratic institutions, including the parliamentary opposition. This period is characterized by the expansion of general social rights and the introduction of the institution of elective offices in many countries. However, the process of democratization was not linear. The strengthening of totalitarian trends in European politics also affected the reassessment of the political opposition's role. Democracy was being perceived not only as a set of political institutions, norms, and practices but has acquired a certain axiological coloring. Within the totalitarianism-democracy dichotomy, the first concept was perceived negatively, and the second – positively. Accordingly, within this approach, political opposition was considered as a mandatory attribute of a democracy, as well as a missing element of a totalitarian regime.

In the 1980s, when the concept of “democratic transition” was introduced into the scientific discourse, the understanding of democracy and, accordingly, opposition, was changed. Political opposition was seen as the main initiator of the democratic transition, which was influencing the dynamics of the authoritarian regime's transformation, its “erosion”. It is generally considered that the beginning of the transition from authoritarianism to democracy is evidenced by active protests by groups, opposing to a government or a ruling party, or changes in the higher echelons of power, which strengthen positions of pro-reformist groups. According to A. Tsygankov, the regime obtains a transitional state when the rights of the political opposition are legitimized in one form or another. [Tsygankov 1995:130].

## **2. POLITICAL OPPOSITION DURING THE TRANSITIONAL PERIOD: THEORETICAL DIMENSION**

However, the application of the term “political opposition” during the transitional period requires conceptual definiteness, since the internal political processes and the evolution of subjects of the opposition activity had their specifics in different countries. The end of the '80s was marked by political activation of various alternative public associations oppositional to the authorities. They gradually acquired organized forms, in some cases united in social and political movements, formed their own alternative programs, and gained legalized forms, directly or indirectly contributed to the erosion of the communist regime in a country. However, the internal opposition was also present inside the ruling party itself in the form of the reformation wing. At this time, the role of opposition political leaders, able to mobilize citizens against the government, is growing substantially. Because of the various forms and methods of opposition activity in difficult transitional conditions, there are concepts of “opposition” and “political opposition” in the scientific discourse. Academic literature often interchanges these concepts or emphasizes their identity.

Let's try to consider this problem in more detail through the etymology of the word “opposition”. The term itself comes from the Latin word “*oppositio*”, which means counteraction, confrontation, resistance. It was used to describe actions characterized by resistance towards certain political processes, political line, political action and criticism of a dominant ideology, opposition to specific institutions or organizations. But the interpretation of the opposition only as an expression of irreconcilable hostility, rivalry, confrontation of power subjects, is somewhat narrowed and does not allow to reveal the diversity of forms and methods of opposition activity and demonstrate its democratic character. S. Riabov thinks that “limitation of the opposition's essence only to deconstructive denial of the existing foundations of social life and extra-systemic intentions is inherent to totalitarian political consciousness and practice” [Riabov 2005: 12].

During the transition from authoritarianism to democracy, a gradual retreat from the confrontation, resistance, denial of the regime to the establishment of rules of the political game and procedures for a competitive political struggle happens. On this basis, the question arises: whether resistance movements, socio-political organizations and other movements, which opposed the authoritarian regime, but did not always aim to obtain political power, can be called political opposition?

Some researchers try to consider resistance with the use of force as a concept separate from political opposition. Thus, the Mexican researcher T. Segovia

distinguished a “resistance movement” and a “political opposition”. In his opinion, “the opposition does not confront the power and its supreme form comes from the opposition party, while the resistance movement cannot be a party by definition: its task is not to rule, but to resist” [Chervona 2004: 28].

The Polish historian A. Friszke has a similar opinion. He understands the political opposition as a conscious, planned activity based on a certain program and aimed to make changes or reforms by limiting the monopoly of party power and restoring the subjectivity of society [Friszke 1994: 5].

Ukrainian scholar L. Chervona agrees that a political party, which does not go beyond the political system, and the resistance movement, which does not recognize the existing political status quo, have different functional tasks. In her opinion, in both cases, they represent the stages of opposition activity, the political opposition of two contrary types - systemic and extra-systemic. At the same time, no political regime can operate without the opposition as a set of nonconformist beliefs and actions of individuals [Chervona 2004: 28].

T. Tkachenko expresses a similar opinion that the opposition can exist in the form of a public protest and as a political institution. Thus, “...the opposition as a form of social protest is the determinant of the opposition as a political institution” [Tkachenko 2007: 41].

However, under the conditions of an authoritarian political regime, when public and political organizations and movements have illegitimate status, it is difficult to call them political opposition in the classical sense of the term. None of these structures falls under the definition formulated by the Polish scholar S. Bożyk. He states that political opposition is a totality of political groups, which do not participate in the functioning of a government but take a critical position towards the government and its policies, and also strive to gain state power, using guaranteed constitutional and legal forms of political rivalry for implementation of constitutional reforms or changes in the actual political socio-economic system [Bożyk 2005: 10]. Thus, a dilemma appears: how to understand the concept of political opposition - in a universal or specific sense? In this case, the problem lies in the terminological and methodological field.

These two concepts, in our opinion, can be distinguished through the application of etymological and institutional approaches developed by the Russian scientist G. Gavrilov. The etymological model represents the concept of opposition in a broad sense, focusing on its activity aspect and considering it as a mere confrontation between one policy and another, an action against opinions of minority or dominant opinions [Gavrilov 2003: 16].

However, this model does not cover the political side of its activities. Instead, the opposition acts as a certain process, operation activity without reference to specific political actors. This approach, on the one hand, gives somewhat blurry understanding of the subjects of oppositional activity, because even pressure and lobby groups can be considered as the opposition. On the other hand, this approach can be partially applied during the liberalization of the authoritarian regime, when the opposition is formed from socio-political movements, public organizations, as there is no legal political parties and free democratic elections, etc. However, with the emergence of a real multi-party system and the stable functioning of democratic institutions, the etymological approach does not allow singling out political parties as an important subject of the opposition, which fights for a dominant power resource along with the ruling parties.

Studying the political opposition during a transitional period, we applied an institutional (or institutional-functional) approach. This allows us to narrow the understanding of the opposition down to specific political institutions which can perform this role. Usually, this approach is more suitable for the analysis of opposition parties in stable democracies, which already have the elements of political pluralism, a competitive inter-party struggle, a stable party structure with clear rules of political competition.

In conditions of a real multi-party system, we can talk about political opposition in a form of a parliamentary and extra-parliamentary opposition, as one of the most advanced and representative forms of political struggle. In a democratic society, the political opposition is the main channel for the expression of social dissatisfaction with the existing political situation, an important determinant of political transformations, a way to achieve fundamental compromises from the authorities and improve the political course.

While agreeing with the opinion of G. Gavrilov, that the opposition is determined through the power, we believe it is important to narrow down the category of “political opposition” to the institution of political parties, as they are main potential subjects of power. Thus, we can “highlight” other actors of oppositional activity through the concept of “opposition”. This opinion is supported by G. Ionescu and I. Madariaga, who offer to distinguish the concepts of “political opposition” and “opposition”. According to their concept, only political opposition *sensu stricto* can exist in a democratic system where it is always institutionalized, acknowledged and legitimized. The scholars believe that “this term should be used in a situation when the opposition is not only allowed to function but when the functioning has become its purpose” [Ionescu 1972: 16].

The opposition *sensu largo* covers different manifestations of dissatisfaction with government policy and is quite a broad concept. Suchlike classification gives a possibility to expand the concept of opposition with various organizations and social-political movements, which act as a certain alternative force and try to democratize society through a competitive struggle with authoritarian power. According to A. Stepan, “the opposition in a non-democratic system, first of all, must undermine the legitimacy of the regime and contrapose it to a democratic alternative, initiate and spread protests, organize strikes, publish and distribute illegal press, establish secret universities, etc.” [Stepan 1990: 44].

But there is a question: at what point the opposition can obtain a different quality and acquire the forms of the political opposition? Is it correct to say that during the liberalization period there was no political opposition, and it has suddenly appeared after democratic elections and the collapse of the authoritarian system? In my opinion, the answer can be found, if we track the formation of political opposition as an institution. The institution of political opposition is a set of game rules and certain codes of conduct, as well as relations and connections that establish and regulate opposition activities within a political system [Vinnychuk 2007: 7]. Thus, we can single out pre-institutional and institutional stages of the activity of the political opposition. The pre-institutional stage of its formation falls for the period of liberalization and is characterized by the organizational formalization of the political forces, which opposed the dominant communist government, the ruling party and directly or indirectly waged the struggle for the state power. The very stage of liberalization can be defined as the period from the Gorbachev's “Perestroika” and

until 1990 when the first declarations of state sovereignty were adopted and the first democratic elections to legislative bodies took place.

It should be noted that the liberalization of the political regime took place in conditions of a certain balance between the power and the opposition. When a decrease in the level of government legitimacy and the growth of the opposition's activity occurred, these caused a rather active political socialization and the emergence of new oppositional organizations. During the liberalization of the authoritarian regime, the opposition itself became internally fragmented and included both a moderate and radical opposition. In this regard A. Przeworski notes, that not all anti-authoritarian movements were pro-democratic, some of them use slogans of democracy only with the aim to overwhelm both their authoritarian opponents and their allies in the fight against the old regime. The search for consensus is often no more than a disguise of a new authoritarian temptation [Przeworski 2005: 645]. In the instability of the political regime, because of the organizational formalization of the opposition, frequent change of its strategy and tactics (from the complete objection to partial cooperation with the authorities), forms and methods of activity – it is quite difficult to perform its typologization. According to the classification of R. Dahl, depending on the nature of its relations with the regime, there is systemic, semi-systemic, and non-systemic opposition. Depending, first of all, on methods which opposition uses to achieve its goals, J. Linz distinguishes three types of opposition: loyal, semi-loyal and disloyal (irreconcilable). Such classifications are more typical for stable democratic regimes, where democratic norms and principles of competition policy are recognized and political opposition has already become a political institution.

The uncertainty of the transitional political regime, when it retains democratic and authoritarian elements at the same time, puts inconsistency in the definition of a moderate part of the democratic opposition. On the one hand, it was determined to dismantle the authoritarian regime and, according to J. Linz classification, was disloyal and irreconcilable. On the other hand, it showed willingness for interaction and constructive dialogue with the authorities in order to overcome the political conflict. Y. Abdulaieva thinks that definitions with the prefix semi- (semi-loyal, semi-systemic, etc.) are also not suitable for these purposes since they rather characterize opposition groups with an unstable political position, which, depending on the behavior of the current regime, are ready to drift towards one or another pole within the opposition spectrum [Abdulaieva 2007: 8].

At the stage of liberalization, we can observe the activity of public-political organizations and socio-political movements, which required systemic changes and were oppositional to the communist regime. At that moment, the opposition manifested its organizational feature. Indeed, it is quite difficult to imagine an unorganized mass of people struggling for a dominant political resource. It is unlikely that an unorganized group could effectively use this resource. With the lack of institutional ways to influence the power, the opposition actively used various forms of mass mobilization: meetings, strikes, demonstrations, pickets, and so on. Direct forms of democracy at that time were a very effective tool for influencing the government. At the same time, the democratic opposition itself, by definition, of A. Stepan performed the following functions:

- 1) resistance to integration within the regime;
- 2) protection of autonomy zones from the regime;
- 3) undermining of the regime's legitimacy;

- 4) increase of the political price of authoritarian rule;
- 5) creation of a favorable democratic alternative [Stepan 1990: 45].

In the absence of opposition political parties, these functions were particularly clearly manifested in the activities of socio-political movements which had mass character and included newly created public organizations of different directions, some of which later transformed into opposition political parties. This trend was in Poland (Solidarity) and Ukraine (People's Movement of Ukraine). For example, such national-democratic Ukrainian parties as the Democratic Party of Ukraine, the Ukrainian Republican Party and the Ukrainian Social Democratic Party developed on the basis of People's Movement of Ukraine.

Elections to legislative bodies with the participation of oppositional socio-political movements and parties laid the foundation for the institutionalization of the political opposition. The majoritarian principle of the electoral system and the constitutional abolition of the Communist Party's monopoly for power created the situation in which socio-political movements in the early '90s in Ukraine actually performed the functions of political parties. The People's Movement of Ukraine, for example, aimed to obtain political power through democratic elections. Its representatives in the Verkhovna Rada of Ukraine expressed the interests of those social groups, who weren't represented in power but were dissatisfied with it.

Since then, the political opposition has used the legal forms of political rivalry, created its own program and personal alternative. At the same time, the power was perceived by the opposition as an object, to which its common interest was directed [The status. 2006: 4]. It was the struggle for power that essentially corrected the nature, forms, and methods of the opposition parties' activities.

## **CONCLUSION**

Thus, because of the organizational weakness of the newly formed parties during the period of liberalization and at the beginning of the institutional democratization, the scope of the opposition was expanded due to anti-communist socio-political movements that had significant mobilization potential and political weight.

With the subsequent party structurization in parliaments, gradual transition from political confrontation and the denial of the regime to the establishment of rules of the political game and procedures of competitive political struggle, with the introduction of new democratic procedures into society, the collapse or transformation of socio-political organizations and movements into political parties, the political opposition acquires clear institutionalized forms. The narrowing of the category "political opposition" to the institution of political parties as the main potential subjects of power, allowed us to distinguish other subjects of oppositional activity through the concept of "opposition".

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# IMPACT OF INTERNATIONAL LAW ON CONSTITUTIONAL ORDER

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## **Abstract**

The relationship between international law and national law of states is an expression of the natural interaction of state sovereignty and engagement in international relations. The extent to which states are responsible for the transfer of international law obligations into their own legal systems is given by the Constitution and its transposition framework. The paper deals with the impact of international law on the constitutional order of states, along with selected examples.

**Key words:** *transposition, interaction, constitutionality, intervention, international standards*

## **INTRODUCTION**

The relationship between international law and the Constitution as well as the constitutional order of states is a challenge for the traditional setting of the rule of law and the basic tasks of the state. The state is still a central element of international law, but it is no longer the sole result of its activities. The existence and position of the state is not dependent on the internal confirmation of its sovereignty, but also on its acknowledgment and evaluation by the international community. [Crawford 2006 :140] In addition, with the objectives of maintaining peace and protecting human rights that have enjoyed a privileged position since 1945, international law has lost the neutrality value of classical international law, but at the same time it has created a problem of value collision.[Pollman, Lohman, 2017: 151]

The relationship between international law and the national law of states is an expression of the natural interaction of state sovereignty and engagement in international relations. The degree of responsibility of States for the delegation of

international law obligations to their own legal system and their respect is given by the Constitution and its transposition framework. In addition, it is possible to state, that there is a common area in which both the international and national legal systems operate in the same way if the same subject of the legislation is concerned. [Brownlie 2013: 37]

Since the signing of the Peace of Westphalia, the state has traditionally been defined by international law as its basic entity if it has territory, population, controls its internal and external relations, and it exercises above all unconditional sovereignty. [Seidl-Hohenveldern 1999:133] If the state accepts these basic requirements and recognizes their responsibilities to other states, so it in return becomes part of the world order. The Peace of Westphalia has become a turning point in the history of nations, as the elements on which it is built are simple, universally acceptable and far-reaching. The state was declared as a building block (no longer an empire, a dynasty or a religious conviction) of construct. The concept of state sovereignty started to exist. [Kissinger 2016:38]

The significance and value of the state in international law has changed after the creation of other international actors, in particular by creating the supra-state bodies. This development also has an impact on their internal organization, but also on the functioning of the international legal order. The question is whether it is a positive influence and an advantage for all, not just for state actors.

The role of legal science is not to predict the future, but from the present elements, to predict with some degree of correction the possible development of the system. From the above assumptions, it is possible to state just its instability. As mentioned above, the state is one of many entities of international law, and the whole system is in a permanent process of transformation. The importance of the state for the organization of social relations is still crucial. It is therefore not possible to share an opinion on any dismantling of the state, its need and its further existence. However, state's fundamental issues - the definition and assignment of rights and freedoms - are no longer exclusive and unconditional, but under a strong influence of international law. [Hodás 2016: 180] Subsequently, there is a great harmonization and conformation of the content of the constitutions and other basic legislation of the national legislature, regardless of the geographical location of the state, form of government, historical development or other criteria. [Anghie 2005: 235]

The scientific scope of the relationship between national and international law is theoretically complex and very comprehensive. We have, therefore, chosen a method of analyzing specific institutions with a focus on whether they contain standards governing the status of international law in national law and how they are defined in it. We have selected the constitutions of the countries according to their inclusion in legal cultures, so we have analyzed, for example, the Constitutions of Sweden, Belarus, India, Albania, Uruguay, Russian Federation, South Africa and Tunisia, alongside the Constitution of the Slovak Republic.

This document develops a discussion on the relationship between international law and national law through both legal theory and legal philosophy, so the language of the document uses the terms of both areas. The results of research should confirm or demonstrate changes in the constitutional practice of states in terms of the relationship between international and national law.

## 1. THE BORDERS OF IMPACT

International law creates the assumptions that it's influenced the creation of such a legal order in a country that contains minimally expressed principles of international law, but more often the whole body of human rights theory. Transformation of states takes place in a way that unifies their constitutions (with some authors even contemplating the formation of a future supranational constitutional law).

If state transformation is to be constructive, it is necessary to carefully consider and predict which State will be its result and how it will participate in the further functioning of the system of international law. This is an important issue because it focuses on the essence of how the international order works and will work.

The uncertainty of the effect of international law on the structure of the state is often due to the uncertainty of the boundary between international and national law. Its definition is applied by the States also through the institutions of mandatory interpretation of the Constitution. Differences, therefore, occur not only between states, but also depending on the time of interpretation within the State alone. [Goldsmith, Posner 2005: 155] Similarity can be indicated within regional groups of states, but this is not the rule that would predict their common development. As a consequence, in the complexity of the impact of international law on the state we need to examine its connection and recognition of its operation by other legal orders. This requires research and application of institutes of Constitutional law, International law and Comparative law.

State administration has also changed over time - the state is no longer the sole subject of international law, it is not even its sole creator. The differences can be found in the procedures when the state recognizes and applies international law. It is no longer an external element but a part of its constitution. International law's rationale and recognition of its validity come from the very essence of the state. The Constitution is no longer the first obstacle to the fulfillment of international obligations, but the first instrument for their implementation. Rationale of international law is strictly connected by its constitutional relationship.

The basic criteria of constitutionality - the separation of powers and democratic legitimacy - are also criteria for external recognition under international law. However, international law is no longer an autonomous and separate part of legal system but can be considered as a part of the legal norms of a state, that not only complements, but in many ways should exceed the scope of the national regulation. States are no longer entities with unlimited sovereignty, but entities that are in a constant and fluid relationship with international law. State's sovereignty in law creation can be superseded by the existence of international law.

The transmission of the International law rules is a subject - matter of the Basic Law of each participating State. The view of legal science points to the interdependence and conditionality of relationship between constitution and international law. In our opinion it is necessary to study the intensity and extent of the impact of international law on the constitutionality of states as well as the search for its minimal common basis in all constitutions. It will allow to understand the role of the state and the possible future aims of its further development in compliance with international law.

The consequences of sovereignty of states we can find in their prima facie exclusive jurisdiction over the national territory and the inhabitants, then the duty of the

state not to interfere with the exclusive jurisdiction of other states. Nevertheless, the sovereignty of modern states we can find in their dependence on and impact of international law rules. [Brownlie 2013: 315]

## 2. THE SOVEREIGN EQUALITY

The state is a central element of national and international law (with respect to the regional law as a part of international law). Different roles within two legal systems are unified by state's specific legal status, which is the source of its existence. Furthermore, as an exemption, international law does not always require State approval for its validity. This is not necessary (for example), in the field of *ius cogens* norms (as this kind of legal norms cannot be characterized as purely consensual) or in the area of the obligations of membership in international organizations, in particular in the field of human rights. Sovereignty as a traditional aspect of statehood, is subject to the changes invoked by international law. These changes are on a scientific basis, subjects of the theories of global legal pluralism and constitutionality, which consider in particular the transformation of international law into its new, hybrid form.

We can find the definition of state in the writings on international law in three forms - in the classical, Westphalian type, then the modern state and eventually in its third, postmodern form as a one subject - actor from many.

In classical literature, the international law is focused on the state, as a single entity, with exclusive and unique normative power. All other bodies and authorities, such as international organizations, create international norms dependently, based on delegation of powers by the states. According to this theory, the only exceptions are norms *erga omnes* and *ius cogens*, which limits the sovereignty of the state even without its consent.

The key to understanding of the traditional definition of the state lies in its sovereignty. [Brownlie 2013: 315] As we have mentioned above, the meaning of this term differs according to the development of international law. The simplified meaning, the reference to the sole and highest authority in a particular territory, is contained in Article 2 (1) of the Charter of the United Nations<sup>1</sup>. The sovereign equality of every state was the core principle of the international order, as the world was structured just after the Second World War. International law and sovereignty are dependent on each other. Sovereignty does not exist without a state and is strictly linked to its international recognition.

In practice, decisive political processes take place outside the formal framework of the UN. Although the United Nations, by admitting the veto power of the five powers, has tried to take account of the fact that there are power differences between states, it nevertheless emphasizes the principle of the sovereign equality of all its members. Such a finding is inconsistent with the real power relations that really determine the functioning of the world. [Seidl-Hohenveldern 1999: 30] The principle of sovereign equality is at the same time controversial in the emergence of new states and the recognition of their sovereignty. [Bureš, Faix, Svaček 2013: 17]

The principle of sovereignty is based on the subordination of the equality and autonomy of states within the international system. Sovereign states respect each

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<sup>1</sup> The Organization is based on the principle of the sovereign equality of all its Members. In: O chartě Spojených národů a statutu Mezinárodního soudního dvora, 30/1947 Coll.

other's equivalence with regard to their foreign relations, irrespective of their true power, size, and its Constitution. Classical international law considered these States' rights often analogous with the fundamental rights of autonomous individuals. States were even understood as moral persons. [Pollman, Lohman 2017: 490]

The traditional view of the state and its recognition through international law and sovereignty is historically overwhelmed and inaccurate. Instead, the modern concept of political authority of the rule of law, linked to legitimate governance and legitimate lawmaking, is being used. [Reif 2000: 1-69] The basic principles of the concept of the rule of law can be defined as the guarantees of fundamental rights and freedoms, the legitimacy and legality of the exercise of public authority, the sovereignty of the people, the separation of powers, the balance of powers, the supremacy of constitution and law, the application of the principle of justice, the principle of legal certainty, judicial independence, non - retroactivity, the principle of proportionality, the principle of the protection of legally acquired rights, etc. [Hodás 2016: 189]

### **3. GLOBALIZATION**

The importance of sovereignty for the expression of statehood diminished after the global United Nations' multilateralism, in particular through the formation of three groups of states. The US and the USSR have formed two groups of supporting countries that have exchanged part of their sovereignty for economic or military assistance (or both). The non-aligned states that have chosen their own way of international policy lost part of their sovereignty in a superpower battle when both groups questioned their sovereign equality mostly due to their non-participation.

A real competitor to the statehood sovereignty was the process of globalization, due to the states have lost some of their power in favour of non-state actors. The movement of capital and human resources is no longer the exclusive competence of states, as they have become partners of multinational organizations for which they create a stable and predictable legal environment. [Held, McGrew 2000: 22] The meaning and the force of globalization can be demonstrated in states that do not participate in this process due to various reasons. Their lagging in economic development is considered as a measurable indicator of their sovereignty in international relations. Although they retained their sovereignty in their traditional, Westphalian meaning, according to all criteria they are not successful subjects of international law. [Kausikan 1993: 28]

The People's Republic of China can be used as a practical example of the perception and transition from the Westphalian model of the state to its modern form. This country was engaged in international trade in the early 1980s, with the international recognition and confirmation of its sovereignty after PRC adapted the required standards of international law in its internal arrangements. [Kausikan 1993: 28] For comparison, the Democratic People's Republic of Korea we can use as an example of an unsuccessful state whose sovereignty is questioned also by its allies. [Engle 2000: 300] The traditional meaning of sovereignty is in time of interdependence, global interconnection, and high degree of technical progress, only the institute of history of international law. We can find the gap between the State's constitution and the State's perception in an international arena. For example, the

Belarusian Constitution declares openness to international law, but in fact this country is considered as a country with a weak sovereignty.<sup>2</sup>

Changing the status of the state requires a reassessment of the state and the importance of its sovereignty. The emergence of non-state actors is not only an aspect of the change in a number of subjects of international law. While the States have retained the power to regulate relations within their territory, they have to take into account the commitments to act for the benefit of all subjects within their jurisdiction. For example, they have to follow the rules based on the principle of the protection of common values of humanity which are part of international human rights law. The state ensures compliance with these rules, regardless they are not created only by states. The non-state actors play a significant role in the creation and subsequent implementation of minimal business standard rules for entrepreneurs too, with strong influence by International organizations and monopolies.

The creation of international law is no longer monopolized within exclusive entities – the states. The European Union and its relation to law deserves particular attention. In addition to goods, services, intellectual property and other commodities, its export article is also a law. This is done in trade agreements which always contain more or less bulk of EU rules. We can say that the Europeanisation of non-European space is a process with impact to the Constitutional order of the third countries too. [Kováčiková, Považanová 2017: 154]

The change in subjects of international law creators is a central element in the understanding of its current structure. This shift does not diminish, respectively does not exclude a state within international law but notes that its traditional interpretations of sovereignty are no longer applicable. [Cohen 2010: 25] The overall dynamics has also been transposed into the application of international law, when the Supreme Constitutional Authority (typically the Constitutional Court) must often decide not on its applicability but on its direct inapplicability. So the mere admission of the action can be regarded as a confirmation of the importance of that legal question for the (national) constitutional development, as well as the question, if the rule of international law is a direct component of the national law. [Goldsmith, Posner 2005: 222] The States changed their national law to solve and to receive international law rules, not just comply with international obligations, but with respect to success in international relations too.

As we can see, the system of international law needs for its existence the state as its original entity. Transformation of the state and its sovereignty, even under the influence of globalization, does not result in its abolition, but only in the transformation of internal structures. An increase of the importance of international and transnational organizations, non-governmental organizations and corporations does not weaken states, but it is an opportunity for them to take advantage of functional statehood - the unity of power, the efficiency of implementation and its legitimacy. However, international standards are set high, so the states are actively

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<sup>2</sup> Article 8. The Republic of Belarus shall recognize the supremacy of the universally acknowledged principles of international law and ensure that its laws comply with such principles. The Republic of Belarus in conformity with principles of international law may on a voluntary basis enter interstate formations and withdraw from them. The conclusion of international treaties that are contrary to the Constitution shall not be permitted. In: <https://www.osce.org/odihr/31881?download=true>

participating in the application of the rules to succeed in raising of international standing and recognition. [Wade 1996: 25]

We can find this process, for example, within the increasing interconnection of international commercial law and human rights. Almost every international institution - for example, the World Bank, when granting a loan, requires prior fulfillment of strict rules on environmental protection and development as well as demonstrable respect for employees' rights. Templates and sources for national adaptation are found in international law, which, for efficiency reasons, are often taken over in its entirety in the process of ratification and publication in the State Collection of Laws.

States' own legislative activity with connection and implementation of the international law is also linked to future possible non-guaranteed membership in international groups of states. As Mokra states, "the most important point in terms of building the international status of the Slovak Republic is the regulation of the relationship between the international law and the transnational law of the European Union to the national legal order." [Mokrá 2011: 16] For example, the Slovak Republic began to autonomously adjust its law to the law of the European Union nine years before becoming its regular member. [Mokrá 2008: 191-196] The precondition for such a procedure was just the conclusion of the Europe Association Agreement between the European Communities and their Member States and the Slovak Republic<sup>3</sup> on 4 October 1993 (in force on 1 February 1995), which in the preamble formulated Slovakia's accession to the Community as its final objective. The Slovak Republic also undertook to make efforts to ensure the gradual compatibility of its legislative regulations with Community rules. [Kováčiková 2016: 170]

## CONCLUSION

We can promulgate that the relationship between national and international law is influenced by various inputs and factors.

We can find the countries with reasonable dualism of national and international law, according to which international treaties are not directly applicable in the national legal order but must be at first ratified by a Legislative body and subsequently published in a central source of law. Only the ratified and published treaties create international obligations for the State, which may then, in its national legal order, adopt the relevant legal acts to implement and comply with such obligations, for which it is also responsible under international law.<sup>4</sup>

There are the constitutions with normative basis in which international law prevails over national law. This mode of expression is less used, in particular because of the negative impact on legislation created exclusively by the state. We can find this model most often in the constitutions of so-called new democracies which give

<sup>3</sup> In: Oznámenie Ministerstva zahraničných vecí Slovenskej republiky, 158/1997 Coll.

<sup>4</sup> For example, the Constitution of India, which does not deal directly with international law. Following the pattern of the original colonial country, the regulation, interpretation and inclusion of international treaties into the national order is governed by the decision-making process of the Constitutional Court. The basis for its activity is Article 51 of the Constitution, which states: The state shall endeavour to: Promote international peace and security; Maintain just and honourable relations between nations; Foster respect for international law and treaty obligations in the dealings of organized peoples with one another; and Encourage settlement of international disputes by arbitration.

precedence to the principles of international law, or to some of its segments. This includes international treaties on human rights and fundamental freedoms, international treaties not required by law, and international treaties which directly create rights or obligations of natural or legal persons and which have been ratified and proclaimed in the manner prescribed by law.<sup>5</sup> Although the Constitution of the State defines the intensity of the permissible effect of international law, (for example its preference to the national law), the decision-making practice of the institutions for the constitutional interpretation of the Constitution should extend its scope beyond that framework<sup>6</sup>.

The scope contains the constitutions with unconditional dominance of national law too<sup>7</sup>. Such form of the constitutions very often speaks directly about a priority of national norms, the provisions with respect to international law are defined in very abstract language and placed in the articles dealing typically with foreign policy.<sup>8</sup>

The State remains the important part of the international legal order. The international law is significantly influenced in the process of creation and further application by its new subjects and new factors (globalization, economic and social development, etc.). With different impact and ways of influence is the international law a variable instrument for transformation of states in the processes with different levels and aims.

The ever-growing intrusion of international law into spheres of national law (from economy, defence to human rights), and the expansion of the prerogatives of new subjects of international law objectively lead to the de facto affirmation of the primacy of international law and induce States to recognize de jure this primacy in their Constitutions.<sup>9</sup>

As we can see, the modern definition of the state is based neither just by its interactions with international law, nor the recognition of its sovereignty within the limits of the own Constitution.<sup>10</sup> The impact of international law on constitutional order alongside the admissibility of direct application of international

<sup>5</sup> In: Art. 7 - 5 Constitution of the Slovak republic, 460/1992 Coll.

<sup>6</sup> The supremacy of international treaties proclaims e.g. the Constitutions of Armenia and Russia. Art. 15 – 4 of the Russian Constitution envisages: The universally-recognized norms of international law and international treaties and agreements of the Russian Federation shall be a component part of its legal system. If an international treaty or agreement of the Russian Federation fixes other rules than those envisaged by law, the rules of the international agreement shall be applied. Some other constitutions establish the priority of general principles or 'generally accepted norms' of international law, that is of customary international law. Such is the case with the Constitutions of Uzbekistan and Belarus.

<sup>7</sup> This model is rare and limited to few countries. For example Art. 16 of the Constitution of The Democratic People's Republic of Korea: DPRK shall guarantee the legal rights and interests of foreigners in its territory; with some others examples of supremacy of national law (Art. 15, 17).

<sup>8</sup> Art. 15 of the Republic of Uzbekistan Constitution: The Constitution and the laws of the Republic of Uzbekistan shall have absolute supremacy in the Republic of Uzbekistan. The state, its bodies, officials, public associations and citizens shall act in accordance with the Constitution and the laws.

<sup>9</sup> The gradual process of the de jure recognition is clearly manifested in the respective stipulations of the new constitutions and amendments of existing. In: Vereshchetin 1996:41

<sup>10</sup> For comparison, the Constitution of the Republic of Albania and the Kingdom of Sweden, taking into account the fulfillment of their international obligations and the transposition of international standards into national law: Albania, Art. No. 5: The Republic of Albania applies international law that is binding upon it. Sweden, Chapter 10, which contains a comprehensive adjustment of international relations, including the process of concluding international treaties.

law is influenced by 1) the form of state institutions, together with their functions, openness and receptivity to international law 2) the level of rule of law by rating of the international organizations, and 3) predictable and recognized realization of state power in coincidence with international standards.

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# **EXPLICIT AND IMPLICIT FORMS OF SELF- DETERMINATION AS GEOPOLITICAL PRESSURE ON THE FORMATION OF UKRAINE'S LOCAL POLICY (1994 – 2004)**

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## **Abstract**

The purpose of the article is to demonstrate open and hidden forms of external influence on Ukraine's domestic policy on the example of regional claims for self-determination. The major problem is that the Russian language issue, difficulties in boundary delimitation and the lack of information strategy in Ukraine's foreign policy resulted in an explicit and implicit influence on the political situation in Ukraine in 1994 - 2004. The analysis of the problem covers the times of L. Kuchma's presidency and has been undertaken on the basis of materials of the Ukrainian press of that time. The content analysis helped to track the reflection of Ukrainian society at the challenges of that time and discover the technologies of influence.

**Key words:** *V. Yanukovych, Donetsk, Constitution of Ukraine, Crimea, L. Kuchma, Odesa, Russia*

## **INTRODUCTION**

Since Ukraine has started to intensively assert and embed national symbols inside the country, Russia began to more intensively demonstrate its expansion towards Ukraine. The euphoria about the idea that the linear type of post-communist countries' development will change the vector of totalitarianism into a liberal political regime ended up after the first years of independence, especially during L. Kuchma's rule. A tough domestic national policy of the Baltic countries, oligarchic influence on the formation of the political system in Ukraine, the clanship of the former Asian republics and Russia's post-communist imperial syndrome – all these factors had demonstrated that Ukraine had its own path of development, in

which an important role belonged to the regional elite, the problem of identity and the level of conflicts inside the country.

The regional elite, as agents influencing socialization, used publicity and became the bearers of narratives and leaders of local myths. This provoked the bicultural identity, as a permanent traumatization of Ukrainians in the East and South, which became the main reason for the breakup of regions. Thus, the manifestations of Russian nationalism could not help appearing in regions where the public consciousness received regular portions of "Russian World". Binary confrontations of bicultural identity have excluded the existence and perception of the Other in the regional dimension as a friend because the rhetoric of the local elite was based not on tolerance, but on hostility.

The problem of consolidation of the Ukrainian nation through the prism of regional factors is studied by Ukrainian scholars: K. Vitman, I. Kresina, M. Polovyi, L. Nagorna, T. Nagornyak, M. Ryabchuk, T. Tatarenko, and others. It is commonly known that the cultural level of elites affects the image of the region's identity. That's why it is very important for the Ukrainian elite to have a common, joint set of value markers that would have been implemented in the political space, where the political system itself had been set for the consolidation, recognition, and reduction of the risk of conflicts. "Under such conditions, a lot of issues depend on the elites: they must not only clearly define promising goals with regard to "cultural codes", but also be able to maneuver and negotiate, carefully monitoring the rivalry of cultural discourses and building a strategy of mutual understanding and concerted actions. The new face of regionalism, revitalization of marginal groups resulted in a search for a new dimension of social theory - based precisely on the conceptualization of identity politics", - states a Ukrainian scholar L. Nagorna [Nagorna L. 2011: 92].

In case of the low and conflicting level of "cultural codes," the concept of identity is not one-dimensional, that leads to conflicts in which the level of the hierarchy dominates over the dialogue of understanding. Thus, they become managed not only by the regional elite but also by external impulses of intervention. The political analyst Tetiana Tatarenko claims that regional identity has its own factors that shape the community. This includes the possession and use of the territory, social ties, the system of values, social institutions. "Territorial identity, as a rule, is stable, however, changes in the organization of space and collective ideas about the prospects of development stipulate changes in identity, the creation of new communities or the loss of identity", - the scholar states [Tatarenko T. 2009: 52]. Intentions to integrate with Russia, new information campaigns that enhanced the feeling of shared historical memory with Russia, political preferences for the Russian language - all these created conditions in which the identified space transformed into the identified territory. Mykola Ryabchuk in his work "Two Ukraines: real borders, virtual games" stresses that the historical heritage left to Ukraine: totalitarian and colonial, was very well exploited by the ruling elites, which "not just were uninterested to overcome it, but, on the contrary, effectively used it to legitimize their highly questionable reign and cultivate an ambivalent, anomic non-civil society" [Ryabchuk M. 2002: 97].

Therefore, the following events that took place in Ukraine after L. Kuchma's presidency were the result of the breakdown of the "cultural codes" that were represented by the regional elite and increased the conflict of the bicultural identity of Ukrainians, primarily in the East and South of Ukraine. K. Vitman,

studying the issues of ethno-national policy during 2010 - 2011, indicates the ineffectiveness of this policy in Ukraine, which was not ready to resist interethnic contradictions. Among the reasons that have been accumulating in Ukraine over the years, the scholar names “the regulation of migration processes, the integration of migrants, the development of xenophobia and introduction of responsibility for the manifestation of ethnic intolerance, dual nationality, the status of national minorities” [Vitman K. 2011: 604]. Hidden forms of regions' self-determination during the reign of L. Kuchma are those examples that complicated the strategy of ethnic policy and intensified internal conflicts of regional inhabitants. The weak will of the Ukrainian authorities and the increased hidden interference of external factors on the country have become that deterministic chaos, described by another Ukrainian researcher Mykola Polovyi. Analyzing the conflict between the state and society of the 2013-2014 period, T. Nagorniak emphasizes that “the community in the global cities has specific features. It is multicultural, prone to self-development as to a part of its own business strategy. This community is a carrier of corporate culture and post-industrial values of an open information society. The territorial and supranational identity of communities of such cities reduces the national. Residents of global cities are more likely to feel like the citizens of the world, than as a part of national sovereignty” [Nagorniak T. 2015: 203].

Studies of political conflicts that have found their classification in the works of R. Dahrendorf, M. Doych, G. Simmel, L. Koser, and S. Huntington were intensified by Ukrainian researchers by the study of political conflicts in Ukraine. The scholars paid their attention to these three factors: the conflict of values, the conflict of interests and the conflict of identity. Y. Druk, H. Zhekalo, I. Kiyanka, M. Prymush, S. Yaremchuk, investigating political conflicts as a conflict of identification, emphasized the role of national minorities who initiate a conflict at a common ethnic homeland that they see as their own. Hanna Zhekalo distinguishes three determinant groups that categorize political conflicts in Ukraine: participants to a conflict, the nature of a conflict and qualitative characteristics of a conflict [Zhekalo H. 2015: 164-165]. Researching the events in Ukraine in 1994-2004, we focus on a non-violent form of conflicts, which, in comparison with the violent form, has hidden forms of influence.

The history of L. Kuchma's presidency has many examples of the formation of authoritarian power. And some of them turned out to be fateful for Ukraine's future, namely in the issue of prevention of the country's split. Presidential balancing between Europe and Russia raised hopes in the separatist circles, which at that time did not openly talk about separation from Ukraine, as it was before and after the Kuchma's era. On the other hand, the political behavior of Dmytro Tabachnyk, the Head of the Presidential Administration, and his ability to resolve tasks by turning opponents against each other contributed to political stabilization in the Crimea. Scrappiness, uncertainties, making advances to both Europe and Russia, led the country not only to internal conflicts but helped the neighboring countries to exert influence. And such moves as granting official language status for Russian at the regional level laid the foundation of a long-term problem, which 10 years later turned into the war.

## 1. «TATARS! GET OUT FROM THE CRIMEA»

During 1994 presidential elections Crimean population gave 90% of votes for Kuchma. The President of the ARC Yuriy Meshkov had campaigned for Kuchma and expected certain preferences from him. But when he did not receive them, the anti-Ukrainian sentiments emerged in Crimea. The Sevastopol City Council announced the Russian status of the city. But gradually another confrontation emerged in Crimea: between Parliament Speaker Sergiy Tsekov and President Y. Meshkov, which ended up when they "dissolved" each other. Ratings of both branches have decreased sharply and when one branch of power issued laws against the other. In a result, Ukrainian Special Forces carried out a brilliant operation involving the detention of Yuriy Meshkov and his departure to Moscow. On February 24, 1994, the Verkhovna Rada of Ukraine issued a resolution "On the Status of the Autonomous Republic of Crimea in accordance with the current Constitution and legislation of Ukraine", where paragraph 3 stated: "The Verkhovna Rada of the Republic of Crimea, within a month's time, shall bring the Constitution and other legislative acts of the Republic of Crimea in accordance with the Constitution and legislation of Ukraine" [The Verkhovna Rada of Ukraine. About the status of the Autonomous Republic of Crimea]. And a year later, on March 17, 1995, the Verkhovna Rada of Ukraine issued a resolution "On the Autonomous Republic of Crimea" (No. 95/95-VR), where the name of the Republic of Crimea was replaced by the Autonomous Republic of Crimea, and the post of its president was liquidated [The Verkhovna Rada of Ukraine. Law on Autonomous Republic of Crimea]. But, despite the decisive steps taken by Ukrainian authorities, it was impossible to prevent speculations on the Crimean question. In the Crimea itself, the image of the enemy was being persistently formed from the Crimean Tatars, which by that time composed 13% of the population of the peninsula. Locals saw them simply as strangers. And local politicians have traditionally declared the so-called "Tatar danger" that threatened the whole Ukraine. For example, in September 2003, communist Leonid Grach spoke of the fact that in the Crimea, under the cover of the Mejlis of the Crimean Tatar people, Wahhabi centers had operated and prepared militants for the war in Chechnya [Correspondent 2003 №48(87): 24].

After opposition parties' victory in the parliamentary races, the Russian Federation actively began to intervene in Ukraine's internal affairs in the Crimea. In 2004, Russian parliamentarians adopted the law "On Citizenship of the Russian Federation", which allowed all residents of Crimea who were born in the peninsula to acquire Russian citizenship. In the straightforward commentary of Mikhail Vydrin, the Russian Vice-Consul in the Crimea, it was stated that "getting the Russian passport instead of the Ukrainian is mostly a desire of elderly people. They have a strong wish to feel connected with the already non-existing state, many of whom believed that Russia was its successor. This created the illusion of a return to the past, to the ideals of youth, and compensated for the considerable complexity and time expenditures associated with changing passports. In addition to nostalgia, the fact that the Russian pension (about \$ 60) was several times bigger than the Ukrainian one (\$ 25) was also not the least important factor" [Correspondent 2004 №4(93): 22].

Since 1996 the pressure on the Crimean Tatar population has intensified. As the newspaper *Ukraina Moloda* wrote, one of the houses in Simferopol had a call: "Tatars, get out from the Crimea". And almost simultaneously a memorable sign

for the victims of the deportation of the Crimean Tatar people was destroyed [Ukraina moloda 1996 2(418): 3]. No one bore responsibility for an insult to the history of this people, though there were examples of punishment for such vandalism. Even then, Igor Krot, an assistant to the Chairman of the Verkhovna Rada of Crimea, during a meeting in Simferopol distributed leaflets with a caricature image of the President of Ukraine with a bold swastika. For this, he was called to pay a fine of 2 million 400 thousand coupon-karbovanets. And in March 1996, 25 years old Y. Vorobets was sentenced to 25 years of imprisonment under articles 187 (abuse of state symbols) and 206th (hooliganism) of the Criminal Code of Ukraine, because he, in the premises of the village council, tore up and burnt the state flag of Ukraine, as a negative attitude to the authorities" [Ukraina moloda 1996 №18(434): 3].

Returning to the issue of Crimean Tatars, it should be noted that people were given the right to return to their homeland, but they did not receive citizenship. And as non-citizens, they did not have the right to land share. It was the attitude of central Ukraine to the Crimea that was ambiguous. This territory was perceived as a tourist place which is quite dangerous. *Ukraina Moloda* was forming the image of criminal Crimea. In 1998, many articles about murder were published. For example, the article on the murder of the first deputy chairman of the Council of Ministers of Crimea, a candidate for the people's deputies of Ukraine Oleksandr Safontsev was published under the title "Do not Give Crimea to Mafia" [Ukraina moloda 1998 №38(860): 3]. And on March 14, 1998, an article and a photo with the inscription: "Moskal destroyed the hardest gangs of Crimea" were printed [Ukraina moloda 1998 №49(871): 1].

Local authorities contributed to the intensification of conflicts in Crimea even in the establishment of monuments. In 1999, when the Crimean Tatars intended to open a monument to human rights defender Petro Grygorenko, the Soyuz party began preparations for the establishment of a monument to Catherine II next to the monument of Grygorenko. For Crimean Tatars, it was a public disgrace to their history, as far as the annexation of Crimea took place on the orders of Catherine II.

## **2. POST-SOVIET HYSTERIA IN THE SOUTH AND EAST OF THE COUNTRY**

The southern region of the country more radically manifested itself in Odesa, where the struggle between odious figures R. Bodelan and Y. Gurvits became a convenient pretext for Russian intervention. The Odesa port, the geographical proximity to the artificial Transnistrian republic, and Russian language contributed to the imposition of interests of the post-Soviet empire, as in the days of Leonid Kuchma, so in 2014. At that time, the majority of deputies in the Odesa City Council by 58 votes in favor (1 abstained and 1 against), supported the initiative of the mayor Ruslan Bodelan "On the introduction of trilingualism - Ukrainian, Russian and foreign languages in Odesa" [Ukraina moloda 2001 №190 (1753): 3]. And if the concept of a "foreign language" for the national communities in the region was understood differently, the Russian has been the main working language for a long time after this decision. The introduction of the third language at the level of "foreign" was a cover for the Russian language. Since document management in the offices of officials was carried out neither in Bulgarian nor in Romanian.

The situation in Donetsk, as in Crimea, with a nostalgic past, Russian language and neighborhood with Russia, was widely exploited by political consultants during

Kuchma's election campaigns. The population was offered what it wanted to hear. Therefore, responsibility for the cultivation of communist ideals and the adoption of separatists decisions of city councils lies on political candidates themselves, who at that time held their campaign there. For example, in the course of Kuchma's election campaign in 1998, the idea of creating special economic spaces for the introduction of a special investment regime was heard. Of course, the President understood that in this region such a statement would increase the supporters of his candidacy.

When in 1995 in Crimea there were considerably fewer activities in support of the Russian language, the situation in Donetsk was loosening up and, first of all, due to the left parties. A note in *Dzerkalo Tyzhnia* of 1995 stated that the deputies of the Donetsk City Council intended to claim the status of "working" for Russian. "Among the demands of the picketers: state language status for Russian along with the Ukrainian, the Soviet Union, Ukraine - in the economic union with the CIS, protection of councils, the socialist path of development to Ukraine, etc." [*Dzerkalo tyzhnja* 1995 №2 (15): 2]. At the Mariupol city council, a decision was taken to grant the Russian language the status of a working one.

Covering the events of the fall of 2000, when protests from the Donetsk population took place on the eve of the October Revolution, the newspaper *Ukraina Moloda* indicated the demands of the protesters: to lower prices for main food products, to reduce tariffs for housing and communal services, to give the Russian language official status, to return the 7th of November to Calendar. "From the editorial board. It seems that Donetsk, or rather a certain part of its population, is once again experiencing a boom in "post-Soviet" hysteria. The events of two weeks ago have not been forgotten because the same pensioners went out on the street of Donetsk to demand not so much bread as ... the return of youth. Then, let's remind, leaders of law enforcement agencies of the region stated that criminal cases will be launched against the organizers of "hooligan picketing of the regional council". The people are pushed to it. Someone gathers people for pickets and then says that "they are an unmanageable mass" [*Ukraina moloda* 2000 №166(1486): 3]. Incidentally, in this same article, the SPU and the Communist Party of Ukraine were mentioned as the organizers of the protests.

On November 11, 2000, the same newspaper published an article titled "Donetsk language reached Kyiv". It was about a session of the Donetsk Regional Council, which "extraordinary celebrated" the Day of Ukrainian Writing and Language. The issue on the functioning of the Russian language was included in its agenda. "Acting on the basis of Article 10 of the Constitution of Ukraine, which guarantees the free development and protection of the Russian language, Donetsk citizens do not hide their worry and concerns. After all, "according to available information", the statement read, bills were being prepared in parliamentary committees able to restrict the constitutional rights of Russian-speaking residents of the region" [*Ukraina moloda* 2000 №209(1529): 3].

Since 2002, the so-called "Donetsk group" has been forming among politicians of various levels. According to the Head of the Institute of Politics, People's Deputy Mykola Tomenko, from the summer of 2002, the Donetsk group has been rapidly gaining political weight. The Donetsk group was not a separate party; it was a regional factor that helped people from this region to work with any political force. "For them, the minimum task was: Donetsk should manage its own region

independently. The maximum task was: decision-making at the state level" [Correspondent 2002 №15: 16].

At the end of L. Kuchma's presidency when Maidan called to support Viktor Yushchenko's bloc "Our Ukraine", Donetsk became a place which concentrated political forces that were against it. "I will never betray you, I will always go with you. And what you accept will be the law for me". With such words, Viktor Yanukovich addressed to deputies who gathered in Severodonetsk on November 28, 2004. On this day a decision had been taken to hold a referendum on the issue of the territorial organization of the country. As the *Correspondent* wrote: "Even bolder it was expressed on the sidelines: to create a Novorossiia republic as part of Russia headed by Moscow mayor Yuriy Luzhkov" [Correspondent 2004 №46(135): 32-33]. Although most politicians believed that this move would split the country, while the Prosecutor General's Office and the Security Service of Ukraine even initiated criminal proceedings about encroachments on the territorial integrity of the state, on January 9, 2005t the Donetsk Regional Council decided to hold a referendum "On granting Donetsk region a status of an independent subject of federation within Ukraine". Characteristically, that former head of the headquarters of Viktor Yanukovich, Sergiy Tigipko said that he was ashamed that "we split Ukraine with our campaign" [Correspondent 2004 №46(135): 32-33]. The politician meant not only his former team but also the headquarters of Viktor Yushchenko. The permanent division of the country into the East and West in the 2004 election race was symbolized in the images of Western "fascists" and eastern "criminals". And the policy of power redistribution of the budget in favor of regional donors has caused a relatively uneven development of the country's regions.

### 3. TECHNOLOGIES OF INFLUENCE

From the first days of his presidency in 1994, L. Kuchma promised to grant Russian language the constitutional status. He saved his word. According to Article 10 of the new Constitution of Ukraine, adopted on June 28, 1996, the status of the Ukrainian language as the only state language was fixed; the free development and use of the Russian language were guaranteed together with other languages of national minorities. But the excessive attention to this issue had led to the fact that the state Ukrainian language in Ukraine was quite limited. In 2001, the chairman of the State Committee for Information Policy, Television and Radio Broadcasting Ivan Drach at the parliamentary hearings said: "A little more than 2.5 thousand newspapers are registered as Ukrainian-language; the rest, more than 7 thousand, are Russian and bilingual and in fact they are Russian-language. The situation has developed in such a way that foreign mass media have better conditions for functioning and distribution within the state than domestic ones" [Savchenko O. 2001: 9]. The same situation took place on television. Entertainment shows and films were broadcast in Russian. Information influence from Russia at the level of promotion of its interests through Ukrainian air channels covering all of Ukraine, shaping certain sentiments and values of Ukrainian society, which were combined with Russian, was one of the priorities of Russia. According to Igor Losev, the Russian Federation used two variants of political influence against Ukraine:

- 1) the tactics of "salami" - tactics of "small steps aimed at absorbing some elements of Ukrainian statehood" [Losev, I. 2001: 51]. Formally being in Ukraine, small territories were created to promote Russian interests. As an example, the

scientist points to the city of Sevastopol, through which Russia has "perfect conditions for intervention in the internal affairs of Ukraine because of the presence of Russian troops" [Losev, I. 2001: 52]. Besides, there was no Ukrainian-language school, and there was only one Russian-language school that was subordinated to the Ministry of Defense of Russia [Losev, I. 2001: 52]. Therefore, the influence of Russian-language channels exploits the topic of protecting the rights of Russian-speakers in Ukraine, ignoring the rights of Ukrainians and the Crimean Tatar population living in the peninsula;

- 2) the second tactic is a wide influence at regional authorities. Implementation of the official language of the city councils of Donetsk, Zaporizhzhia, Mariupol, Odesa, Sevastopol, and Kharkov.

Tactics of intimidation and dissemination of rumors make it possible to create precedents for the initiation of regional requirements and their promulgation. In Crimea, "horror stories" were spreading widely: the Tatars want to take away your land from you. The managers of the farms were profitable because they took possession of the land illegally using the authorities and shared it with their relatives.

Excessive attention to the Russian language causes conflicts within the country, which is deliberately divided by politicians into Russian and Ukrainian speaking. *Ukraina Moloda* published a note "Boycott Natasha who sings foreign songs". "It's enough to poison the Ukrainian soul with a double culture!", "On the Ternopil stage singers sing in Ukrainian or do not sing at all!" - leaflets were full of such categorical slogans, which were printed for "launch" among spectators before concerts. The first "lucky" to come across this surprise was Nataliya Mogilevskaya. And after the first song performed on the Ternopil concert in Russian, the chamber began to chant: "Down with Russian!" [Ukraina moloda 1999 №232 (1306): 1]. And six months later, on May 28, 2000, Ukrainian composer, People's Artist of Ukraine Igor Bilozir was murdered in Lviv after he prevented the singing of Russian folk songs by the audience.

## CONCLUSIONS

1. Disruption of the internal situation in Ukraine regarding the status of the Russian language took place in parallel with the foreign policy of Russian Federation. For example, the deputy of the State Duma, Nikolay Lysenko, defiantly torn up a Ukrainian flag in front of the journalists. This photo was printed in many European countries, but no statements by Ukraine regarding this act were made public. As the photos of Oleg Vytovych and Yuriy Tyma, UNA-UNSO representatives, who in return torn up the Russian flag, were never published. On this occasion, Yuliya Mostova wrote: "It must be said that the pictures of the dismemberment of ripe rye and blue sky have gone around the world. It is noteworthy that the moment of the corresponding splitting of the Russian flag in the "corner" of the Ukrainian parliament was not fixed by any photojournalist or operator" [Dzerkalo tyzhnja 1995 №14(27): 1].
2. The weak position of the Ukrainian diplomatic corps, who were loyal to such acts of disrespect for the nation, gave Russian diplomats the confidence in impunity for the actions of its citizens. Ignorance and disrespect to the Ministry of Foreign Affairs of Ukraine were also demonstrated at the invitation of the Russian ambassador to hand over a note of protest demanding that the Russian

consular group stop working in Crimea. According to international standards, the ambassador had to arrive immediately but Leonid Smoliakov came only after the third invitation.

3. The absence of national symbolism of the country contributed to Russia's interference in Ukraine's internal affairs. Russia's ignoring of the national principles of Ukraine, first of all, manifested itself in the Crimea. And when during the parliamentary session, Oleksandr Moroz called on the leftist parties to vote for a blue-yellow flag or the country could be in a chaos, he was right. In Crimea, at that time, the state flag of Ukraine was not installed over the parliament building that symbolically demonstrated the absence of Ukrainian authorities on the peninsula. And even after the adoption of the Constitution, in 1997, when Yuriy Luzhkov visited Sevastopol, he publicly said that Sevastopol was a Russian city. "Our media circulate this event. Our government structures are thinking hard about what and how to respond until time passes and this reaction loses its meaning at all", the newspaper *Dzerkalo Tyzhnia* wrote [Dzerkalo tyzhnja 1997 №6(123): 4].
4. The transition from implicit methods of intervention to the explicit occurred when Ukrainian government began to independently conduct a democratic policy at home. As an example, there were two major conflicts with Russia, which demonstrated the publicity of its steps:
  - In 2002, at the 11th year of independence, the Ukrainian authorities began to solve the problems of the state border. Despite the constant opposition from Russia, the determination to create in the nearest future a full-fledged state border with its northern neighbor was firm. Although the Presidential Decree deals with the fight against international terrorism, the Cabinet of Ministers was instructed to provide funds for "demarcation of the state border of Ukraine with the Republic of Moldova, the Republic of Belarus, and the Russian Federation". The second paragraph read: "Within a month to make proposals for measures aimed at the earliest conclusion of a treaty between Ukraine and the Russian Federation on the state border, demarcation of this border and separation of the Azov Sea and the Kerch Strait" [Decree of the President of Ukraine no 532/2002]. This move has provoked a Tuzla conflict in the Kerch Strait. And many believed that Ukraine won in this conflict. Dmytro Vydrin, Head of the European Institute for Integration and Development, at the time, emphasized that the consolidation of the Ukrainian nation took place due to this conflict. "During this conflict, there were almost no people in Ukraine who would approve the actions of the Russian side ... Today, the Tuzla is consolidating Ukrainian consciousness, and this is perhaps more important than any political and territorial victories" [Correspondent 2003 №42(81): 18].
  - Russia's open intervention in Ukraine's political events took place on the eve of the presidential election in 2004. The central channels continuously broadcast videos of meetings between Viktor Yanukovich and Vladimir Putin. "On October 11, at the Congress of Ukrainians in Russia, Putin came along with Yanukovich and said that he would respect the choice of the Ukrainian people, although "this choice is not indifferent to him" [8, 25]. Billboards, depicting Viktor Yanukovich, were installed in Moscow in his support. Igor Mintusov, chairman of the board of directors of the "Niccolo M" Center for Political Counseling, said in an interview to Moscow Times that these billboards were not intended for voters: "Presidential administration just says

to people that it supports Yanukovych" [8, 25]. Five days before the election, Vladimir Putin arrived in Kyiv and his speech was broadcast by UT-1, 1+1, Inter TV channels. And on the eve of the second round, he came back to Ukraine and was the first who congratulated Viktor Yanukovych on his victory.

Therefore, when the third round was announced, people on Maidan wrote the "Letter to Putin from the people of Ukraine"; Putin was on a working visit to Turkey that day. On an orange canvas of 60 meters length "Yushchenko's supporters urged the Russian president not to interfere in Ukraine's internal affairs. Noting the commonality of the history of Russia and Ukraine, people persuaded Putin "to love Ukraine as a mother, not as a delicacy". After the main part, everyone could write on the cloth everything they wanted to say to Putin" [Correspondent 2004 №47(136): 7].

In general, 2004 Maidan showed that open interference into Ukraine's domestic policy with declaring respect for the right to self-determination of Ukrainians by Putin has severely damaged the ambitions of the Russian president. And his accusations that it was the West that brought Yushchenko to power, showed his own defeat.

**The results of scientific analysis:** the study substantiates that 1) during L. Kuchma's presidency Ukraine did not have a unified information strategy that was supposed to protect and promote the country's national interests; 2) L. Kuchma's hybrid regime, which put private interests above national, created precedents that provoked political instability inside the country; 3) the lack of strict vertical of power and control of the regional elite of the central government have led to active separatist claims from the South and East of the country; 4) Russia's constant interference into Ukraine's domestic policy and ignoring of the national principles of the country split Ukrainian society.

**Conclusions, innovations, recommendations:** The political stability of the country depends on the pragmatism of power, which is linked to the national values of society. If this pragmatism is based only on the private interests of oligarchs, who can influence the power, the political system turns into an imitation. This situation induces other states to actively intervene and seek control over internal policies in order to promote foreign interests. The activity of judicial, informational and institutional policies should take place in the context of a nation-wide development strategy. Only then, the protection of national interests from the part of information policy will create and reinforce the image of a free country.

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# THE FIRST APPROACH TO THE DE-BAATHIFICATION IN IRAQ: JAY GARNER'S ORHA

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## Abstract

The purpose of this analysis is to trace and examine the onset and course of the first U.S. organization, the *Office for Reconstruction and Humanitarian Assistance* (ORHA), which dealt with the de-Baathification of the Iraqi society. This essay provides an overall assessment of the reasons which led to its establishment, its goals, its strategies and also the conflicts within George W. Bush's administration which caused the abrupt replacement of ORHA with Lewis Paul Bremer's *Coalition Provisional Authority* (CPA). In the conclusions, it will be illustrated how Garner's plans could have produced more favourable outcome for the Middle Eastern country.

**Key words:** *Iraq, de-Baathification, Baath, USA, planning*

## INTRODUCTION

The analysis contained in this document is included into what is commonly referred to as the Second Gulf War and the subsequent occupation of Iraq by the Anglo-American troops. This operation, which was referred to as *Iraqi Freedom*, was one of the products of the geopolitical vision of the new neo-conservative administration of Washington and of the terrorist attacks of September 11<sup>th</sup>, 2001. In fact, this date represented a watershed not only in the Bush administration's approach to Islamist terrorism but also towards the Iraq issue. The *containment theory* of Iraq, pursued by the previous Clinton administration, was finally abandoned and in its place was spread in all its power - and in all its approximation - the doctrine of the *preventive attack*. Since November 2001 the US military had begun to examine the first plans for a large-scale attack on Iraq.

The voices opposed to the military intervention against Saddam Hussein in the US political arena were in an unenviable position: The members of the Bush administration, even in the face of objective data indicating the inoffensiveness of the Iraqi regime for the United States, had an easy game to argue that if the military

and the intelligence community had been misled by the terrorists of the -Qaeda, then US could not be considered safe even by the threat posed by Saddam Hussein. In short, after the events of September 11<sup>th</sup>, it was only a matter of time before the US intervention against the Iraqi Ba'athist regime took place. It constituted an ideal target: its exponents seemed - or were shown - reticent or frightful to the American public opinion.

In the summer of 2002 the Iraqi government was accused by the Bush administration of violating resolution no. 687 of 3<sup>rd</sup> April 1991 of the United Nations Security Council, namely to continue in secret the production and storage of weapons of mass destruction [U.N. Security Council 1991]. When several new inspections, conducted by the inspectors of the International Atomic Energy Agency, Hans Blix, seemed to refute the American theses, the Bush administration went on to accuse Saddam Hussein of supporting the terrorist network of al-Qaeda. Then it was argued that in the 21<sup>st</sup> century there should not have been more space in the world for a tyrannical regime like the Iraqi one and that the export of democracy in the Middle East country was one of the duties of the United States [Redaelli, Plebani 2012: 128]. By then, Iraq was fully enrolled in the countries - along with Iran and North Korea, which constituted the axis of evil.

Finally, despite the lack of a UN authorization in this regard, the United States and its British ally decided to act on their own. In the night between March 19<sup>th</sup> and 20<sup>th</sup>, 2003, began the operation *Iraqi Freedom* that brought in less than a month after the capture of Baghdad and the fall of the Ba'athist regime of Saddam Hussein. The major US war manoeuvres appeared to be *by the book*: the technological and air superiority of the allies had reduced their victims to a minimum. On May 1<sup>st</sup>, President Bush on the deck of the aircraft carrier *Abraham Lincoln*, decorated for the occasion with a huge banner bearing the words *Mission Accomplished*, thanked the troops for the successful endeavour.

Despite the triumphal rhetoric of the first weeks after the second Gulf conflict, there were several members of the US administration who had questioned about Iraq's post-war planning. Strong concerns were expressed in several forms by many Iraqis on the issue of the dismantling of the Saddam Hussein's power system and the Ba'ath party: many feared an emptiness of power and the retaliations of the former *ra'is'* supporters.

In this context the analysis of the institution and of the work carried out by the ORHA, a body set up to supervise the post-war Iraqi management, arises.

## **THE FIRST APPROACH TO THE DE-BAATHIFICATION IN IRAQ: JAY GARNER'S ORHA**

### **1. The setting up of the ORHA**

The days which followed the collapse of the Iraqi regime were characterized by the substantial lack of US post-war planning. Unlike the main military operations of the *Iraqi Freedom* campaign, the highest military hierarchies in the United States had neglected the organization of the military occupation of Iraq. Consequently, the situation on the ground soon began to slip away: mass looting, which had begun after the fall of Baghdad, continued for several days after the official end of hostilities [Ricks 2006:176-179]. On several occasions US soldiers requested instructions from their superiors and received an order not to interfere. Many thought that it was only the signs of a natural, however immoderate, euphoria at

the end of a despotic regime. In fact, things were much more complicated than they seemed in the eyes of the US military, who were looking inert at the unleashing of chaos.

Disorganization did not only affect aspects of public order. Among the civil and military leaders of Iraq's post-war planning there were misunderstandings and underlying uncertainties about the post-Saddam Iraq structure. This diversity of views within the US administration contributed to the lack of a rapid response to the problems which the Middle Eastern country was facing. At first, the idea was that of a rapid handover of powers to a hypothetical provisional government made up of members belonging to all opposition to the former *ra'is*. This provisional government should have been supported, besides the US military command, by an organization for the reconstruction of the country: it was the ORHA, the *Office for Reconstruction and Humanitarian Assistance*, which would be led by the retired three-star general Jay Garner.

The first strategic considerations for the final attack on Saddam Hussein's regime date back at least to November 2001 [Ricks 2006: 46-49], that is shortly after US had exhausted the major efforts for the invasion of Afghanistan. Initially, the planning of the occupation of Iraq, as well as the implementation of the plans for the invasion, was entrusted to CENTCOM, the US strategic command which deals with military operations in the Middle East and North Africa. Subsequently, however, the post-war organization passed to Pentagon-based officials closely linked to the Defence Secretary's office.

Partly as a result of these changes, on January the 20<sup>th</sup> 2003, the White House instituted a post-war planning office at the Pentagon - the ORHA - with a confidential document: that is with a presidential directive on national security [Ricks 2006: 101; Bensahel et al. 2008: 53-55].

General Garner was contacted in mid-January 2003 [Chandrasekaran 2010: 31]: he was suggested to be the head of the governing body that would direct post-war operations in Iraq. The programs, which were presented to him, mainly concerned humanitarian assistance operations for the civilian population. The Undersecretary of Defence for Political Affairs proposed to the former General a commitment that would not have been more than ninety days: it was thought that at the end of that time there would have been an Iraqi government and diplomatic relations between the USA and Iraq would have been normalizing [Chandrasekaran 2010: 31]. Garner seemed to be the ideal candidate for that particular task given that in 1991 he had conducted the *Provide Comfort* operation to procure protection and humanitarian assistance to the Kurds in the north-east of Iraq exposed to regime reprisals [Ricks 2006: 101].

At the beginning of his new assignment at the Pentagon, the head dell'ORHA, had neither staff nor plans. Garner recruited personnel from his former colleagues, mostly retired generals like him; in the following weeks his working group was strengthened with several reservists of the armed forces, others came from the US agency for international development - the USAID - and from other federal government teams [Chandrasekaran 2010: 31]. The State Department, in particular, helped to swell the ranks of ORHA by sending some of its diplomats [Chandrasekaran 2010: 31].

The expectations that the creation of this office had collected, however, were for the most part disappointed. In retrospect, Conrad Crane, a US military historian who studied the planning stages of the second Gulf conflict, came to the conclusion that

the establishment of ORHA *created even more confusion* [Ricks 2006: 102]. Moreover, it must be noted, as other authors have done, that this office was created just over two months before the beginning of hostilities so that its efforts were late and in many cases proved useless. In addition to that, ORHA personnel soon discovered that several administrative and bureaucratic issues which were needed to set up their organization left little time to deal with substantive issues and long-term planning [Bensahel et al. 2008: XXI]. Finally, it should be noted that the new body seemed to be a duplication of already existing military organizations: this ended up creating discontent and confusion within CENTCOM, the military command that would also have to deal with the Iraqi post-war theatre, which had already developed its own plans to manage the transition period [Bensahel et al. 2008: 101-102].

In fact, it was not just the military that worried about the effectiveness of this new office. James Dobbins, a nation-building expert and government consultant for the post-war Iraqi reconstruction phase, argued that the decision to transfer the civilian aspects of reconstruction from the State Department to the Pentagon imposed huge financial and organizational costs on the US administration. In fact, the Department of Defence did not manage similar situations for at least fifty years while the State Department had gained considerable experience in that field during the previous decade [Hashim 2006: 292].

Despite the previous considerations, Garner was a prominent figure among those who revolved around Iraq's post-war planning. Ultimately, the occupation of the former general was to foresee all the possible problems that could have occurred during what the US military had designated as *Phase IV*, or what should have been done after overthrowing the regime of Saddam Hussein.

As regards the research topic of this analysis, it can be argued with a good degree of precision that already in the first half of March 2003 the ORHA had developed a de-Baathification approach different from the one that would be used by the organization that succeeded it, the CPA – *Coalition Provisional Authority*. On March 15<sup>th</sup>, a few days before the start of hostilities, during a meeting with the Secretary of Defence, the head of ORHA set out his plans concerning de-Baathification: it would have been a practical approach based on Iraqis' taking on responsibility. The intention was to dismiss the highest member of Ba'ath party and the chief of staff in each governmental and administrative office [Ricks 2006: 128]. More generally, as regards the rest of the highest members of the Ba'ath party, the ORHA designed two possible scenarios: the Iraqis, now sure not to be subjected to any reprisal due to the presence of US troops, would have ostracized or eliminated the most hated exponents of that party or, over time, would have reported them to the occupation forces [Ricks 2006: 128]. The Department of Defence seemed to take this line of action with the notation that an organic policy on the subject would then be established along with other US institutions [Ricks 2006: 128].

From the previous passage it can be already sensed the uncertainty regarding the de-Baathification policies that characterized the upper echelons of the United States. In fact, the ORHA was the body responsible for civilian operations in post-Saddam Iraq and yet, no more than five days before the start of Operation *Iraqi Freedom*, the summits of the DOD admitted that in the US government an organic and shared approach to the issue and on the de-Baathification did not exist.

## 2. The debate on de-Baathification within the Bush administration

In fact, even before the mid-March, the debate on the treatment to be given to members of the Iraqi Ba'ath party had been animated. On March the 10<sup>th</sup>, a meeting of the *National Security Council* was held in which the various aspects of the future de-Baathification campaign were taken into consideration [Pfiffner 2010: 78]. The documents presented to President Bush during this meeting were the synthesis of two different and sometimes opposing positions on the de-Baathification that had developed within the two departments most involved in planning the US military intervention in Iraq: the Department of State and the Department of Defence.

In the previous months, in fact, there had been a lively debate between the Pentagon and the State Department. The latter advocated a policy of *de-saddamification*. This should have led to the removal from positions of public responsibility of two types of Ba'athists: those who had been guilty of crimes against humanity - in particular the creators and perpetrators of the repressions and embezzlement which the various ethnic groups of Iraq had endured under the Saddam's regime - and those who were at the top of the command structures [Pfiffner 2010: 76]. The CIA agreed with this approach [Pfiffner 2010: 77]. Among Iraqi exiles, this approach was supported by the *Iraq National Accord*, a grouping of secular and liberal-inspired exiles and dissidents, under the leadership of Iyad Allawi and other groups of liberals who clustered around the figure of Adnan al-Pachachi [Allawi 2007: 147], who had been foreign minister for Iraq during the 1960s and then took refuge abroad under the regime of Saddam Hussein.

The Department of Defence, on the other hand, pushed for a broader approach to the issue. In particular, DOD supported the need for deeper purges and the prohibition also for ordinary members of the party to maintain their positions in the highest levels of public administration [Chandrasekaran 2010: 76-77]. The Pentagon's approach to de-Baathification inspired the Vice Presidency's sympathies [Chandrasekaran 2010: 77]. Supporters of the method proposed by the leaders of the Pentagon were also members of the *Iraq National Congress* led by Ahmed Chalabi, the famous and controversial Iraqi exile, and Shiite Islamist parties [Allawi 2007: 147]. The position of Kurdish parties was ambivalent: they placed a certain rhetorical emphasis on de-Baathification but were prepared to recognize many extenuating circumstances for the various categories of Ba'athists in order to enjoy freedom of manoeuvre with the Sunni political groups in view of negotiations for greater autonomy of the Kurdish regions [Allawi 2007: 147].

In addition to that, Ali Abdul-Amir Allawi, another prominent Iraqi exile who held several departments both in the *Iraqi Governing Council* and in the subsequent transitional government, argues that among the folds of the projects drawn up by the Department of Defence there were proposals for action even harder against the Ba'ath party and its members: de-Baathification policies would have had to completely eradicate all structures and vestiges of the Ba'athist action in Iraqi society [Allawi 2007: 152].

During the abovementioned meeting of the *National Security Council* a compromise was reached: the highest ranking members of the Ba'ath party - about 1% of its members - would have been dismissed from any government office. All the others party members would have been subjected to a *process of truth and reconciliation* in the South African style [Chandrasekaran 2010: 77]. In any case, it was necessary to

demonstrate to the Iraqis that Saddam Hussein's power had vanished by politically neutralizing the chief exponents of the Ba'ath party [Pfiffner 2010: 78].

Therefore, the approach to the policies for de-Baathification agreed in the meeting of the *National Security Council* on March the 10<sup>th</sup> was not very different from the plan that the chief of ORHA would have presented in a few days to the head of the Department of Defence. The previous paragraphs were used to emphasize that within George W. Bush's administration there was not that unity of purpose whose image the president was trying to project outwards. A further proof of what was written took place in the aforementioned meeting between the officials of Defence and ORHA on March the 15<sup>th</sup>: at that time, DOD objections were not about the plans set up by the ORHA but regarding the personnel used by that organization to carry them out. The Department of Defence argued that it would be preferable to have its own employees in the ranks of ORHA and those who came from the State Department were considered *intruders* [Ricks 2006; 128].

The Pentagon was not the only one to sponsor the staff of its department for the ORHA: both the Secretary of State, Colin Powell, and his deputy, Richard Armitage, urged that as many people as possible of their confidence join the new office for reconstruction and humanitarian assistance. The two highest people in charge, after President Bush, of US foreign policy, considered the presence of diplomatic experts and Middle Eastern specialists fluent in Arabic within ORHA as a shelter against attempts to deliver post-war planning to Chalabi and his group of exiles who were considered unreliable by the State Department and the CIA. These two institutions considered essential involving in the creation of a transitional government that Iraqis who, although hostile in different degrees to the regime, had not moved away from their country [Chandrasekaran 2010: 34-35]. Several officials of the Department of Defence, on the other hand, were of the opinion that the *old-school* arabists of the State Department were looking for excuses to justify their opinion that within the Arab-Muslim world a Western-style democracy could have not been developed [Chandrasekaran 2010: 34-35].

It must be clear from now on that the difference of views summarized above did not represent an academic dispute about the nature of the Arab world but had important political repercussions on the entire US strategy of the *war on terror*. One of the most recurrent topics for justifying the war in Iraq and increasing both domestic and international consensus in this operation was the *export of democracy*. It served as a theoretical framework for intervention against Saddam Hussein's regime: it ideologically covered the information leaked on Iraqi regime's weapons of mass destruction and his alleged links to al-Qaeda.

One of the practical consequences of this approach and rhetoric was that of believing those who envisaged a relatively peaceful transition after the end of the main military operations. The *Iraq National Congress*, led by Chalabi, actually, ensured just that: it argued that the majority of Iraqis would welcome the US intervention as well as provide unpublished details on the weapons of mass destruction development program [Ricks 2006: 73-75]. Moreover, as already mentioned, the heads of the Department of Defence, who entertained the idea of a transition without jolts in a short time, believed that the network of informers and supporters constituted by the *Iraq National Congress*, with the precious US support, could quickly become a stable government to entrust the management of current Iraqi affairs leaving the United States the only task of planning a rapid withdrawal of troops from the Middle Eastern country. This approach was aimed to an

occupation - and a war - *aseptic*. Some sources report that within the Department of Defence there had already formed a front determined to designate the head of the *Iraq National Congress*, Chalabi, as president of the reconstituting Iraqi state [Ricks 2006: 127].

It can certainly be affirmed that the leaders of some of the United States executive bodies exploited the *wishful thinking* of some organizations of Iraqi exiles as a crowbar to force the most recalcitrant members of the administration endorsing their plans for a decisive change in strategy: a confident interventionist policy in the Middle East supported by the belief that political and social obstacles would have been negligible. This key to the events immediately preceding and following the second Gulf war makes it possible to understand why anyone who raises doubts about the information provided and about the plans proposed by the *Iraq National Congress* - such as the extensive approach to de-Baathification - were unwelcome to those who within the Bush administration were favourable of a completely offensive US posture in foreign policy: each attack on these plans was regarded as an attack against the prospect of *exporting democracy* and, consequently, against the *war on terror*. Anyone who expressed doubts about the measures proposed by the *Iraq National Congress* was labelled as a supporter of the *status quo*: the implication was that the international *status quo* had led to the events of the 9/11.

With these premises it is not surprising, therefore, that even after March the 10<sup>th</sup>, the proponents of the hard approach to de-Baathification have not given up. The Pentagon, above all, enjoyed an undoubted advantage over the *rivals* of the State Department and the CIA: the technical aspects of de-Baathification were managed by the *Special Plans Office* headed by Douglas Feith, who was one of the most avid supporters of extensive de-Baathification and worked closely with the leader of the *Iraq National Congress*, Ahmed Chalabi [Chandrasekaran 2010: 77; Pfiffner 2010: 78].

In fact, Garner stated on several occasions that the collaboration with Faith's office had been problematic. The former three-star general claimed that he had never received plans drawn up by the Undersecretary of Defence and his team. Moreover, the maximum exponent of the *Office for Reconstruction and Humanitarian Assistance* stated to ignore that the *Office of Special Plans* was working on the Iraqi post-war planning even after the establishment of ORHA. He became aware of the activities of this office only ten days after arriving in Baghdad.

Essentially, the *Office for Special Plans* was actively involved in the design of three types of operations. The first type can be considered a continuation of the debate on de-Baathification: the *Office* was looking for the best way to purge as quickly as possible the followers of the Ba'ath Party out of the state administration. The second core of studies and planning concerned *dealing* with the Iraqi armed forces once hostilities ended. The third concern seemed to be to find the best way to include those Iraqi exiles who had helped supporting the Bush administration's positions as national leaders in the process of rebuilding Iraqi institutions [Chandrasekaran 2010: 32].

In addition to that, ORHA did not receive numerous volumes containing plans and memoranda produced by the State Department, the CIA and the National Defense University - an articulation of the Pentagon [Chandrasekaran 2010: 32]. Ignoring the existence of such researches, ORHA's officials had requested on several occasions at the *Office for Special Plans* copies of any document that might have been useful for post-war planning. From the sources it can be learned that this

office communicated to ORHA that there was nothing useful for these purposes and urged the ORHA to independently develop its own plans [Chandrasekaran 2010: 32].

In light of what has been reported so far, it is clear that the ORHA had to clash daily with many organizational difficulties and, in some aspects of its administrative action, was forced to fly blindly by the behaviour of other actors within the US executive.

Several further choices proved unsuccessful for the ORHA. It was decided to divide the planning work according to three functional guidelines: humanitarian assistance, reconstruction and civil administration. Both because of his past experience in Iraq and because of some threatening UN alarms on the risk of epidemics, hunger and evacuation of large sections of population from his habitual accommodation, the attention of Garner and his closest collaborators was centred on the aspects of planning that aimed to avert possible humanitarian crises. Plans to rebuild Iraq's infrastructure were entrusted to the USAID personnel within ORHA. Finally, responsibility for the planning aspects which would have affected the civil administration were entrusted to Michael Mobbs. An *unfortunate choice* given that Mobbs had close ties to some members of the Bush administration, in particular with the Undersecretary of Defence, Douglas Feith [Chandrasekaran 2010: 33], with whom he shared the same vision as regards the de-Baathification process. In fact, Mobbs in the first weeks after the official end of hostilities managed to direct up to eleven of the twenty-three Iraqi ministries [The Guardian, 4.4.2003]: a position that allowed him to have almost absolute control over the application of the first provisions for de-Baathification in those departments.

### **2.3 The action of ORHA in Iraqi theatre**

In addition to the delays, omissions and mistakes in planning, the ORHA settlement in Baghdad was not timely: it happened only twelve days after US troops had finally conquered the city. The high command of military operations did not allow ORHA personnel to leave Kuwait for security reasons at least until April the 21<sup>st</sup>: there was no insistence because Garner and his team imagined that the Iraqi capital and its *command and control structures* had been severely tested by the events of war and by the massive wave of looting that had occurred after the fall of the city on April 9<sup>th</sup> [Galbraith 2006: 114; Chandrasekaran 2010: 45].

In the following days, the ORHA tried to buffer the critical points as best it could but the discontent for how the situation on the field was managed increased day by day. Several authors seem to share a common opinion about the retired general and his group: well-meaning people but unable to achieve the goals that had been set [Hashim 2006: 295; Galbraith 2006: 117]. A British diplomatic source claimed that extraordinary chaos reigned in the organization led by Garner: in his view, there was no clear line of action, no apparent strategy, no coordination, deficient structures, and its offices were practically inaccessible to a common Iraqi citizen [Galbraith 2006: 117].

According to another source, the limited effectiveness of ORHA in preparing quick and concrete responses to the needs of the Iraqi population and its administrative apparatus was also due to the lack of human resources. As an example, it is reported that among the ranks of a staff which numbered between six and eight hundred units there were only seventeen members who spoke fluently Arabic and

even less experts of the country where ORHA was operating [Hashim 2006: 294-295].

Other sources express a less negative judgment on action of ORHA, although they do not hesitate to highlight the relevant administrative and political limits of this organization. Ali Allawi, minister in the *Government Council* and then in the Iraqi interim government, argues that the charges of incompetence addressed to ORHA were unfair defamations that did not take into account the general situation of the country in which the organization operated [Allawi 2007: XVIII].

Trying to find a synthesis between the abovementioned judgments, it can be said that even if ORHA failed in its objectives of humanitarian assistance and first political reconciliation, it cannot be held responsible for the dissolution of Iraqi police forces in the days immediately following the end of hostilities. or because the American troops were not trained to maintain law and order [Hashim 2006: 292-293].

Regarding de-Baathification, the ORHA tried not to deviate from the plans agreed with the heads of the Department of Defence in the meeting of March 15th. On the contrary, his approach was based even more on *laissez faire*. According to some sources, the head of ORHA had sent a precise directive to all his staff: it was necessary to let the Iraqis decide for themselves which way to go for de-Baathification whether the population killed the members of the Baath party or asked for their removal from political and administrative life [Ricks 2006: 187]. In addition to that, ORHA's staff in the days following their settlement in Baghdad worked closely with the highest ranking employees, among whom without doubt there were many Ba'athists, in order to restart Iraqi public administration [Galbraith 2006: 120; Ricks 2006: 182].

Despite the efforts of the ORHA, in late April the top management of the Bush administration decided to end its activities [Galbraith 2006: 117; Chandrasekaran 2010: 60]: the President had decided to set up a new body - the *Coalition Provisional Authority* - that would be led by a former diplomat, Lewis Paul Bremer III, with the title of *presidential envoy* [Chandrasekaran 2010: 60; Ricks 2006: 182]. The ORHA continued to operate for just over a week, after which the remaining activities were suspended.

Garner, during his communications with the summits of the US administration, had made it clear that he would remain in Iraq until early July to assist the efforts of the future head of the *Coalition Provisional Authority*, Bremer. Actually, from the available sources, it is understood that the high officials of the *Provisional Authority* never expressed particular appreciation for the collaboration offered by the heads of the ORHA. This cohabitation did not last long: well before July, Garner and his collaborators returned to the United States [Ricks 2006: 186]. In fact, the head of the now dissolved *Office for Reconstruction and Humanitarian Assistance* for Iraq returned to the United States at the beginning of June, a month earlier than expected [Ricks 2006: 196].

According to the available sources, before resuming his private affairs, Garner was received by President Bush who repeatedly stressed that the choice of rapid change of strategy in Iraq had been strongly supported and finally obtained by the heads of the Department of Defence [Ricks 2006: 196].

## CONCLUSIONS

From what has been written, it can be inferred that ORHA almost immediately operated in an uncooperative and hostile environment: at the time of its establishment within the US administration there was no precise picture on what should be the strategy to be applied to the de-Baathification of Iraqi society. Moreover, although ORHA was established with the aim of defining organic plans for de-Baathification, its action in this sense was hindered in various ways by other organisms of the US government. Political rivalries and ideological differences in addition to the many interests that were represented by the composite front of the Iraqi opposition in exile led to a substantial lack of support for the newly established organism.

The creation of ORHA appears to be a compromise between the more extreme and the more pragmatic wing within the US administration regarding the position to be taken for de-Baathification. However, the proponents of an extensive approach, and especially the Department of Defence and the Office of the Vice-President, continued to work to hinder the work of ORHA, thus paving the way for an extensive approach to de-Baathification. These actions led to a success: the ORHA was the dismantling and the *Coalition Provisional Authority* was establishment which reversed the policies followed so far in the matter of de-Baathification. This was also done because it was intended above all to demonstrate that the export of democracy proceeded swiftly and that the plans of the neoconservative administration advanced without hindrances.

It can be concluded that the work of ORHA was undermined by the US administration itself. In fact, as reported by one of the available sources, when Garner told some members of his team that he felt the full weight of his failure, one of them replied that the ORHA had been founded to fail [Chandrasekaran 2010: 60].

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