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## INTRODUCTION

This volume, like its predecessors, is thematically diverse. Our intent is invariably the same – to create magazines that present a broad spectrum of opinions, ideas, reflections on the contemporary issues of the political science. This volume delivers publications on a variety of matters concerning contemporary political, legal, social and economic problems and security. Publications are the result of research and studies currently being carried out.

Works of authors representing different environments from home and abroad are placed in this volume. There are also articles written by authors from outside the scientific community and coming from various institutions. There is also a place for young researchers only beginning to form their attitudes.

The volume opens with the work of Ewelina Cała-Wacinkiewicz concerning the fundamental relations between the European Union and the United Nations. Results of the study may be of vital importance for in-depth understanding of the relations between these actors. Consecutive work is devoted to the important topic of revitalizing substate nationalism and concerning the autonomy of nations in Europe. Tomasz Czapiewski analyzes the topic of modern Scotland.

Issues of strategic planning and aspects relating to methodological and prognostic questions in this task are raised by Łukasz Donaj.

The article of Łukasz Ho Thanh is dedicated to the development and analysis of the asymmetric military operations in the old new wars. Next article written by Karol Kościelniak raises the important topic of contemporary international security, namely, the problem of the current situation in the South China Sea. Theoretical aspects of the European security issues

in the context of Common Security and Defence Policy are presented by Luiza Wojnicz. Interesting issue concerning the position of women in security issues is presented by J. Piątek.

The next two works are devoted to the extremely important legal problems emerging in the area of Kazakhstan. Turdaly Karatayev Zhaksylykuly examines the correlations of normative legal acts with normative resolutions. A team of authors (A.S. Smagulova, A.A. Smagulov, A.A. Zhumabaeva) present the attributes of legal regulations in countries.

Three texts (A. Staszczyk, R. Tomczyk, J. Wozniak) are devoted to the European issues and present questions of regional and social policies, and Italian General Elections

Reality of Politics as always delivers works on international relations. J. Suchoples presents the current situation and prospect of the changes in the Asia-Pacific region, and R. Podgórzanska analyzes the region of former Yugoslavia focusing primarily on challenges and prospects of Polish foreign policy. Fahri Türk presents radical Islamic parties and movements in Uzbekistan.

The work of S. Ozdyk is dedicated to the development of interpersonal relations at the level of the German and Polish societies. The essence and functions of benefits fulfilling basic social needs are presented by D. Wacinkiewicz on the example of the implementation of the National Social Policy.

This volume of "Reality of Politics" includes results of the research on the ideas of Joseph P. Overton, J.N. . Druckmana, B.B. de Mesquita and G. Friedman. Szałek's analysis may be of vital importance for in-depth understanding of the contradiction between the methods of manipulation used in many sectors and countries at the different political, social, financial and institutional levels.

Volume of Reality of Politics fulfills important tasks of putting the research results and studies from different disciplines of social sciences into the circulation of scientific thought and among the various academic environments. It may enable an unfettered dialogue and development of the young scientists.

The editorial staff of the "Reality of Politics" would like to thank for the support of Adam Marszałek Publishing House, which allowed to complete this volume.



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# ARTICLES



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*Ewelina Cała-Wacinkiewicz*

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## **RELATIONS BETWEEN THE EUROPEAN UNION AND THE UNITED NATIONS – CONSIDERATIONS IN THE CONTEXT OF INTERNATIONAL SECURITY AGAINST THE CASE OF AHMED ALI YUSUF AND AL BARAKAAT INTERNATIONAL FOUNDATION<sup>1</sup>**

**Keywords:** International Relations, International Security, United Nations, European Union.

**ABSTRACT:** The actions indicated above and taken by the United Nations and the European Union (in spite of their different international law status) argue that objectives attributed to international organisations are not only postulates, but a basis for actions taken specifically, both in the legal and actual dimension. Therefore, the main research objective adopted for this study was to bring them closer, with particular emphasis on the UN and the EU joint actions for international security. Due to the complexity and multifaceted nature of the discussed subject matter of these considerations, they will be confined to the T-306/01 Ahmed Ali Yusuf and Al Barakaat International Foundation case recognized by the EU Court of First Instance. In there, as in a lens, interrelationships between the international organisations in questions are concentrated; and not only in terms of international cooperation, but, more importantly, in terms of the principle of the primacy of the United Nations law over other legal regimes.

Implementing this objective will allow to show that the law of the European Union refers to the achievements of the United Nations and, therefore, to the general categories of international law. This shows that the EU legal order cannot be treated as completely self-sufficient. In the era of fragmentation of international law, determination of interrelationships

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<sup>1</sup> Translated by Agnieszka Kotula, Ewelina Cała-Wacinkiewicz.

between the international law and the EU one is crucial for assessing the systemic nature of the former.

## I. UNITED NATIONS & EUROPEAN UNION AND INTERNATIONAL SECURITY – INTRODUCTION TO CONSIDERATIONS

Importance and value of the need to ensure and maintain peace<sup>2</sup> and international<sup>3</sup> security<sup>4</sup> do not need to be particularly proven. International community, by forming a normative basis for its operation, gave expression to this in the Charter of the United Nations adopted on 26 June 1945 in San Francisco<sup>5</sup> (hereinafter UN Charter). By virtue of its provisions, the community attributed to the established United Nations (hereinafter UN) a priority objective, i.e. necessity to maintain international peace and security. The realisation of this goal – in accordance with the UN Charter – is to be carried out by application of effective collective measures for the prevention of threats to peace and removal thereof, suppression of acts of aggression or other breaches of peace, mitigation and settling – in a peaceful manner, according to the principles of justice and

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<sup>2</sup> It is assumed after W. Malendowski that peace is the opposite of war, as the definitions of war and peace form a dialectic categorical pair. See: W. Malendowski, *Pokój i bezpieczeństwo międzynarodowe*, in: W. Malendowski, Cz. Mojsiewicz (Eds.), *Stosunki międzynarodowe*, Wrocław 2000, p. 381.

<sup>3</sup> International security is defined as “a system of joint prevention of aggression, based on an international agreement. The system of international security can have a universal dimension when it covers all states; or a regional one if it applies to countries due to their geographical location. See: K. Stasiak, *Bezpieczeństwo międzynarodowe*, in: A. Przyborowska–Klimczak, D. Pyć (Eds.), *Leksykon prawa międzynarodowego publicznego*, Warszawa 2012, p. 29.

<sup>4</sup> In the etymological sense, the term “security” is derived from the Latin *securitas*. In Roman times it meant political stability. Modern definitions define security as: the state of confidence, peace and protection, and indicate that it denotes a lack of danger and protection against dangers. See: G. Ciechanowski, *Międzynarodowe bezpieczeństwo*, in: E. Cała-Wacinkiewicz, R. Podgórzńska, D. Wacinkiewicz (Eds.), *Encyklopedia zagadnień międzynarodowych*, Warszawa 2011, p. 621.

<sup>5</sup> Journal of Laws of 1947, No. 23, item 90 as amended.

international law – disputes or situations that could lead to a breach of the peace. The United Nations seek to achieve this specific objective not only in a legal aspect (adopting international conventions which are a basis for the peaceful coexistence of states in the international arena<sup>6</sup>), but above all in actual terms, i.e., by taking initiative and measures to ensure peace and security that have their basis in the resolutions of the Security Council<sup>7</sup>. These resolutions are not only a legal instrument, the use of which is included in the activities of said Council, but most of all, they form a special tool to ensure international peace and security. They further argue that the two mentioned aspects of activities (i.e. legal and actual) permeate in accordance with the principle that it is this law that prescribes what to do (*lex iubet ea, quae facienda sunt*).

Despite the priority significance of the UN (as a universal organisation with a common character) in the activity for world peace and security there are noticeable tendencies to strengthen these measures by regional initiatives. In the objective respect, a strong position can be attributed to the European Union, incorrectly associated by many only to the broadly defined economic activity. The legal basis for its actions in the context of international security are the provisions of the Treaty on the European

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<sup>6</sup> Exemplification of these constitute: Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, adopted on 10 March 1988, Journal of Laws of 1994, No. 129, item. 635; The International Convention for the Suppression of Terrorist Bombings, adopted on 15 December 1997, Journal of Laws of 2007, No 66, item 438; International Convention for the Suppression of the Financing of Terrorism, adopted on 9 December 1999, Journal of Laws of 2004, No 263, item 2620; or International Convention for the Suppression of Acts of Nuclear Terrorism of 13 April 2005, Journal of Laws of 2010, No 112, item 740.

<sup>7</sup> The following may serve as an example: United Nations Hybrid Operation in Darfur adopted on 31 July 2007 by virtue of Resolution 1769 of the Security Council; United Nations Operation in Côte d'Ivoire established on 27 February 2004 by Resolution 1528 of the UN Security Council; UN Stabilisation Mission in Haiti (MINUSTAH) established on 30 April 2004 by resolution S/RES/1542 of the Security Council; United Nations Assistance Mission in Afghanistan, established on 28 March 2002 by the Security Council by resolution RES/1401(2002); United Nations Interim Administration Mission in Kosovo, established on 10 June 1999 by virtue of resolution S/RES/1244 of the Security Council. See: <http://www.un.org.pl> (accessed: 11.10.2013).

Union (hereinafter TEU)<sup>8</sup> in the version consolidated by the provisions of the Treaty of Lisbon of 13 December 2007<sup>9</sup>. In accordance with Art. 21 paragraph 2 of the TEU, the Union defines and pursues common policies and actions, and works for a high degree of cooperation in all fields of international relations. What the subject Treaty indicates as the purpose of such activities is the protection of values on which the European Union is based, its fundamental interests, security, independence and integrity, as well as consolidating and supporting democracy and the rule of law, human rights and international law. Against this background, the European Union, striving to preserve peace, to prevent conflicts and to strengthen international security in accordance with the purposes and principles of the United Nations Charter, as well as the Helsinki Final Act and the objectives of the Paris Charter, is highlighted as particularly important for the present analysis.

Clarification of these provisions is contained in Art. 24 TEU. It states that the Union's powers within common foreign and security policy shall cover all areas of foreign policy and all questions relating to its security. The wording of the article quoted grants the Union extensive powers to act for international security, to be done – what is important – in compliance with international law. They also show that the European Union does not isolate itself from the activities of other international organisations, including the UN, whose importance in this regard cannot be overstated, and which will be discussed further below.

Attributing the European Union with the responsibility for the implementation of international security and safeguarding peace, not only in Europe but also in the world, is not illusory. For attention should be paid to the acts of law issued by it, underlying the activities actually performed. The most common legal instruments are the

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<sup>8</sup> OJ C 326, 26.10.2012.

<sup>9</sup> OJ C 306, 17.12.2007.

adopted decisions<sup>10</sup> and regulations<sup>11</sup>. As secondary EU legislation, they complement the provisions of the treaty that define in a general way the extent of involvement of said organisation in the subject of international peace and security.

The actions indicated above and taken by the United Nations and the European Union (in spite of their different international law status) argue that objectives attributed to international organisations are not only postulates, but a basis for actions taken specifically, both in the legal and actual dimension. Therefore, the main research objective adopted for this study was to bring them closer, with particular

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<sup>10</sup> Council decision 2013/87/CFSP of 18 February 2013 on the launch of a European Union military mission to contribute to the training of the Malian Armed Forces (EUTM Mali) (OJ L 46, 19.2.2013, pp. 27–27); Council Decision 2013/133/CFSP of 18 March 2013 appointing the European Union Special Representative for the Sahel (OJ L 75, 19.3.2013, pp. 29–32); Council Decision 2013/233/CFSP of 22 May 2013 on the European Union Integrated Border Management Assistance Mission in Libya (EUBAM Libya) (OJ L 138, 24.5.2013, pp. 15–18); Council Decision 2013/320/CFSP of 24 June 2013 in support of physical security and stockpile management activities to reduce the risk of illicit trade in small arms and light weapons (SALW) and their ammunition in Libya and its region (OJ L 173, 26.6.2013, pp. 54–64); Council Decision 2013/354/CFSP of 3 July 2013 on the European Union Police Mission for the Palestinian Territories (EUPOL COPPS) (OJ L 185, 4.7.2013, pp. 12–15).

<sup>11</sup> Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition (OJ L 94, 30.3.2012, pp. 1–15); Council Regulation (EU) No 377/2012 of 3 May 2012 concerning restrictive measures directed against certain persons, entities and bodies threatening the peace, security or stability of the Republic of Guinea-Bissau (OJ L 119, 4.5.2012, pp. 1–8); Council Regulation (EU) No 401/2013 of 2 May 2013 concerning restrictive measures in respect of Myanmar/Burma and repealing Regulation (EC) No 194/2008 (OJ L 121, 3.5.2013, pp. 1–7); Council Implementing Regulation (EU) No 714/2013 of 25 July 2013 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, and repealing Implementing Regulation (EU) No 1169/2012 (OJ L 201, 26.7.2013, pp. 10–13).

emphasis on the UN and the EU joint actions for international security. Due to the complexity and multifaceted nature of the discussed subject matter of these considerations, they will be confined to the T-306/01 *Ahmed Ali Yusuf* and *Al Barakaat International Foundation* case recognized by the EU Court of First Instance. In there, as in a lens, interrelationships between the international organisations in questions are concentrated; and not only in terms of international cooperation, but, more importantly, in terms of the principle of the primacy of the United Nations law over other legal regimes.

Implementing this objective will allow to show that the law of the European Union refers to the achievements of the United Nations and, therefore, to the general categories of international law. This shows that the EU legal order cannot be treated as completely self-sufficient. In the era of fragmentation of international law, determination of interrelationships between the international law and the EU one is crucial for assessing the systemic nature of the former.

## II. ANALYSIS OF THE ACTUAL STATE OF CASE T-306/01 AHMED ALI YUSUF AND AL BARAKAAT INTERNATIONAL FOUNDATION<sup>12</sup>

Referring to the title state of the facts, its analysis should begin with bringing closer the normative background against which actions were undertaken, directly contributing to the formulation by Ahmed Ali Yusuf and Al Barakaat International Foundation of their claims against the Council of the European Union and the Commission of the European Communities<sup>13</sup>.

A leading part in this regard, with the view of the broadly defined combating of international terrorism<sup>14</sup>, was played by UN Security Coun-

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<sup>12</sup> The analysis of the state of facts will be carried out on the basis of the judgement of the Court of First Instance in the discussed case.

<sup>13</sup> Now, European Commission.

<sup>14</sup> What is interesting and what is confirmed in this article, the fight against international terrorism at the level of international law is carried out in the first place by means



cil resolutions. Of particular note is Resolution 1267 (1999) of 15 October 1999<sup>15</sup>, by which the UN condemns terrorist training on the Afghan territory and the fact of providing shelter to Osama bin Laden by the Taliban. According to its provisions, the Taliban should release him to relevant authorities and the UN nations should freeze funds coming from broadly defined assets of the Taliban. A specially appointed Sanctions Committee was equipped with an obligation to identify said funds.

As the continuation of the adopted solutions, Security Council resolution 1333 (2000) of 19 December 2000 followed<sup>16</sup>. Therein, a demand was posed to stop training terrorists or sheltering them, as well as to release Osama bin Laden to the competent authorities. In addition, the Security Council decided to introduce a ban on flights and to increase the scope of the freeze of funds, including funds of Al Qaeda. In reference to this resolution, the Sanctions Committee updated the list of individuals and entities associated with Osama bin Laden. As a result, on 8 March 2001, it published said list. On 9 November 2001, however, this list was revised again. This time – which is crucial from the point of view of the discussed case – *Barakaat International Foundation* Spånga, Stockholm, Sweden, and Ali Yusaf Ahmed, Hallbybybacken 15, 70 Spånga, Sweden, had been entered in the list.

Then, the Security Council adopted other resolutions such as resolution 1390 (2002) of 16 January 2002<sup>17</sup>, by which it upheld the measures imposed by resolutions of 1999 and of 2000 as regards freezing funds. It

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of peaceful measures, and it is within the States that the contemporary legal obligation to combat terrorism lies. See: M. Kowalski, *Prawo do samoobrony jako środek zwalczania terroryzmu międzynarodowego*, Warszawa 2013, p. 37.

<sup>15</sup> Resolution 1267 (1999) adopted by the Security Council at its 4051st meeting on 15 October 1999, S/RES/1267 (1999), available at: [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/1267%281999%29](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1267%281999%29) (accessed: 14.10.2013).

<sup>16</sup> Resolution 1333 (2000) adopted by the Security Council at its 4251st meeting, on 19 December 2000, S/RES/1333 (2000), available at: [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/1333%282000%29](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1333%282000%29) (accessed: 14.10.2013).

<sup>17</sup> Resolution 1390 (2002) adopted by the Security Council at its 4452nd meeting, on 16 January 2002, S/RES/1390 (2002), available at: [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/1390%282002%29](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1390%282002%29) (accessed: 14.10.2013).

also adopted resolution 1452 (2002) of 20 December 2002<sup>18</sup> facilitating compliance with the obligations as regards fight against terrorism, and above all, allowing the possibility of applying exceptions from the restrictive measure imposed in the form of freezing funds.

Coupled with the activities signalled above and undertaken by the United Nations were the activities of the European Union, serving, as if, as the answer to the above. Only a month after the adoption of resolution 1267 (1999), Council Common Position of 15 November 1999 Concerning Restrictive measures against the Taliban (1999/727/CFSP)<sup>19</sup> was adopted, relating to the restrictive measures against the Taliban and ordering the freezing of their funds.

Therefore, another UN resolution – 1333 (2000) – gained a reaction from the European Union, showing some dynamism in the interrelationships, aimed at ensuring global security. Council Common Position of 26 February 2001 concerning additional restrictive measures against the Taliban and amending Common Position 96/746/CFSP<sup>20</sup> was adopted. By virtue of the provisions of this act, not only were the earlier regulations concerning the necessity of freezing Osama bin Laden's funds upheld, but also a ban on accessing them was introduced. In the wake of these decisions Council Regulation (EC) No 467/2001 of 6 March 2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan, and repealing Regulation (EC) No 337/2000<sup>21</sup> was also adopted. This regulation, which, because of its normative power is particularly important for the effective combating of financing terrorism, adopted a legal definition of 'funds'<sup>22</sup>, and 'freezing of

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<sup>18</sup> Resolution 1452 (2002) adopted by the Security Council at its 4678th meeting, on 20 December 2002, /RES/1452 (2002), available at: <http://www.un.org/docs/scres/2002/sc2002.htm> (accessed: 14.10.2013).

<sup>19</sup> OJ L 294, 16.11.1999.

<sup>20</sup> OJ L 057, 27.02.2001.

<sup>21</sup> OJ L 67, 08.03.2001.

<sup>22</sup> In accordance with Art. 1 par. 4 of the resolution 'funds' means: financial assets and economic benefits of any kind, including, but not necessarily limited to, cash, cheques, claims on money, drafts, money orders and other payment instruments; deposits with financial institutions or other entities, balances on accounts, debts and debt

funds'<sup>23</sup>, facilitating the use of the aforementioned categories. Additionally, it was also accompanied by a list of individuals, entities and organisations against whom the freezing of funds is to be carried out, taking into account both *Barakaat International Foundation*, and *Ahmed Ali Yusuf*.

In response to resolution 1390 (2002), wishing to ensure its implementation, Council Common Position of 27 May 2002 concerning restrictive measures against Usama bin Laden, members of the Al-Qaida organisation and the Taliban and other Individuals, groups, undertakings and entities associated with them and repealing Common Positions 96/746/CFSP, 1999/727/CFSP, 2001/154/CFSP and 2001/771/CFSP<sup>24</sup> was adopted. This was combined with the release of Council Regulation (EC) No 881/2002 of 27 May 2002 imposing specific certain restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan<sup>25</sup>. In their substance, these acts were similar to Regulation (EC) No 467/2001, containing analogous definitions of terms cited above and upholding the subjective scope of the appended lists, including, most importantly, *Barakaat International Foundation*, and *Ahmed Ali Yusuf*.

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obligations; publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, derivatives contracts; interest, dividends or other income on or value accruing from or generated by assets; credit, right of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export-financing.

<sup>23</sup> In accordance with Art. 1 par. 4 of the resolution 'freezing of funds' means: preventing any move, transfer, alteration, use of or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the use of the funds, including portfolio management.

<sup>24</sup> OJ L 139, 29.05.2002.

<sup>25</sup> OJ L 139, 29.05.2002.

The next step in the fight against international terrorism aimed at the implementation of Security Council resolution 1452 (2002), but also those previously adopted, was the adoption of Council Common Position 2003/140/CFSP of 27 February 2003 concerning exceptions to the restrictive measures imposed by Common Position 2002/402/CFSP<sup>26</sup>. In accordance with its Art. 1., the European Community will provide for the exceptions permitted by United Nations Security Council resolution 1452 (2002). In assessing the legal consequences resulting from this decision it should be noted that not only did it recognise in its content the very option of introduction exceptions from the imposed restrictive measure of freezing of funds, but also, through referring to the Security Council resolutions, it pointed to it as the legal basis by which the European Union is bound.

A month after the issue of said Council Common Position, in reference to its decisions, Council Regulation (EC) No 561/2003 of 27 March 2003 amending, as regards exceptions to the freezing of funds and economic resources, Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban<sup>27</sup> was adopted. By virtue of the provisions it was clarified which categories of funds and economic resources will not be subject to freezing, making use of the exceptions provided for in this regard.

In view of the above legal status, showing above all how the cooperation between the European Union and the United Nations in the scope of combating international terrorism developed, we can move on to discuss the very course of the proceedings before the Court of First Instance.

Somewhat summarising and narrowing them to issues relevant to this study, *Ahmed Ali Yusuf* and *Al Barakaat International Foundation* (hereinafter referred to as the applicants) on 10 December 2001 took actions against the Council of the European Union and the Commission of the European Communities requesting for, *inter alia*, the annulment of Regulation No 467/2001 or, alternatively, declaring it inapplicable. On 29 July

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<sup>26</sup> OJ L 53/6, 28.2.2003.

<sup>27</sup> OJ L 82/1, 29.3.2003.

2002 the applicants adapted the content of their pleas, claiming that their aim as of then was for the Court to declare invalid Regulation No 881/2002, adopted on the basis of Security Council resolution 1390 (2002) which upheld sanctions imposed against them. They also noted that the original complaint against Regulation No 467/2001 should be considered devoid of purpose because of the repeal of that act by the contested regulation. They also modified the subjective scope of the complaint, directing it ultimately only against the Council of the European Union which adopted the contested act, rather than against the European Commission.

Recapitulating the claims raised by the applicants, they relied, *inter alia*, on: the Council of the European Union's lack of competence to impose sanctions, direct or indirect, on citizens of the Union (paragraph 84 of the judgement), and also on the fact that delegating decision-making power in the sphere of the civil and economic rights to an external body, that is to the Sanctions Committee (compare paragraph 177 of the judgement) was unfounded, as a result of which *Ahmed Ali Yusuf* and *Al Barakaat International Foundation* were placed on the list of persons whose funds were frozen due to links with Osama bin Laden. From their perspective, the objective freeze was based on the acts of the Security Council (with the participation of the Sanctions Committee) that were carried out in the European Union by the adopted regulation<sup>28</sup>.

The Court of First Instance in its judgement of 21 September 2005<sup>29</sup>, having considered the applicants' complaint, dismissed it, making a milestone in defining the legal relationship between the UN and the EU. And although the judgement on appeal was not upheld<sup>30</sup> arguments raised therein deserve special note, which is found in the rest of the study.

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<sup>28</sup> Detailed discussion of claims put forward by the applicants is contained in: Wł. Czapliński, *Kilka uwag o sądowej ochronie praw jednostek przed decyzjami Rady Bezpieczeństwa ONZ*, in: J. Menkes (Ed.), *Prawo międzynarodowe. Księga pamiątkowa prof. Renaty Szafarz*, Warszawa 2007, pp. 108–125.

<sup>29</sup> Court Reports 2005 II-03533.

<sup>30</sup> See: Judgment of the Court (Grand Chamber) of 3 September 2008 — Yassin Abdullah Kadi, *Al Barakaat International Foundation v Council of the European Union, Commission of the European Communities, United Kingdom of Great Britain and Northern Ireland* (Joined Cases C-402/05 P and C-415/05 P), OJ C 285/2, 8.11.2008.

### III. RELATIONS BETWEEN THE EUROPEAN UNION AND THE UNITED NATIONS IN THE CONTEXT OF THE T-306/01 CASE

Given the above and directing further deliberations onto the ground of mutual relations between the United Nations and the European Union it is appropriate to pose several questions. First, priority should be given to the answer to the question of the basis on which the EU is taking actions relating to the implementation of resolutions adopted by the UN? This entails the need to outline the problem more broadly, which comes down to asking a question about the interrelationships between these legal orders as well as the need to determine which one (and where it derives from) will enjoy the principle of priority.

The state of facts examined above, taking into account the European Union's implementation of the United Nations Security Council resolution shows that the cooperation between the affected organisations is aimed at undertaking joint efforts to combat international terrorism. It is therefore evidence of concern for peace and security in the world. And while in the case of the UN the legal basis for taking these actions results *expressis verbis* from the provisions defining the very purpose for which this organisation was established<sup>31</sup>, it is also possible to interpret them in detail out of specific statutory provisions defining ways to implement this objective<sup>32</sup>. Legal instruments through which this is done are the discussed Security Council resolutions.

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<sup>31</sup> Article 1, par. 1 of the Charter of the United Nations expresses the primary goal of the organisation by pointing to the maintenance of international peace and security with the use of effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and adjustment or settlement – by peaceful means and in conformity with the principles of justice and international law – of disputes or situations which might lead to a breach of the peace.

<sup>32</sup> It is sufficient to refer to the provisions of Art. 39 of the UN Charter, according to which the Security Council determines the existence of a threat to or a breach of the peace, or act of aggression and makes recommendations, or decides what measures should be taken to maintain or restore international peace or security.

For the EU, the question of legal basis entitling it to the fight for international security is slightly more complicated. Of course – as shown at the beginning of this study – one can point to legal provisions for the need to strengthen security, yet they are still part of a broader perspective of EU activities, i.e. its foreign and security policy, which is one of a number of policies pursued by the organisation. Nevertheless, the Treaty on the Functioning of the European Union<sup>33</sup> (hereinafter referred to as TFEU) in the version established by the provisions of the already referred to Lisbon Treaty contains provisions facilitating the fight against terrorism.

In accordance with Art. 75 the possibility of determining administrative measures with regard to capital movements and payments, such as the freezing of funds, financial assets or gains from economic activity belonging to natural or legal persons, groups or other non-State entities, or which are owned or held by them. It is supplemented by the provisions of Art. 215 of the TFEU allowing for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries. The implementation of objectives set out in this way is carried out with the use of Council Common Position as a tool in the field of foreign and security policy of the European Union, as well as regulations as binding acts of secondary legislation.

Referring to the question posed at the beginning of this analyses of the basis in EU law to carry out Security Council resolutions, it is worth mentioning (except the above) the provisions of Art. 21 par. 1 of the TEU, according to which the Union's action on the international arena are based, *inter alia*, on the principle of respect for the principles of the UN Charter and international law. The Union, seeking to develop relations and build partnerships with third countries and international organisations, regional or global, promotes multilateral<sup>34</sup> solutions to common problems, in particular within the framework of the United Nations.

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<sup>33</sup> OJ C 326, 26.10.2012.

<sup>34</sup> On the subject of multilateral nature see: E. Cała-Wacinkiewicz, *Efektywny multilateralizm jako dowód jedności prawa międzynarodowego – rozważania w kontekście prawa Unii Europejskiej* in: J. Menkes (Ed.), *Prawo międzynarodowe. Księga pamiątkowa prof. Renaty Szafarz*, Warszawa 2007.



In light of these provisions, the argument of a “regular” cooperation between those organizations is not sufficient. What united them in joint activities was the seriousness of the problem and the need for systemic action. Without them, ensuring international security would certainly not be possible. Therefore, (to which the Court of First Instance drew attention in its judgement issued in the subject case), the execution of a binding decision of the Security Council is an objective expressly set out and legally justified by the Treaty on the European Community<sup>35</sup> (compare par. 92 of the judgement). For if these resolutions of the Security Council were not performed with the use of measures adopted at the EU level, it could lead to a divergence between Member States in the application of the freezing-of-assets measure (compare par. 104 of the judgement). Therefore, according to the Court, referring to the applicants’ complaint, in this case there was no delegation of EU powers to UN bodies. Security Council resolutions are in fact binding on all Member States of the European Union which are thus required to take all measures necessary to ensure that those resolutions are put into effect (paragraph 239 of the judgement). Although the Community itself is not a member of the United Nations, it is required to act, in its spheres of competence, in such a way as to fulfil the obligations imposed on its Member States as a result of their belonging to the United Nations (par. 210 of the judgement). This reason is the main *ratio* of the actions taken by the EU towards the implementation of a resolution of the UN Security Council, in the face of validity in both of organizations of provisions being a legal basis allowing such actions, which has already been shown.

Referring to the above questions about the interrelationships between international law and the EU law, the Court of First Instance described it quite boldly by pointing to the principle of the primacy of international law and obligations under the UN Charter over those under the law of the European Union. It stressed, referring to Art. 103 of the UN Charter, that obligations arising under it prevail over all other obligation (par. 177 of the judgement) under national law or customary international law, including, as regards the Member States of the Council of Europe, their obliga-

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<sup>35</sup> Now, as pointed out above: Treaty on the Functioning of the European Union.



tions under the European Convention on human rights and fundamental freedoms<sup>36</sup> and, as regards countries that are also Members of the Union, the obligations arising out of its Treaties (compare par. 231 of the judgement).

This argumentation was not shared fully by the Court who, in its Grand Chamber, issued a judgement on 3 September 2008 linking the discussed case of Al Barakaat International Foundation to another one (of a similar content), i.e. the case of Yassin Abdullah Kadi<sup>37</sup>, remaining, however, beyond the scope of this analysis. The Court, which has already been indicated above, overruled the judgement of the Court of First Instance in case T-306/01 *Ahmed Ali Yusuf and Al Barakaat International Foundation*, recognising the contested regulation No. 881/2002 as invalid.

What is particularly important from the point of view of this analysis, the Court, considering the different aspects of the case, referred, *inter alia*, to the relationship between the international legal order of the United Nations and the Community legal order by analysing the principle expressed by the Court of First Instance according to which the regulation contested in the course of proceedings before the Court – since it implements the Security Council resolution – cannot be subject to judicial review for its internal compliance with the law, with the exception of compliance with the *jus cogens* norms, and that it enjoys the jurisdictional immunity in this respect (par. 280 of the Court judgement). The Court stressed emphatically that such jurisdictional immunity, as a derivative of the principle of primacy of obligations under the Charter of the United Nations at the international level, in particular those relating to the Security Council does not find any justification in the Treaty of the European Community (par. 300 of the judgement). No international agreement can affect the competence structure defined in the Treaties, and thus the

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<sup>36</sup> Signed in Rome on 4 November 1950, Journal of Laws of 1993, No 61, item 284 as amended.

<sup>37</sup> For full case number, see footnote 29. What is interesting, the Kadi case lived to see its continuation (the so-called Kadi II case). See: Judgment of the Court (Grand Chamber) of 18 July 2013 — European Commission and others v Yassin Abdullah Kadi. Joined Cases C-584/10 P, C-593/10 P and C-595/10 P. Available at:

<http://curia.europa.eu/juris/liste.jsf?num=C-584/10> (accessed: 14.10.2013).

autonomy of the Community legal system, observance of which is ensured by the Court (par. 282 of the judgement). However in this context, another Court statement is important, the one affirming that control of the compliance with the law that should be provided by the Community court applies to the Community act serving to exercise given international agreement<sup>38</sup>, not an agreement as such. (par. 286 of the judgement).

To sum up then, the Court of First Instance, in its judgement, stood by the exclusion of the possibility of judicial review of EU regulations issued to implement Security Council resolutions. Thus, *a priori* it accepted the validity of the application in the European Union of restrictive measures to combat international terrorism. In the assessment of the position at issue, taking as basis that the rights of individuals, as well as the fact that “the procedure of entering persons suspected of financing terrorism onto the lists kept by the Security Council or sanctions committees was quite special – namely, it was sufficient for any State to report the person in order for the entry to be made”<sup>39</sup> – it seems that it went “one step too far”. Therefore, the reasoning of the European Court of Justice is not surprising when it, considering the appeal against the judgement of the Court of First Instance, did not share its optimism, emphasising, to a greater extent than the latter did, the autonomous nature of the EU legal system, which must not be affected by any international agreement. It should be stressed here that the Court – by opting for the control of the regulations – did not cross out the importance of the principle of primacy of the obligations arising from the Charter, but only objected to the issuance of regulations as if “by default”.

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<sup>38</sup> The Court also stressed that the UN Charter does not impose a pre-determined model for the implementation of Security Council resolutions. This implementation may be carried out in accordance with the rules applicable in this respect in the legal order of each State which is a member of the UN. The UN Charter leaves the UN members free to choose among the possible models for the adoption of such resolutions into their internal order (par. 298 of the judgement).

<sup>39</sup> W. Czapliński, op. cit., pp. 124–125.

#### IV. IN SUMMARY

What these considerations seem to confirm, “the idea of European security was shaped along by the development of principles and norms of international law”<sup>40</sup>. This thesis entitles to claim that regional organisations integrated themselves into the actions of the international community aimed at ensuring peace and security in the world, strengthening them with their activity. This shows therefore that, in the case of the UN, international security was – since its inception – not just a desirable state, but also the initial and structural value embedded in the activities of the organisation. However, in the case of the EU, security is an evolutionary value associated with the development of both, the organisation itself and the relationships with its participation.

Perhaps the discussed case T-306/01 divided the United Nations and the European Union in the field of control of the regulation issued by the latter on the basis of Security Council resolutions. Nevertheless, it constitutes evidence of a strong interaction between the organisations in question. The European Union referring to the provision of the Charter of the United Nations, as well as supporting the activities of the United Nations to ensure peace and security in the world shows the systemic nature of international law *in genere*. It also confirms that only joint actions based on effective cooperation are able to handle the fight against terrorism.

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<sup>40</sup> W. Malendowski, *Organizacja Bezpieczeństwa i Współpracy w Europie*, in: W. Malendowski, Cz. Mojsiewicz (Eds.), *Stosunki międzynarodowe*, Wrocław 2000, p. 441.

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## **SCOTLAND AT THE CROSSROADS BETWEEN THE EUROPEAN UNION AND THE UNITED KINGDOM**

**Keywords:** United Kingdom, Scotland, devolution, political systems, referendum.

**ABSTRACT:** Scottish Independence Referendum will take place on 18 September 2014. There would be only one question during referendum: “Should Scotland be an independent country? The reform of devolution established by Scotland Act 2012 is sometimes overlooked by observers as too little too late. The most principal issues of the referendum will be: economy, oil resources, currency, defense and European Union. Main doubt around referendum is whether Scotland would be better economically after Independence. Scotland’s position within the EU is likely to be shaped more by any agreements between the parties than by pre-existing principles of EU law.

Doubts about Scottish membership in the EU have to be viewed in the context of the referendum on the UK’s membership in the European Union, that will take place if the Conservative Party wins the 2015. British political class have always behaved differently towards the European integration than continental elites. The importance of the European dimension of the Scottish Independence Referendum was proved by Panelbase poll in May 2013.

### **I. SCOTTISH INDEPENDENCE REFERENDUM**

Scottish Independence Referendum will take place on 18 September 2014. Some observers point out that this date is not a coincidence – it is in close proximity to the 700th anniversary of the Battle of Bannockburn<sup>1</sup>

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<sup>1</sup> The Battle of Bannockburn in 1314 was one of the most famous Scottish victories during wars against England.

and 2014 Commonwealth Games. There would be only one question during referendum: "Should Scotland be an independent country? Scottish First Minister – Alex Salmond had originally wanted different version of this question: "Do you agree that Scotland should be an independent country", but many experts, like Robert Cialdini<sup>2</sup>, commented that it is biased in favour of a yes vote. Salmond, also without success, tried to put forward the third option – different than independence and status quo – into the referendum ballot (enlargement of the devolution called often "devo-max")<sup>3</sup>. A notion devo-max was coined in 2011 and quickly popularised by the media to describe full fiscal autonomy for Scotland. This notion follows examples of Spanish region of Catalonia, which possess a high degree of economic autonomy but without a full independence.

The foundation to Scottish Independence Referendum was created on the 15 October 2012 when Alex Salmond and David Cameron signed the "Edinburgh Agreement". Both governments agreed that the referendum should have a *"clear legal base, be legislated for by the Scottish Parliament, be conducted so as to command the confidence of parliaments, governments and people and deliver a fair test and a decisive expression of the views of people in Scotland and a result that everyone will respect"*<sup>4</sup>. Entitled to vote in this referendum will be inter alia: British citizens who are residents in Scotland; other Commonwealth citizens who are residents in Scotland and citizens of the 27 other European Union countries who are resident in Scotland. Scottish Parliament also extended voting rights in this referendum to 16 and 17 year olds. The referendum will be overseen by the UK Electoral Commission, that has already put limits for spending and duration of the official campaign. Electoral Commission was designed to have responsibility for: commenting on the wording of the referendum ques-

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<sup>2</sup> *Scottish referendum: is the SNP's question fair?* "The Guardian News Blog", <http://www.theguardian.com/politics/reality-check-with-polly-curtis/2012/jan/26/scottish-independence-snp> (accessed: 25.10.2013).

<sup>3</sup> S. Maxwell, O. Edwards, *Arguing for Independence: Evidence, Risk and the Wicked Issues*, Luath 2012, s. 83.

<sup>4</sup> *Agreement between the United Kingdom Government and the Scottish Government on a referendum on independence for Scotland*, Edinburg 15.10.2012, <http://www.scotland.gov.uk/Resource/0040/00404789.pdf> (accessed: 25.10.2013).

tion, registration of campaigners, designating lead campaign organisations, regulating campaign spending and donations, giving grants to lead campaign organisations, publishing guidance for permitted participants, reporting on the referendum process, the conduct of the poll and the announcement of the result<sup>5</sup>. The strongest groups representing both sides are “Yes Scotland” and “Better Together”. “Yes Scotland” has the support of two parties represented in the Scottish Parliament – the Scottish National Party, the Scottish Greens and three independent Members: Margo MacDonald, Jean Urquhart and John Finnie (former SNP Members). It is led by Blair Jenkins who has never been a member of any political party and worked as a Head of News and Current Affairs at both STV and BBC Scotland. “Better Together” lately has created extra units: “Forces Together”<sup>6</sup> emphasising the importance of the British Army and “Rural Better Together” aimed at the farmers.

The reform of devolution established by Scotland Act 2012 is sometimes overlooked by observers. Act amended the Scotland Act 1998 and made provision about the functions of the Scottish Ministers. Scotland Act broadened the range of fiscal autonomy of the Scottish institutions<sup>7</sup>. Still it may be considered as too little too late. It concerns only the income tax, Scottish institutions will not be actually able to utilize the new rights before 2015 and exercising this right would make Scottish tax system one of the most complicated in the world. SNP backed the Scotland Bill, but pointed out that it had been “bypassed by events” and strongly limited<sup>8</sup>.

So far there have been no opinion polls showing majority support for Independence bigger than 1%. Support for independence among voters is relatively high among males, mostly aged 18–25 and from economically deprived areas. These findings varied depending on research company – these made by Panelbase are usually showing the highest levels of support for independence and lowest levels of undecided comparing to Ipsos Mori

<sup>5</sup> Ibidem, section 12.

<sup>6</sup> <http://bettertogether.net/blog/entry/forces-together> (accessed: 25.10.2013)

<sup>7</sup> See <https://www.gov.uk/government/news/scotland-act-2012-available-online> (accessed 30.09.2013).

<sup>8</sup> *Scotland Bill becomes Scotland Act (2012) after Royal Assent*, BBC News Scotland, <http://www.bbc.co.uk/news/uk-scotland-17903145> (accessed: 25.10.2013).

or Scottish Social Attitudes Survey. The outcome of the referendum is still not settled, especially after taking into account astonishing rise of support for Scottish National Party before the last election. However, at least until now, the momentum has been with the opponents of independence<sup>9</sup>.

**Table 1.** Scottish Independence Referendum. Voting intentions in 2013

Organisation	Date	Yes	No	Undecided	Difference
YouGov/Times	16/09/13	32	52	13	-20
ICM/Scotsman on Sunday	13/09/13	32	49	19	-17
Panelbase/Sunday Times	05/09/13	37	47	16	-10
Panelbase/SNP	28/08/13	44	43	13	+1
TNS BMRB	27/08/13	25	47	28	-22
YouGov/Devo Plus	22/08/13	29	59	10	-30
Angus Reid	16/08/13	34	47	17	-13
Panelbase/Sunday Times	24/07/13	37	46	17	-9
Panelbase/Sunday Times	16/05/13	36	44	20	-8
Ashcroft	09/05/13	26	65	10	-29
Ipsos-MORI/Times	05/05/13	31	59	10	-28
Ashcroft	02/05/13	30	56	11	-26
TNS-BMRB/Herald	02/04/13	30	51	19	-21
Panelbase/Sunday Times	22/03/13	36	46	18	-10
TNS-BMRB/Scottish CND	28/02/13	33	52	15	-19
Ipsos-MORI/Times	09/02/13	34	55	11	-21
Angus Reid/Mail on Sunday	01/02/13	32	47	20	-15
Panelbase/Sunday Times	22/01/13	34	47	19	-13
Angus Reid/Sunday Express	04/01/13	32	50	16	-18

Source: <http://ukpollingreport.co.uk/scottish-independence-referendum> (accessed: 25.10.2013).

The most principal issues of the referendum will be: economy, oil resources, currency, defense and European Union. Main doubt around referendum is whether Scotland would be better economically after Inde-

<sup>9</sup> See <http://ukpollingreport.co.uk/blog/archives/category/scotland> (accessed 30.09.2013).



pendence. The Barnett formula has resulted in public spending per capita being higher in Scotland than England. Independent Scotland would inherit large part of UK's public debt. Moreover, the credit rating and borrowing rates of an independent Scotland would be probably much worse than before. Some reports claimed Scottish banks would have assets worth more than 1,200% of gross domestic product (more than Cyprus and Iceland during the onset of crisis). As report of UK's government states: The Scottish banking sector would be exceptionally large compared to the size of an independent Scotland's economy, making it more vulnerable to financial shocks than it is as part of the larger UK<sup>10</sup>. Fundamental to Scottish plans would be getting oil and gas revenues – SNP estimates that 80–90% of North Sea oil and gas fields will be inside Scottish territorial waters after independence. Over the past five years the average annual tax revenue from oil and gas has been £9.4bn. This represents only 1.7% of onshore tax revenues for the UK in 2011–12 but 20% of onshore tax revenues for Scotland<sup>11</sup>.

Salmond's policy is to retain the pound, but joining a formal currency union with London would need agreement with Whitehall. Moreover, at the moment all new countries accessing European Union do not have "opt-out" rights from euro. Salmond has tried to compare an independent Scotland with the Isle of Man – which has its own currency pegged to sterling and retained AAA credit rating<sup>12</sup>. Currency issue is really important as by George Osborne calculations 30% of Scottish good and services

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<sup>10</sup> Chief Secretary to the Treasury, *Scotland analysis: Financial services and banking*, Londyn 2013, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/200491/scotland\\_analysis\\_financial\\_services\\_and\\_banking\\_200513.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/200491/scotland_analysis_financial_services_and_banking_200513.pdf) (accessed: 25.10.2013). The main conclusion of this analysis is that (p.10): "Scotland has a strong and vibrant financial services industry. As part of the UK, firms and individuals benefit from a world-leading financial services sector and a large, integrated domestic market for financial services, with clear and effective arrangements for protecting consumers. This position would be put at risk if Scotland were to become independent, fragmenting the market and the bodies that have been put in place to protect customers".

<sup>11</sup> House of Lords, Select Committee on Economic Affairs, *The Economic Implications for the United Kingdom of Scottish Independence*, London 2013, paragraph 80.

<sup>12</sup> *Independent Scotland can keep pound and get AAA rating, Salmond predicts*, "The Herald" 15.07.2013.

are exported to the rest of UK (comparing to only 5% in the reverse direction). SNP also insists on removing all the UK's nuclear weapons, based near Glasgow – that could cause a lot of instability, as army reports show that there is no other place in UK which could serve as a base for this kind of weapons.

## II. SCOTLAND IN THE EUROPEAN UNION

The concept of independence in Europe may sound paradoxically and poses a challenge to the conventional perception of nationalism as a phenomenon and a political movement with specific purposes<sup>13</sup>. To explain the functioning of the regional parties such as the SNP, which, on the one hand, are looking for opportunities to create a new statehood and, at the same time, anticipate political and economic related to membership in the European Union for the newly created State restrictions, there is a need to extend the understanding of the concept of nationalism. Above mentioned paradox-has a virtual character – in times of globalization and transnational integration expectations of nationalists, which previously could be realized only in the form of a sovereign State, now are fulfilled through the establishment of a different form of a territorial political organization.

The attitude of the Scottish authorities will be of fundamental importance in this context. If the only aim is to quickly settle such detailed aspects of institutional presence of Scotland in the EU as the number of members of European Parliament chosen in Scotland or the number of weighted votes in the Council of the European Union, it will increase the likelihood of “rapid” option. As Jo Murkens rightly points out, the attitude of Scotland and the attitude of potentially opposing member states can be related to each other<sup>14</sup>.

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<sup>13</sup> A. Ichiro, *Scottish Nationalism and the Idea of Europe: Concepts of Europe and the Nation*, Edinburgh 2004, p. 110.

<sup>14</sup> J. Murkens, *An independent Scotland would need to apply for EU membership and would be compelled to adopt the euro*, <http://eprints.lse.ac.uk/39558/> (accessed:30.09.2013).

If Scotland attempts to gain a special treating – exemptions from the application of European rules, even similar to these previously conferred to the United Kingdom, a classic accession procedure will become more probable. The situation of the Scottish authorities is difficult as they have created quite unconstrained image of Scottish membership during electoral campaigns. For example, as mentioned before, governing SNP has made a promise to keep the pound sterling in the framework of the Monetary Union with London, which would require the consent of the United Kingdom after secession, and the opt-out clause in the accession treaty, as in the case of Denmark. This is not realistic, especially as in the current accession criteria, the adoption of common currency is mandatory (though, of course, the timing depends on the level of specific economic parameters). All states that have become new member of the European Union after 2004 are legally obliged to adopt Euro without any kind of opt-out clauses. It is hard to imagine that there would any room for negotiation for Scotland in this area, especially when for instance Italy would have to leave the EU if the chose to leave the Eurozone.

Similar is the situation with the famous British rebate. Currently the inhabitants of Scotland are ones of its biggest beneficiaries in the United Kingdom. In accordance with the report of the House of Commons<sup>15</sup>, according to calculations in 2008 and 2009, on average a resident of Scotland is a net contributor to the budget of the European Union at the amount of 16 pounds. In the case of the abolition of the rebate after the secession, this amount would rise fivefold (to 92 pounds). The British rebate is today a large controversy in Europe, there are suggestions of its total elimination, and it is difficult to expect that postulates to enlarge it to a newly created Scottish State would meet with a favourable reaction of the other Member States. Exclusion of Scotland from the rules of Schengen seems to be more probable, both United Kingdom and Ireland use the opt-out privilege. Scotland is in specific situation, which will share the land border with the only one country can have a beneficial effect<sup>16</sup>. It is not

<sup>15</sup> House of Commons Library, *Scotland, Independence and the EU*, London 2011, <http://www.parliament.uk/briefing-papers/SN06110> (accessed:30.09.2013).

<sup>16</sup> I. McLean, J. Gallagher, G. Lodge, *Scotland's Choices: The Referendum and What Happens Afterwards*, Oxford 2013.

clear whether Scotland will be looking for the extension of the British Protocol to the Charter of fundamental rights (which also Poland exercises). The bigger controversy would be created by the Common Fisheries Policy (CFP), the field is still important for Scotland, and the existing conditions laid down since in the 70s are not fully satisfactory<sup>17</sup>. It would be possible here to be able to invoke the case of Malta, which was able to gain the specific conditions for its fisheries in 2004.

Putting into doubt the declarations about Scottish independence made by the Scottish National Party (SNP), it must be pointed out that the procedure of leaving the European Union by citizens of Scotland seems similarly unclear. For forty years Scots have been exercising the rights and obligations under Community/EU law, Scotland has implemented hundreds of regulations, and Scottish companies have been active participants of the European trade<sup>18</sup>. At this level of integration in different areas coming back to the state before 1973 seems impossible.

Scottish National Party went through complete evolution starting from Eurosceptic positions. They became almost a Euroenthusiastic party during the 1980s. Some researchers pointed out short period of moderating enthusiasm at the beginning of 2000s<sup>19</sup>.

SNP's stance towards European Union is a full membership with exemptions, such as Euro opt-out. Most likely, the rest of UK (rUK – state created from UK after Scottish Independence) would be considered the continuator of the UK and Scotland as a new state. All the rights and obligations of UK would be transferred to rUK. For years SNP insisted that Scotland would have automatic entry into the EU when gaining independence. It was based on the view, that Scotland has been a part of EU and implementing its laws for 40 years, so it would be unfair to treat

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<sup>17</sup> House of Lords, *Progress of the Common Fisheries Policy: 21st Report of Session 2007–08, Vol. 2: Evidence*, London 2008, p. 28

<sup>18</sup> I. McLean, J. Gallagher, G. Lodge, *Scotland's Choices...*, op.cit.

<sup>19</sup> V. Tarditi, *The Scottish National Party's changing attitude towards the European Union*, SEI Working Paper No 11, EPERN, Working Paper, No 22, <https://www.sussex.ac.uk/webteam/gateway/file.php?name=sei-working-paper-no-112.pdf&site=266> (accessed: 30.10.2013).

Scotland as a “new country”<sup>20</sup>. Some negative signals from EU institutions and member-states led to quiet modification of SNP’s position – it now claims that Scotland outside European Union is not impossible anymore, but rather inconceivable. Nicola Sturgeon – Salmond’s deputy – argue that if there was a gap in Scottish membership more than 150,000 EU citizens who live in Scotland would face questions about their status. Present stance of SNP is that EU would adopt a simplified procedure for the negotiations and SNP hope that it could be completed between the referendum in 2014 and the planned independence in 2016. But is doubtful whether EU’s 28 members will agree to Scotland’s accession during such a short time, particularly after hearing opinions from other states last year. Spanish Foreign Minister José Manuel García-Margallo stated that an independent Scotland would have to “*join the queue*” for EU membership. Irish Minister of European Affairs, Lucinda Creighton, stated that “*if Scotland were to become independent, Scotland would have to apply for membership and that can be a lengthy process*”<sup>21</sup>.

European Commission is afraid of showing any kind of support for secession. Jose Manuel Barroso confirmed the view of Romano Prodi that “*a newly independent region would become a third party with respect to the Union and the treaties would, from the day of independence, not apply any more on its territory*”<sup>22</sup>. But as Commission spokesman stated – it is not an official statement of EU, as such can be only published after formal question from the member state. There are no doubts that Scotland would fulfill the entry qualifications of EU. At the same time doubts about formal status of Scotland would give UK and EU strong leverage in both kind of negotiations – about independence and EU membership. All the privileges enjoyed by the Scotland as a part of UK (i.e. fishery, budget rebate) probably would not last after independence. Moreover, other member states suffering from robust regional movements like Spain may be strongly

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<sup>20</sup> See T. Czapiewski, *Kształtowanie się systemu politycznego Szkocji*, Szczecin 2011, pp. 205–217.

<sup>21</sup> S. Johnson, *Ireland: Independent Scotland faces lengthy wait for EU membership*, “Daily Telegraph” 26.01.2013.

<sup>22</sup> A. Roxburgh, *Scotland’s EU bombshell? It’s bunkum from Barroso*, “The Guardian” 20.03.2013.

motivated to obstruct Scottish accession and not create an appealing precedence for i.e. Catalonia. As Article 49 TEU requires: “*The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements*”<sup>23</sup>.

Some difficult questions would be related to implications of secession for rUK within EU. Surely it would involve reduction in the UK's number of MEPs and probably change UK's voting weight within the Council of the European Union. There is no evidence to back the opinion that rUK might have to re-apply to the EU<sup>24</sup>. The hardest to determine is the effect secession would have to UK's position and influence in the EU.

The only alternative to the EU that Scotland has is membership of the European Free Trade Association (EFTA) and European Economic Area (EEA), which is the choice Norway has made. It has some obvious advantages, like access to EU's markets and without such a disadvantage like fulfilling all EU's accession requirements. It must 's be added that access to the internal market of EU has its price – accepting all EU's regulations concerning this area without any real possibility of influencing its shape. It would make Scotland's position in the EU much weaker than it has currently as a part of the United Kingdom<sup>25</sup>. It would also undermine all declarations of Alex Salmond about being active and influential in the global arena. As J. Murkens sums up – “*EEA/EFTA membership is neither attractive nor realistic*”<sup>26</sup> and the wisest strategy for Scotland would be to keep “*a low profile and go for smooth and rapid acceptance by the EU, or it*

<sup>23</sup> Dziennik Urzędowy Unii Europejskiej, 2010/C 83/01, <http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2010:083:SOM:PL:HTML> (accessed: 30.10.2013.)

<sup>24</sup> D. Furby, *Scottish independence and EU Accession*, “Business for New Europe” March 2012, pp. 7–9, [http://www.bnegroup.org/images/uploads/publications/files/In\\_Depth\\_-\\_Scottish\\_Independence\\_and\\_EU\\_Accession\\_-\\_BNE\\_March\\_2012\\_1.pdf](http://www.bnegroup.org/images/uploads/publications/files/In_Depth_-_Scottish_Independence_and_EU_Accession_-_BNE_March_2012_1.pdf) (accessed: 30.10.2013).

<sup>25</sup> Ibidem, pp. 2–3,

<sup>26</sup> J. Murkens, *An independent Scotland would need to apply for EU membership and would be compelled to adopt the euro*. *British Politics and Policy at LSE* (08.11.2011) Blog Entry, <http://eprints.lse.ac.uk/39558/> (accessed: 30.10.2013).

could enter negotiations in a spirit of confrontation and re-negotiate the terms of membership”<sup>27</sup>.

Summarizing, as stated by James Crawford and Alan Boyle in report “Opinion: Referendum on the Independence of Scotland – International Law Aspects”: “*Scotland’s position within the EU is likely to be shaped more by any agreements between the parties than by pre-existing principles of EU law*”<sup>28</sup>. Still, formal and political doubts should be seen in a present context. SNP is looking to maintaining ties with Europe because of the fear of becoming European periphery and on the grounds of economic benefit. These assessment could not be true in a few years’ time<sup>29</sup>. Particularly, as the conditions of possible Scottish membership are unknown. Official site of “Yes Scotland” campaigning states that “*The Scottish Government proposes to agree the terms of Scotland’s continued membership of the European Union between the date of the referendum, and the proposed date of independence in March 2016*”<sup>30</sup>.

Eventually, doubts about Scottish membership in the EU have to be viewed in the context of thereferendum on the UK’s membership in the European Union, that will take place if the Conservative Party wins the 2015 General Election. Salmond argues that Scotland’s place in Europe is in danger not because of Independence referendum, but because of the Westminster’s Eurosceptic stance and increasing results of UKIP in the English elections<sup>31</sup>. Conundrum created by two referendums in such a short time and in some way overlapping, led constitutional expert Alan Trench to suggestion that it would be better to call for a postponement of the Scottish referendum.

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<sup>27</sup> Ibidem.

<sup>28</sup> See [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/79408/Annex\\_A.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/79408/Annex_A.pdf) (accessed 30.09.2013).

<sup>29</sup> B. Jamieson, *EU vote brings more uncertainty*, “The Scotsman” 16.05.2013.

<sup>30</sup> <http://www.yesscotland.net/answers/what-about-european-union> (accessed: 25.10.2013).

<sup>31</sup> S. Johnson, *Alex Salmond accuses David Cameron of ‘double dealing’ over EU and Scottish referendums*, “Daily Telegraph” 3.07.2012.



The importance of the European dimension of the Scottish Independence Referendum was proved by Panelbase poll in May 2013. Asked “*how would you be likely to vote in next year’s Scottish independence referendum if the UK was looking likely to vote to withdraw from the EU?*”, 44% of respondents answered that they would vote Yes, equal to 44% of respondents who were likely to vote No. In the same poll asked about voting in the referendum without any provisions about EU only 36% answered Yes<sup>32</sup>.

### III. BRITISH EUROSCEPTICISM AS A FACTOR IN THE SCOTTISH REFERENDUM

From the very beginnings in the postwar period attitude to the European integration has been a destabilizing factor for British political parties—to a greater extent for each party than for the whole party system. This was so because the dividing line was not between but within political parties. A large part of the most important political and personal disputes in British politics had its origins in differences in attitudes towards the development of the European integration<sup>33</sup>.

British political class always behaved differently towards the European integration than continental elites. Since Churchill, continental Europe has been just the last of the three circles of International cooperation—the first two were the Commonwealth of Nations and widely understood circle of English-speaking countries, which meant particularly Atlantic cooperation<sup>34</sup>. Targeted development of European integration from the perspective of the United Kingdom was interpreted more as expanding (territorially) than deepening (competences). British ideal of the European Union is closer to free trade zone than the transnational political entity nearing

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<sup>32</sup> See <http://www.panelbase.com/news/TheSundayTimesScottishPollTables190513.pdf> (accessed 30.09.2013).

<sup>33</sup> L. Dorn, L. Dittmer, *The United Kingdom as an outsider to the EU*, Potsdam 2008, pp. 17–20; S. Wall, *The Official History of Britain and the European Community, Vol. II: From Rejection to Referendum, 1963–1975*, London 2012, pp. 366–370.

<sup>34</sup> H. Young, *This Blessed Plot: Britain and Europe from Churchill to Blair*, London 1998, pp. 21–23.



a federation. Consequently, membership in the European Union was always judged from the pragmatic point of view – specific gains or losses for British citizens. United Kingdom has lacked politicians treating the European project as a value itself, which is so frequent on the continent.

David Cameron – Prime Minister of the United Kingdom – in the first period of his government tried to downplay the significance of European issues in the British political agenda. He spoke about the European obsession of certain politicians. Two interrelated phenomena forced a strong response Cameron. Firstly, from the end of 2011, Cameron has had to deal with the revolt of backbenchers within the Conservative Party about the issue of the European Union. Secondly, both the results of surveys in recent years and the outcome of the last election to local government, suggested a stable trend of increasing support for the Eurosceptic UKIP at the expense of support for the Conservative Party.

Political project, which Cameron prepared in response to the growing problem, has two dimensions. The first is the commitment to carry out the referendum on the United Kingdom's membership in the European Union in 2017, if the Conservative Party wins the next general elections to the Parliament in 2015. The second is slowly revealed vision of the European Union reform. Both dimensions have points in common – referendum on membership will concern new conditions of membership, negotiated by the United Kingdom, in accordance with the provisions of the reform. The weakness of Cameron's leadership is so significant that backbenchers coerced change of the legislative programme for 2013 and voting over referendum law to deprive Prime Minister of possibility to change previous decision during next term. This proposal was a private member's bill and adopted seamlessly.

Euroscepticism of British society should not be overestimated. Electoral success of UKIP had broader sources than the disappointment with the EU – only 60% of the UKIP supporters declared unequivocal support for the United Kingdom leaving the EU. It seems that UKIP's success has rather been the result of disappointment with the political class. Trend to characterize UKIP as radical nationalists seems similarly wrong. Comparing the British polls with those carried out in other member states (France, the Netherlands) it appears that the lack of confidence in the EU

institutions is similarly high. What's more, partly as a result of the way the media cover the subject, the British have a distorted image of the EU, greatly overestimating real costs of EU administration and the amount of British contribution. The EU has become emblem for the process of increasing weakness and ineffectiveness of public administration and the problem of immigration<sup>35</sup>.

As the process of European integration increased in intensity in the last 50 years, Europe has changed the environment in which the further intensification of the decentralization processes of the United Kingdom. These amendments created both the specific "capacities" (window of opportunity according to the terminology of John Kingdon)<sup>36</sup>, and to a certain extent, determine the characteristics of these processes. Research carried out by Paolo Dardanelli<sup>37</sup> in Scotland showed that the main cause of the different results of the devolution referendums between 1979 and 1997 was the progress of European integration. During referendum, according to Dardanelli, the attitude of the Scots was determined, paradoxically, by their view on the issue of Scottish independence and European integration has reduced concerns over independence.

Increasing integration and the specifics of functioning of an international organization which European Union formally is, manifested in the introduction of the concept of supranationality, have reconstructed the concept of independence<sup>38</sup>. Even in the Polish political discourse definitions are getting less precise, and in the context of Scotland, it means, among other things, the problem with distinction between 'devo max'

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<sup>35</sup> *Labour and the Europe. Playing with fire*, "The Economist" 10.11.2013; P. Kellner, *Worried Nationalists, Pragmatic Nationalists and Progressive Internationalists – Who might win a British referendum on Europe?* [http://ecfr.eu/page/-/ECFR\\_UK\\_paper.pdf](http://ecfr.eu/page/-/ECFR_UK_paper.pdf) (accessed: 13.10.2013).

<sup>36</sup> J. Kingdon, *Agendas, Alternatives and Public Policies*, Crawfordville 2011, p. 195 and subsequent.

<sup>37</sup> P. Dardanelli, *Democratic Deficit or the Europeanisation of Secession? Explaining the Devolution Referendums in Scotland*, „Political Studies” 2005, Vol. 53.

<sup>38</sup> J. Ruskowski, *Wstęp do studiów europejskich. Zagadnienia teoretyczne i metodologiczne*, Warszawa 2007, pp. 264–266.

(maximum devolution)<sup>39</sup> and independence combined with leaving several categories of links with the United Kingdom (including national defence affairs). In this perspective, European integration can be seen as an ally in undermining concepts essential for a modern state – sovereignty, territory or nation<sup>40</sup>. Also, it allows to build a new, unique vision for the future, that is situated between secession and simple decentralization.

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<sup>39</sup> S. Johnson, *Alex Salmond: Devomax instead of independence is very attractive*, „Daily Telegraph” 2.07.2012

<sup>40</sup> M. Keating, *European Integration and Nationalities Question*, „Politics & Society” 2004, Vol.32, No. 3, pp. 367–388.

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## **STRATEGIC PLANNING, LIMITS TO GRAND STRATEGY, AND STRATEGIC REVIEW: METHODS AND PROBLEMS OF FORECASTING SOCIAL PHENOMENA**

**Keywords:** strategic management, strategic planning, grand strategy, tsunami effect, black swan.

**ABSTRACT:** Planning is a process of defining goals and identifying means and methods to achieve them, effective and relevant to future operating conditions, and therefore a diagnosis of a current situation, design and choice of goals, and ways to reach them. The main substance of this publication is to present research methods (methods of prediction) relating to the creation of the future of an organisation, especially a political organisation, or a country. They are: strategic planning and strategic review. In addition, the problems relating directly to the above methods such as limits to grand strategy, the Black Swan effect, the Tsunami effect, and the arguments against normative methods will be presented.

Every organisation – be it a company or a state – if it is to have a future, must think about it and create it. It must therefore consciously shape its development, which is determined by its goals, resources, and opportunities (and risks) inherent in the environment. It must develop current and long-term goals and devise ways and means to achieve them in the changing environment, even in the context of the rapid changes taking place in the modern world. To shape its future, it must remove numerous obstacles and limitations to overcome risks and unexpected events, it must have a vision of the future, draw the lines of action, dimensions, and ways to realise this vision<sup>1</sup>.

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<sup>1</sup> J. Penc, *Encyklopedia zarządzania. Podstawowe kategorie i terminy*, Łódź 2008, p. 651.

This, as mentioned, refers to both the realms of business and politics (if the two can be separated at all). The nature of politics in turn is prediction. Therefore, politicians must think about the future. There is scientific evidence to support politicians, for example, they can base on expert analyses. To create such analyses, scientists collect data from the real world. For obvious reasons, scientists can collect data only from well-described parts of the system. If the indications point to a regularity, on this basis a theory predicting the nature or behaviour of parts of the system larger than observed can be built. In this way, the theory can describe the system without any reference to actual data. The most important point of theory lies in its ability to predict the future<sup>2</sup>.

So, is the future predictable? The answer to this question can be formulated as follows: the future is not predictable in detail, nor in concrete terms, can be unpredictable when a page of history turns, but it is predictable in the major trends and tendencies towards fundamental changes that result in conclusions sufficient to begin work on the study of the future<sup>3</sup>.

The main substance of this publication is to present research methods (methods of prediction) relating to the creation of the future of an organisation, especially a political organisation, or a country. They are: *strategic planning* and *strategic review*. In addition, the problems relating directly to the above methods such as limits to grand strategy, the *Black Swan* effect, the *Tsunami* effect, and the arguments against normative methods will be presented.

At this point, it should be mentioned what classifications of forecasting methods are currently in use. This is reasonable, inasmuch as two of the above-mentioned methods, i.e., forecasting and foresight are often treated as normative methods, and those – despite many advantages – bring about threats. Presently, reference books list several types of forecasting methods, and usually they are divided into: passive methods (e.g., intuitive and exploratory methods), which are primarily located in the

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<sup>2</sup> W. Unge, *W poszukiwaniu uporządkowanej niepewności*, „Unia@Polska. Niezależny magazyn europejski” 2005, No. 5–6.

<sup>3</sup> A. Karpiński, *Jak tworzyć długookresową strategię rozwoju dla kraju i regionu. Metodyka strategicznego myślenia o przyszłości*, Warszawa 2002, p. 21.

area of intellectual and cognitive research, and active methods, focused directly on practice<sup>4</sup>.

The latter include normative methods, also known as technological methods, which are directly targeted at the planning or alteration of reality. It precedes such action as drafting a future model and determining the direction of changes and methods of their implementation in a desired and predefined manner. Proponents of this method also assume that close cooperation between theorists (predictors) and the practices of political life (decision makers) may in the future lead to the creation of a normative model of reality. This position rejects not only the case of incidental or fatalistic conception of the future, but also the conviction that having set future goals, we can define (programme) effective measures and ways to realise the most theoretical models of the future. Normative methods lead either to the so-called *realistic utopias* (such as the collapse of the colonial system or the Eastern bloc) or collections of the so-called conditioned wishes that contain false indications of implementation<sup>5</sup>. But apart from the normative forecasting distortions, it should be admitted that modern planning at the state level without the support of (not to say approval and funding from) political and business decision-makers is not possible.

Efforts to achieve an objective are the subject of planning, and they show how the existing potential of current and future reserves and resources can be used to ensure an organisation's existence and long-term effectiveness. Planning in organisations is therefore a process of setting goals and choosing means and methods of achieving them. It leads to the creation of strategic and operational plans. *Strategic plans* set directions for an organisation's activity and define its overall objectives, while *operational plans* provide detailed guidelines for the execution or implementation of strategic plans in daily operations. Both of these types of plans are important to the organisation, but the former are given the highest prior-

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<sup>4</sup> K. J. Stryjski, *Prognozowanie i symulacje międzynarodowe*, Łódź 2004, p. 52.

<sup>5</sup> Ibidem, pp. 52–53. Of course, it must be remembered that this division is conventional, because depending on the use of the intuitive method (e.g., the Delphi method), it can be interpreted as a way to achieve specific objectives by policy makers and “promoted” in some measure to the position of operative method.

ity, as they impact on the activities of the organisation in a wide range and are formulated for many years, their effects substantial and long-lasting. Strategic plans also mean preparing the organisation for the future and cause significant quantitative and structural-qualitative changes in its potential, structure, and culture. Operational plans are in turn a derivative of strategic plans, are formulated in a more detailed manner and for short periods. Therefore, the efforts of planners are focused on preparing strategic plans, on identifying and solving problems affecting the future of the organisation, and thus strategic planning<sup>6</sup>.

What is worth considering here is the very notion of strategy. Origins of the word *strategy* have roots in the language used by the military and initially contained only military references. The classical military thinker, Carl von Clausewitz, defined its essence in the first meaning as follows: *Strategy is the employment of the battle as the means towards the attainment of the object of the War. In other words, tactics is the employment of armed forces in combat, and strategy is the employment of the battle to gain the end of War*<sup>7</sup>. It was not until after World War II that the concept of strategy was tied directly and strongly to the management of companies and the activities of the state in the economy<sup>8</sup>. Moving from a military meaning to a general one was relatively simple. Strategy in a general sense, not just a military one, is when one does not surrender to a rapid or random course of economic or social events, but wants to recognise it and steer it in line with the primary goal they have set for themselves and through the use of carefully selected means. The notion of strategy also is a category completely closed in only one category of time, namely in the future. By its very nature, it always speaks about future actions. This does not exclude, of course, analysis of strategy and the results *ex post* or in the course of its conduct. But its essence always remains the projection of future actions<sup>9</sup>.

<sup>6</sup> Based on: J. Penc, *Encyklopedia zarządzania...*, op. cit., pp. 651–652.

<sup>7</sup> D. Schoessler, *Clausewitz*, Lublin 1995, p. 80, at: A. Karpiński, *Jak tworzyć długookresową strategię...*, op. cit., p. 38.

<sup>8</sup> A. Borczuch, *Strategia wojenna a strategia zarządzania przedsiębiorstwem*, „Ekonomia i Organizacja Przedsiębiorstwa” 2004, No. 4, at: A. Karpiński, *Jak tworzyć długookresową strategię...*, op. cit., p. 38.

<sup>9</sup> A. Karpiński, *Jak tworzyć długookresową strategię...*, op. cit., p. 39.

States creating their grand strategies must take into account the space in which they can invest their plans. The concept of space in the historical development and various cultures evolved, as did other elements of the attainment of civilisation. In the old days, people lived in spaces confined by natural barriers, as the transport technology was poor, and traveling on foot and on horseback took very long, and only with the help of railway at the beginning of the twentieth century did man begin to conquer space. Another enclosure of space were limits of political and religious power (e.g., the *cuius regio eius religio* principle, translated as “Whose realm, his religion”) or clan-tribal one. The development of transportation and communication technologies plus political progress ensuring growing personal freedom resulted in a transition from a world of small and confined spaces to a world of big and open ones. These open spaces were always confined, but their boundaries extended. This is evident when comparing the seas and oceans or the deserts and steppes with airspace and, since the mid-twentieth century, outer space. The colonial conquests of the Europeans also were the conquest of space, and success in this competition between the colonisers was enjoyed by nations powerful at sea, good sailors, and sea warriors<sup>10</sup>.

Nowadays, it is quite obvious that spaces are getting more and more filled or even crowded. In addition, elements that fill spaces are structured – to some extent they are in order and in chaos. There are four aspects that are especially important to fully understand a specific space in which state strategies are developed and implemented: 1 Space as a function of cultural heritage such as tradition and social memory; 2 Space as a function of the dynamics of the social structure and economic development, especially the accelerated vertical and horizontal mobility of people through the development of market economy; 3 Space as a function of the development of technologies, especially technologies of transportation, communications, working tools, and weapons, as the result of which one can see and feel distance shrinking and areas of activity expanding; 4 Space as a choice of the directions and methods of action oriented to goals (strategic concept of space). Such activity is always a system of movements.

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<sup>10</sup> W. Lamentowicz, *Granice strategii państwa. Efekt Tsunami*, Częstochowa 2012, p. 31.



Movement (of troops, capital, ideas, technology, etc.) always occurs in spaces specific to what is moving. The strategic management of space is therefore a key to victory<sup>11</sup>.

The position of actors, including states, in key spaces and the ability to change it rapidly and unexpectedly (flanking manoeuvre, encirclement, going behind enemy lines on the battlefield) are the most important resources and/or strategic skills. The art of the rapid manoeuvring of resources in spaces relevant for strategic success is becoming a more and more valuable asset. What makes a space strategically relevant? The battlefield and its properties, manoeuvre room, and knowledge of the opponents are the factors in the perception and imagining of a space and the opportunities it offers. The ability to achieve the objectives of grand strategy depends to a very high degree on three abilities of the key organs of the state: 1 The ability to move in spaces large and small, confined and open, loosely filled and crowded, segmented and nonsegmented; 2 The ability to achieve an appropriate rate of these movements, especially a speed greater than competitors' or enemies'; 3 The ability to surprise opponents with moves<sup>12</sup>.

Among others, the prediction of social phenomena (in a global sense) is hindered (limited) by *evolving nature of social reality* – the reality we live in is changing radically. The demands of history require that new general knowledge be complemented by new information about new epochs. Therefore, general knowledge has little relevance, in itself it must be saturated with new information. Consequently, in order to continue to predict, new concrete historical knowledge must be taken into account<sup>13</sup>. Common manifestations of the confusion of changes and indefiniteness of decision-making situations can be the result of the increasing complexity of the global system. Evidence for this can be phenomena referred to

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<sup>11</sup> Ibidem, pp. 32–33.

<sup>12</sup> Ibidem, pp. 35–36.

<sup>13</sup> Materials about forecasting made available by M. Solak, in Author's possession. See also: M. Karwat, *Syndromatyczny charakter przedmiotu nauki o polityce*, in: K. A. Wojtaszczyk, A. Mirska (Eds.), *Demokratyczna Polska w globalizującym się świecie – I Ogólnopolski Kongres Politologii*, Warszawa 22–24.09.2009, Warszawa 2009, pp. 175–188.

as the Black Swan<sup>14</sup>. What are they? Well, for centuries in Europe there was a conviction that all swans were white. What is more, there was even a saying that something was so obvious as the fact that all swans were white. This state of affairs continued to more or less the seventeenth century, when Danish researchers discovered a new continent, Australia, and with it, new species of plants and animals. Among the latter, particular attention was drawn to swans, whose plumage was ... black. It is worth taking a moment to reflect on the event. For centuries, every observation confirmed the view on the colour of swans. But it was enough for only one case observed on an area unknown to the then civilisation to destroy whole millennia of continuous confirmations of the belief that all swans were white. The swan discovered in Australia turned out to be something incredible, unexpected, or even impossible. The Black Swan was popularised by N. N. Taleb, a financier and investor on Wall Street, whose mathematical and philosophical passion led to fierce criticism of the functioning of banks, brokerage houses, investment funds, and many other financial institutions. In a book titled *Black Swan. The Impact of the Highly Improbable* (London, 2007), he explained the concept as follows: *It is an event with the following three attributes: First, it is an outlier, as it lies outside the realm of regular expectations, because nothing in the past can convincingly point to its possibility. Second, it carries an extreme impact. Third, in spite of its outlier status, human nature makes us concoct explanations for its occurrence after the fact, making it explainable and predictable*<sup>15</sup>.

High situational risk and new challenges to strategists favour decision-making errors, but new risks and challenges need not mean interference of three extreme states that W. Lamentowicz called the Tsunami effect: 1 The total unpredictability of spontaneous processes running erratically and nonlinearly within political institutions; 2 The complete uncontrollability of the global system due to structural, material, ideological, and

<sup>14</sup> W. Lamentowicz, *Granice strategii...*, op. cit., p. 56.

<sup>15</sup> G. Malinowski, *Czarny Łabędź*, [http://www.felieton.pl/2986\\_czarny-labedz.html](http://www.felieton.pl/2986_czarny-labedz.html) (accessed: 30.12.2012); N. N. Taleb, *The Black Swan: The Impact of the Highly Improbable*, [http://www.nytimes.com/2007/04/22/books/chapters/0422-1st-taleb.html?\\_r=0](http://www.nytimes.com/2007/04/22/books/chapters/0422-1st-taleb.html?_r=0) (accessed: 30.12.2012); N. N. Taleb, *Ten principles for a Black Swan-proof world*, <http://www.fooledbyrandomness.com/tenprinciples.pdf> (accessed: 30.12.2012).

intellectual constraints; 3 The inability of the strategic (political, economic, and military-police) elites to devise and implement strategies adequate for the situation, strategies with an appropriate level of innovation as well as regulatory and adaptive potential good enough for the threats and challenges<sup>16</sup>. As noted by Lamentowicz, the main theses associated with the Tsunami effect as the final frontier of strategic thinking and action can be described in a couple of points: 1 The ontic problems with the nonlinear nature of many realities in which we need/want to act lead to epistemological difficulties and practical problems with effective, intentional action organised by rationally designed strategies. Accordingly, we are in a circle of fundamental categories such as multiple realities, their exploration, organised intentional action, fundamental to ontology, epistemology, and praxeology. Without such a foundation, reflection on strategies is doomed to superficiality and lack of intellectual seriousness. 2 A poor recognition and understanding of these ontic, new conditions of civilisation may be the cause of the Tsunami effect, generated at the meeting point of the objective barriers and subjective limitations of rationality of thinking and efficiency of action, including action organised by strategic thinking. The Tsunami effect occurs when no strategy is effective, when all the actors are helpless, and the situation is hopeless. 3 Strategies are created above all to ensure order and regularity, to reduce uncertainty and risk in the development, for the development to be driven by our will, mind, and interests, and for the battles to be won. However, sometimes we are infected with the uncontrollability of our environment, and instead of establishing our order in it, we succumb to imported disorder, which permeates our regulatory institutions and paralyses them by the Tsunami effect. The strategist is then helpless or – even worse – becomes a victim and a prisoner of chaos, which they were going to control by their change management strategy<sup>17</sup>.

For this not to happen, practitioners and theorists are trying to develop more and more perfect ways of planning/strategic management. The trends in strategic management, developed as early as in the nineties, not-

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<sup>16</sup> W. Lamentowicz, *Granice strategii...*, op. cit., p. 57.

<sup>17</sup> Ibidem, pp. 58–59.

ing the failure of the previous methods and the successes of organisations implementing innovation, quite clearly indicate four basic factors, the conditions for the success of any organisation: 1 The attitude to change and the ability to manage it; 2 Restoration of the significance of the quality elements of management; 3 Keeping an atmosphere and efficiency of continuous exploration and creativity; 4 Openness and ecoempathy<sup>18</sup>.

The classical definition of *strategic management* inextricably links it with the phenomena of turbulent, unpredictable changes, their increasing dynamics and scale, and what that means – the inadequacy of adaptive and regulatory activities. What becomes necessary are the ability and readiness to manage *strategic change*, requiring: 1 A change in the basic concept of the functioning of the organisation (strategic course); 2 A change in the strategic potential of the organisation; 3 A change in the strategic culture of the organisation<sup>19</sup>.

Meanwhile, it is not human nature at all to rationally search for the best solutions, but to tackle as soon as possible a problematic situation leading to the necessity of making choices. In practice, what dominates is narrow pragmatism, typical of us – minimising any effort – and narcissism, giving a sense of satisfaction with what has been accomplished. We appreciate stability, which gives a sense of certainty and durability within a state that is more or less convenient, not necessarily the best. We do not like change, we are naturally distrustful of “novelties”<sup>20</sup>.

These “novelties,” however, sometimes even the strength of an aforementioned Black Swan, come and every once in while destabilise our plans. The basis of good planning once again proves to be a preliminary study (inquiry and factual research more and more often ignored in favour of advice given by Dr Google) aimed at providing reliable and, whenever possible, complete information about the object. A strategic review can be most helpful in it. It is treated as a tool for strategic planning (manage-

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<sup>18</sup> T. Lambert, *Problemy zarządzania*, Warszawa 2000; J. Penc, *Zarządzanie dla przyszłości*, Kraków 1998, K. Obłój, *Strategia sukcesu firmy*, Warszawa 1998, at: C. Rutkowski, *Przegląd strategiczny jako narzędzie polityki*, Warszawa 2003, p. 16.

<sup>19</sup> H. I. Ansoff, *Zarządzanie strategiczne*, Warszawa 1985, at: C. Rutkowski, *Przegląd strategiczny ...*, op. cit., p. 16.

<sup>20</sup> C. Rutkowski, *Przegląd strategiczny ...*, op. cit., p. 17.

ment), used to obtain a deliberate and structured information base to make choices (make mainly strategic decisions) at every (any) stage of the planning process (management)<sup>21</sup>.

Such a definition, as noted by Rutkowski, has the following consequences: 1 A strategic review is made the definitional equivalent of a strategic planning tool. This remark seems to be necessary in view of a quite popular perception that it as a “stage” or “phase” of the planning process. 2 The results of the strategic review do not constitute some more or less self-contained result of planning, they, however, play an auxiliary role, supporting the process and determining its course, value, and validity (application) of the results; 3 The strategic review implicitly refers to the process of action. Therefore, maybe its description, explanation, or standardisation should be determined primarily on the basis of the sciences of action, with the proper methodology and instrumentation; 4 The essence of the review is to provide (obtain) deliberate and structured information rationalising the groundwork for decision-making in the course of strategic planning (management); 5 Maybe the tool of the strategic review should be and is used during the whole strategic planning process, and not just in the initial stage before it starts<sup>22</sup>.

In the practical application of the strategic review, in view of its role and mission in the process of planning and implementation of policy, creating the conditions for its usefulness as a tool, there should be a clear distinguish between *review goals* and *products* and *planning goals* and *products*. The review provides information, more precisely, knowledge, it does not provide, however, ready-made solutions or decision drafts. The latter are the result of the whole process of *planning*, which has the results of the *review* placed at its disposal. The distinction is a much-needed treatment in the light of confusion over the ends and means, overinterpretation of strategic review tasks, fairly common both in theory and in practice. For the same reason, one should emphasise once again the nature of the relationship between the information obtained as the result of a *review* and the information contained in a *plan* or *decision*. When designing a plan, preparing a decision, one has

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<sup>21</sup> Ibidem, p. 23.

<sup>22</sup> Ibidem, pp. 24–25.

knowledge gained through review, which prevents putting an equal sign between the two *sets of information*, or presuming a relation of the linear result of the decision (plan) from the review results. Both the *planner* and *decision-maker* can (should), but do not have to, include the information provided by the review in further work planning, in making choices. Such information remains within their planning and decision-making base, and only the planner's will determines whether it will be included or not, and the extent and manner of its use in *management*<sup>23</sup>.

Such reviews are prepared by, among others, structures involved in security in a broad sense. An example is the Polish *National Security Strategic Review* (*Strategiczny Przegląd Bezpieczeństwa Narodowego*, SPBN). Its establishment was justified by the fact that increased complexity and dynamic changes in security environment call for constant reflection on the effectiveness and integration of Poland's national security policy, recognising whether all challenges have been identified in terms of both threats and chances and whether theory and practice in the field of national security policy are coherent, with no competences overlapping and fields that remain uncovered. Therefore, to address all security aspects it is necessary to develop comprehensive approach that would go beyond traditional perception of national security. This need was the core inspiration for the National Security Strategic Review, started by the National Security Bureau in November 2010. The National Security Strategic Review is defined as a studies enterprise, analytical and conceptual, aimed at establishing credible (justified and documented) and comprehensive knowledge about the state and prospects of national security and developing recommendations to the highest authorities of the state in areas of its strategic management. Included in its contents are: a diagnosis of the state as a subject of national security, including identification of its national interests and strategic goals; a forecast of shaping the strategic environment (conditions); a projection of the possible and desired options of the operation and preparatory strategies<sup>24</sup>.

<sup>23</sup> Ibidem, p. 25.

<sup>24</sup> *Strategiczny Przegląd Bezpieczeństwa Narodowego*, [http://www.bbn.gov.pl/palm/pl/568/2650/Strategiczny\\_Przegląd\\_Bezpieczenstwa\\_Narodowego.html](http://www.bbn.gov.pl/palm/pl/568/2650/Strategiczny_Przegląd_Bezpieczenstwa_Narodowego.html) (accessed: 30.12.2012).

Be not deceived, one will never be prepared for all eventualities, but the risk of the occurrence of events perceived as negative can be greatly reduced. As mentioned, a real help can be, to name but a few, a well-designed strategic review, trying to a large extent to eliminate the so-called management discontinuities<sup>25</sup>.

The research methods that are used to plan the future resemble a research process of a political scientist. The basis of the research are factual, empirical, and historical research findings. They provide the analytical material for synthesis. What characterises them are the methodology and cognitive status of research on current facts and social processes. The subject is in direct contact with the changing reality. It should also be emphasised that, with no general theory, factual research of a political scientist would be blind, and, without factual research, the general theory void<sup>26</sup>. One of the difficulties of good (effective – recognising the practical purpose of science) prediction is the collection of reliable data (needed in strategic planning, the construction of a strategic review, etc.). These and other difficulties that make us today unable to take full advantage of forecasting social processes in practice (at the national and international levels) and the fact that the methodology level of forecasting is still assessed as imperfect, all this should not constitute a development barrier in this field for too long. Changes will be enforced by the needs of political, economic, or military practice, but the aspirations that decision-making centres have to more and more accurately recognize the current state and predict the evolution of the current reality in the desired direc-

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<sup>25</sup> Discontinuity is an organisation management process state in which: 1 In the organisation and/or its environment there have been phenomena/events/processes critical to its survival; 2 These phenomena were not included in the information model providing the basis for management; 3 Lack of convenient information (at the time) had nothing to do with the organisation or performance of tools of monitoring and forecasting activities – the organisation could not have foreseen the situation; 4 The ability to maintain the existence and solving the problem lie within the organisation, in its construction. The situation of discontinuity in its pure form is thus the result of limitations of organisational cognition, the actual extent of the exploration of the environment. Its source are phenomena, events occurring in an unlimited space beyond the scope of monitoring and prediction. C. Rutkowski, *Przegląd strategiczny...*, op.cit., pp. 27–28.

<sup>26</sup> Materials about forecasting made available by M. Solak, in Author's possession.



tion will also play a considerable role. The said changes will be furthered by the rapid development of technology in general, especially computer technology, and the continuous improvement of social communication and monitoring of virtually all of the procedures and processes, including those on an international scale<sup>27</sup>.

Subjects taught in science and humanist studies can serve the development of the science of forecasting. The author of this publication for several years has successfully been teaching classes in Forecasting and International Simulations (to postgraduate students of international relations). Theory and academic practice can be extremely helpful, but students do not always have – within political and social phenomena – good models to follow. The theory of decision-making process involves an accurate assessment of future states of affairs and effects in order to join through action the cause and effect chain, but too often practice contradicts theory. A community promised the realisation of a target will change on the way to achieving it, as will the attitudes and behaviours of decision makers and implementers. A theory remains a theory where magical thinking dominates, where politicians think that reality can be controlled with decrees<sup>28</sup>.

Improving decision-making requires knowledge about the future. Not a full knowledge, because it is still impossible to achieve, but a specific evaluation of the effects of decision-making on the basis of the intended results. But the notion should be recalled that the division into past and future is linked to our notions of reason and free will. Within a fixed scheme, we can accurately see both a specific past and future. Future events already exist, and we just move towards them, still unable to read them. Those that will happen are for the time being one of pseudopasts, one of a wide choice, but not having sufficient knowledge of the factors that determine them, we are unable to anticipate them<sup>29</sup>.

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<sup>27</sup> K. J. Stryjski, *Prognozy i symulacje międzynarodowe*, „Studia Międzynarodowe. Zeszyty Naukowe WSSM w Łodzi” 2003, No. 1.

<sup>28</sup> A. Sepkowski, *Człowiek a przyszłość*, Toruń 2005, p. 65.

<sup>29</sup> Ibidem, pp. 84–85. See also: Ł. Donaj, *Chosen Problems of Forecasting Social Phenomena: Forecasting, Backcasting, and Foresight*, “PolitBook” 2012, No. 2.



As noted by Płoszajski, thinking, and even more so writing, about the future is as uneasy as it is ungrateful. The problem is that although we all anticipate the coming revolution in the organisation, no one knows what twenty-first century organisations will really look like. The world of organisations is subject to change so deep and multiform that the reality that emerges as a result cannot be analysed using the existing theoretical concepts and theoretical instruments. Observation of many of these new phenomena and processes not only leads us into questioning a number of old theories, approaches, and analytical categories, but also can give rise to the need to reformulate the most fundamental principles of the philosophy of management<sup>30</sup>, in particular, the management of structures as large as states. Only time will tell whether our ideas for new strategies, concepts, and goals set for these structures will be right.

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<sup>30</sup> P. Płoszajski, *Organizacja przyszłości: przerażony kameleon*, <http://pl.pdfsb.com/readonline/5a6c6c4c65673937566e6438446e396a56413d3d-3271685> (accessed: 30.12.2012).

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## NEW OLD WARS – ASYMMETRIC ACTS OF WAR IN THE 21<sup>ST</sup> CENTURY

**Keywords:** modern warfare, asymmetric threat, classic wars, economy of war.

**ABSTRACT:** The end of the twentieth century wars initiated a paradigm shift. Conflicts that emerged at the end of the last century and developed in the early 21st century revealed new aspects of the armed struggle. The classic perception of war has been blurred. In place of the bipolar symmetry appeared asymmetric threats. The former state monopoly on the use of force was lost. Some new members of armed conflict appeared, traditional battlefield setting disappeared and progressive imbalance between the parties for the disposition of potential violence leads to inequality and instability in the world. Asymmetry became a main factor in determining the image of modern warfare.

Clausewitz himself wrote of war as a phenomenon adherent to every age. Looking back, it is hard not to agree with the Prussian theorist, because phases of the evolution of war were inseparably linked with the changes taking place within societies, national structures and the international order. Wars of our times are conflicts, which we can identify as a result of globalization processes and of the emerging post-Cold War order. Expected peace at the end of the bipolar reality did not occur. The world has not freed itself from phobias, crises, conflicts and wars.<sup>1</sup> To make matters worse, the impact of the mentioned phenomena has acquired even

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<sup>1</sup> J. Piątek, *Demokracja a wymiar współczesnej asymetrii militarnej*, „Bezpieczeństwo. Teoria i praktyka” 2008, No. 1–2, p. 23.

more negative dimension. Cruelty, tenacity and bloodiness have become the inseparable elements of them.

Therefore, what led to the appearance of modern warfare? Francois Heisbourg, a former director of the International Institute for Strategic Studies in London, notes that: *twenty years ago, we could easily describe the functioning of faxes and PCs, but much more difficult – and more important – was to predict their huge impact on society. We are witnessing the transformation of both the causes of the outbreak of wars, and of the means of their conduct. The fall of totalitarian ideologies, which accompanied the industrial revolution; the disintegration of the Soviet empire; the weakening of the traditional role of the nation-state as the only currency emitter and the organizer of armed forces; the emergence of large-scale supranational centres of power and influence, from the world's financial markets to international criminal groups; tribal war revival, not only in the ex-communist countries – all of these factors affect the change of nature of military operations*<sup>2</sup>. Perhaps the words of Heisbourg are only a part of the explanation of the nature of new wars, however they are a contribution to the search for further causes of the transformation of wars.

However, the most important is that the war as a means of resolving disputes still has its established place in the civilizational relations. There is nothing surprising in this, because for most societies throughout history, war was a normal and a primary occupation of people, before it has become the *ultima ratio regum* in the hands of the rulers. Pierre Hasner stresses that the process of civilization depended on the gradual elimination from societies of institutions based on violence – from slavery to a duel, through feudalism and private armies, to giving the state the right to use force. Currently, the process progresses. Although in our eyes, wars are regarded as the greatest possible horror and with common sense they have to lose legitimacy, the spirit of trade and entrepreneurship, privatization and mutual dependence, does not allow for their complete rejection. Furthermore, as described in the previous section, the processes of globalization has been largely contributing to the development of war, and even to its improvement<sup>3</sup>.

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<sup>2</sup> F. Heisbourg, *Wojny*, Warszawa 1998, p. 7.

<sup>3</sup> P. Hassner, *Koniec pewników. Eseje o wojnie, pokoju i przemocy*, Warszawa 2002, p. 192.

Today's picture of the world is blurred. It is difficult to distinguish the national interest from international one, state from society, politics from economics, the public sphere from the private, military from civil, etc. The concept of deterrence, which the Cold War period was based on, ended. Violence and conflicts have become a means of solving problems around the world. States, which have so far operated with the supreme strength, plunged into crisis. Coming back to the Hassner's idea, evolution that happened, is a throwback to the Middle Ages. It has a positive side in the form of a global community, developing new international entities and nationalities, but also negative, such as the revival of private violence and the increase of conflicts of a religious nature<sup>4</sup>. Modern wars have not transformed as a result of the revolution, it has been therefore a long process, unnoticeable and poorly perceptible until it has reached the highest climax. Why, then, has this process been invisible?

Cold War rivalry overshadowed the image of the changing nature of war. Something, which for the last several years has been recognized as a classic war, changed its image unnoticeably. The countries, which are the existing monopolists of violence, began to cede the field to the new, non-state entities. New actors of war in the form of local warlords – terrorist organizations, guerrilla groups and private military companies – established their own rules of war.

German researcher Henfried Münkler in his life's work "Wars of our times"<sup>5</sup>, presents a thesis which depicts new wars as a return to the days of the beginning of the modern era, when the war was not subject to nationalization. In fact, Münkler's assumptions are based on the characteristic similarities which have already occurred during the period of the Thirty Years War. Equally the economy of war, violence, and connections of values and interests of individuals engaged in warfare are the characteristic features of modern warfare. Historical figures such as Wallenstein and von Braunschwig were guided by the desire to enrich and broaden the influence of their power, Cardinal Richelieu and Bethlen Gabor motivated their decisions with their expansionist aspirations, while Swedish King

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<sup>4</sup> Ibidem, p. 194.

<sup>5</sup> H. Münkler, *Wojny naszych czasów*, Kraków 2004.

Carl Gustaf Adolf based his policy of interventionism on the desire to defend certain values. An equally important role was played by internal strife for power in the region and the religious factor. All these qualities perfectly blend in the contemporary image of war, where there are private interest groups, and the motivation of warfare is purely subjective and based on individual aspirations. There is no need to look far, it is enough just to mention the example of the ongoing wars in Africa (Sudan, Congo, Angola), Chechnya and Afghanistan. All of these conflicts are more like the Thirty Years War than the traditional state wars of the 18<sup>th</sup>-20<sup>th</sup> centuries. Therefore, talking about new old wars has its strong justification.

A military historian Martin van Creveld expresses himself in a similar way. He emphasizes the importance of low-intensity conflicts that emerged after the ending of the Cold War. According to van Creveld, world based on Clausewitz's trinity – the government, the army and the population – which the states drew their organizational chart from, is heading towards an inevitable end<sup>6</sup>. Clausewitz's theory of the existence of militarily powerful countries began with the establishment of the Peace of Westphalia in 1648 and has dominated the scene for an extended period of time. From the period of the end of the bipolar division of the world, non-state parties began to play a stronger role – the end of post-Clausewitz's vision of war took place. The new face of wars is no longer based on the aforementioned trinity, and the role of the state is greatly reduced on the battlefield. In the globalized reality, wars attract war-profit organizations which governments are not able to exercise control over. In fact, which is highlighted by the Israeli scholar, the new wars appear to be conflicts of low intensity (low-intensity conflicts) – which means that their impact will not be felt strongly at the macro level but at the micro level they will lead to a disruption in the arena of national security, which today is inseparably linked to international security. The number of low-intensity conflicts will increase, which will also translate into a drop of wars of “the state against the state” type (state to state warfare). Interestingly, one of the reasons for this state of affairs Israeli sees in the spread of nuclear weapons. In conclusion, the states lose their monopoly on the use of armed force. The future wars, in

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<sup>6</sup> M. van Creveld, *Zmienne oblicze wojen*, Poznań 2008, p. 318.

the opinion of van Creeveld, will not be conducted to the dictation of state and national armed forces, and will be carried out by non-state entities such as terrorist or guerrilla organizations.

British army man Rupert Smith wrote about the change of the war paradigm. Wars and conflicts which emerged in the late 20<sup>th</sup> century and the early 21<sup>st</sup> century were different from their predecessors. General R. Smith – ex commander of NATO forces in Kosovo – does not use, admittedly, the term “new wars”, but he shows the changes in the nature of war, opposing the previously existing paradigm of industrial wars with the new one – wars amongst the people. According to this paradigm the traditional scenery of the battlefield fades away, and classic armies are no longer facing one another. While in the industrial paradigm there was a sequence of: peace-> crisis-> war-> settlement, in this new reality there is no clear division like that. Instead, the interpenetration of confrontation and conflict takes place<sup>7</sup>. Smith points out that the war between societies are the reality in which people on the streets, in the houses, on the battlefields, all the people, fight a battle, which can take place literally anywhere. Moreover, armed clashes may occur in the presence of the civilian population, against it, and in order to defend it. In most of the new conflicts, sides are not and will not be states. War paradigm among societies proposed by R. Smith can be described by six distinctive features:

1. The growing importance of the media in the context of war.
2. The blur of the purposes of war. Non-state targets begin to dominate.
3. Timeframe of wars undergo dispersion. Those involved in the fighting often prolong the given conflict in order to the realize their objectives.
4. Saving power. Sides of the conflict are trying not to involve maximum powers. Achieving the objectives of the conflict in accordance to the principle of “by all means” is no longer fundamental.
5. At every opportunity given, war actors are trying to use and adapt the old equipment to new tasks.

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<sup>7</sup> B. Balcerowicz, *Sił zbrojne w stanie pokoju, kryzysu i wojny*, Warszawa 2010, p. 156.

6. The rise of significance of non-state entities and their participation in the war. In the armed conflicts state forces and non-state entities face each other<sup>8</sup>.

Speaking of new wars, the publication *New and Old Wars*<sup>9</sup> by Mary Kaldor cannot be overlooked. Based on the analysis of the civil war in the former Yugoslavia, the researcher put forward the thesis, according to which at the beginning of 1990 a new type of organized violence with a change in the methods and goals of fighting was born. M. Kaldor sees the source of the creation of new wars in the erosion of the autonomy of states, or even the complete disintegration of state structures<sup>10</sup>. The geopolitical and ideological goals of wars in the Cold War period are long gone, and in its place there appeared a struggle for “political identity”. This identity in the classic sense meant the desire to gain national, religious or linguistic power. Thus, the war led to a collision between two identities. Meanwhile, new wars are not focused on building a state, and identity goes far beyond the borders of the state. Identification is local, global, and most importantly transnational<sup>11</sup>. The phenomenon in the new wars is a picture of cruelty with the emphasis on ethnic cleansing. The actors of war do not depend on winning the “hearts and minds” but on the destruction of identity, deportation and mass killing.

Without a doubt, the gradual disappearance of the state’s participation in the conflicts at the turn of the 20<sup>th</sup> and 21<sup>st</sup> centuries is common to all new wars. As shown above, each of the theories on modern warfare sees this relationship. It is worth noting that the term “new wars” is conventional, as in the literature, as observed by B. Balcerowicz, there are other terms used, such as “internal wars”, “civil wars”, “low intensity conflicts” or aforementioned “fourth generation wars” etc. Also significant is the use, in their characteristics, of the terms “post-modern”, “informal”, and finally, the most important because of the problems dealt with in this paper, the

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<sup>8</sup> R. Smith, *Przydatność siły zbrojnej. Sztuka wojenna we współczesnym świecie*, Warszawa 2010, p. 40.

<sup>9</sup> M. Kaldor, *New and Old Wars: Organized Violence in a Global Era*, Stanford 1999, p. 76.

<sup>10</sup> E. C. Sloan, op.cit., p. 75.

<sup>11</sup> B. Balcerowicz, op.cit., p. 161.



term – “privatized wars”<sup>12</sup>. No matter how we define wars and what terms will be the most useful for us, the most important is what they mean. Making a specific summary, you will notice that in every publication dealing with the issues of contemporary conflicts, we see common features and specifications of new wars and conflicts.

## I. FEATURES OF THE NEW WARS

Just like every conflict has its own characteristics, so the wars over the centuries were characterized by certain fixed principles. It is not different in the case of new wars. Analyzing the conflicts which have taken place from the collapse of the Soviet Union to the first decade of the 21<sup>st</sup> century, you will notice some patterns that can be treated as qualitative and quantitative characteristics of new wars. The aforementioned researchers are also compatible as to the specific nature of contemporary conflicts which is often uniform. What new is then reflected in the wars on the turn of the 20<sup>th</sup> and 21<sup>st</sup> centuries?

While traditional thinking about wars was based on state-building purposes, in the case of new wars there might have been the considerable reservations about that. In the classic sense the state, which had a monopoly to use force, led war to defend its lands or used the war to expand its territory at the expense of another state. Also, speaking of state-building factor, the importance of fighting for independence should be stressed, such as the War of Independence of 1775. In every case, the wars were conducted to some extent without foreign interference, i.e. political influence. Meanwhile, contemporary wars often lead to the collapse of small and poorly organized states, and the influence of external decisive forces is huge. A special role in this process is performed by economics, which determines the outbreak of the conflict itself. Having rich natural resources not only attests to the power of a country, but it can be often the source of a conflict. In particular, deposits of oil, metal ores, diamonds mines, which constitute the strength of the economy of weak countries are closely linked

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<sup>12</sup> Ibidem, pp. 160–161.

to the global economic system. Today, the governments of poor countries, with such deposits, cannot decide independently on their reallocation. This clearly highlights the processes of globalization destabilizing national economies. Natural resources in weak, failed states also affect negatively the rulers who are not interested in the improvement of state structures, but only in enlargement of the number of money held in foreign accounts. Corruption and looting of national treasures are now common in these countries. To sum up, what could attest to the power of the state, becomes a source of its degradation due to coups, rebellions, civil wars and total instability within the society.

The duration of new wars has also been transformed. State-led wars in Europe from the mid-17<sup>th</sup> until the early 20<sup>th</sup> century were relatively short conflicts. Their scheme was, in most cases the same: the sides declared war, they led it, and all ended up in concluding a peace treaty. Moreover, during the state conflicts, sides tried, more or less, to respect to the laws of war (during the First and Second World War, however, the rules of war have been broken). Meanwhile, new wars are characterized by ... the lack of rules and no respect for any rules of war.

Traditional war theatre is disappearing, because the front, middle and back of a fight are not crystallizing. Military action can be and are conducted at any time and place. Clausewitz's concept of the decisive battle has no right to exist in today's wars. Sides avoid decisive clashes, and their tactics is often similar in nature to guerrilla warfare or terrorism. As rightly H. Münkler states, actors of new wars often refer in their war strategies to Mao Zedong's combat rules, according to which the most important is the "brinkmanship".

Thus, in a conflict, in which one side is much stronger than the other, has a greater human technological and strategic potential, there should be used tactics of stroke and retreat for the gradual bleeding out of the opponent. Interestingly, the fighting parties of the new wars avoid the end of warfare! As long as the material base allows it, the war for them can go on forever and it has its logical explanation.<sup>13</sup> Therefore, if we compared the

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<sup>13</sup> H. Münkler, *op.cit.*, p. 22.

classic wars to the present ones, we can identify significant differences between them:

**Table 1.** Own elaboration

State wars	New wars
Declaration of war	No declaration of war
Pursuing the decisive battle	Avoiding major clashes and decisive battles
Relatively short duration of warfare	Warfare led as long as possible (endlessly)
The conflict ended with peace and concluding a peace treaty	No interest in peace. The peace treaty replaced by the peace process

On the basis of the analysis of data in the table above a clear conclusion occurs: it is difficult to determine the beginning and the end of modern warfare. At the same time the thesis of M. van Creveld on low intensity war confirms. According to it a conflict breaks out, extinguished, erupts, expires again etc<sup>14</sup>.

Bloodiness and cruelty which accompany today's conflicts, overwhelm the idea of conducting the war with respect for international law. As previously mentioned, the codified war rules cannot exist during the course of current warfare. There is, therefore, no wonder that the new war victims are mostly civilians. It is true that the 20<sup>th</sup> century was the bloodiest period in history. As noted by J. Piątek, as a result of organized violence at that time from 167 to 168 million people were killed<sup>15</sup>. However, it should be noted that 90% of the number of the dead were soldiers (according to the definition of international law). In the case of new wars, this trend is totally changing, because as many as 80% of the dead and wounded are civilians, while only 20% are soldiers<sup>16</sup>. Therefore, it is worth to pose a question about the reasons for the reversal of such proportions. Of course, moving away from the idea of the state war is one of the important factors, but it is not the most important one. The essence of the new wars is the focus on the warfare against the civilian population, and it is related

<sup>14</sup> M. van Creveld, op.cit.

<sup>15</sup> J. Piątek, *Wymiar współczesnej asymetrii. Demokracja przez wojnę?*, in S. Zyborowicz (Ed.), *W poszukiwaniu modelu demokratycznego*, Toruń 2009, p. 101.

<sup>16</sup> H. Münkler, op.cit., p. 24.

to two aspects. Firstly, during the conflict there often comes to ethnic cleansing, and because of the fact that there are no traditional battlefields, civilians are constantly exposed to contact with the parties of the conflict.

Secondly, the war becomes a way of life. In other words, there is a link connecting business to the war, resulting in a war economy based on looting and plundering, slave labour, and long-term development of the crime sector (e.g. extortion, drugs, prostitution). As a result, the war is starting to produce profits, so its end would be an uneconomical movement on the part of the interested parties. It is also clear that with using violence against the civilian population, there must come to a bloody impose of their will in order to collect the material goods. For this reason, the presence of group rapes, mutilations, massacres and the treatment of human bodies as trophies is commonly noted<sup>17</sup>. "Soldiers" taking part in the fighting are becoming none other than the ordinary robbers and degenerates. In conclusion, gradually but effectively the lines between violence and paid employment blur. Something, which the state wars were able to separate (more or less successfully), today is closely linked. Actors of war cooperate with the criminal world. There are no clear war aims, it is also difficult to distinguish civilians from soldiers. Civilians become victims of attacks (physical, sexual and psychological) just because they were on the way of armed thugs.

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<sup>17</sup> The best example of this brutality was the war in Bosnia and Herzegovina. One of the most shocking photographs documenting war crimes was a picture of a Saudi militant holding a head of Serb Blagoje Balgojevic as a war trophy or an image of a few heads of Serb civilians treaded by soldiers' boots. Dariusz Wybranowski, who deals with the issues of militant Islam, emphasizes that during the aforementioned war the common practices were: beheadings, mutilation by plucking out the eyes, nailing to trees, and even burning alive. It was completed by the mass rape of women and the destruction of the places of worship. Most acts of violence were related to the civilian population, D. Wybranowski, *Udział ochotników muzułmańskich w Bośni i Hercegowinie*, in: G. Ciechanowski, J. Sielski (Eds.) *Konflikty współczesnego świata*, Toruń 2006, pp. 81–82; cf. D. Ratajczak, *Balkańskie preludium*, <http://www.koreywo.com/Ratajczak/balkanskie.htm>, (accessed: 02.10.2012).

**Table 2.** The main asymmetric differences between conventional and new wars

Classic wars	New wars
Organized structures	Informal structures
Possessing advanced technology	Using currently available technology
Logistic dependence	Logistic independence
National character	Transnational, often local, character
Homogeneous doctrine	Doctrine created ad hoc
Pursuing the decisive battle	Raids, occasional and unexpected attacks; avoiding major battles
Soldier	Militant, terrorist, criminal, hacker
Allies	Associates
Segregation	Integration

Source: M. Hong Kian Wah, *Low-Intensity conflict*, [http://www.mindef.gov.sg/safti/pointer/back/journals/2000/Vol26\\_3/7.htm](http://www.mindef.gov.sg/safti/pointer/back/journals/2000/Vol26_3/7.htm), (accessed: 02.10.2012)

## II. MAKING WARFARE ASYMMETRIC

One of the most important features of modern warfare is their asymmetry. After the end of the Cold War, many scholars and army men believed that the threat of an outbreak of the global conflict receded with the fall of the Soviet superpower. Only few have noticed that instead of the bipolar symmetry, there will appear asymmetric threats. The growing disproportion between the parties in the field of having the potential for violence led to more inequality and instability in the world.

In the simplest terms, the term “asymmetric threats” means the potential for conflict in which there are at least two entities: weaker and stronger. The difference between the two lies in the disproportion in the possession of means, access to technology, and even in the diversity of the used methods. In the asymmetrical relationship the weaker entity hinders or prevents the stronger side to exploit that potential, which at the same time should lead to the defeat of the opponent.

Asymmetric threats can be depicted from many angles. Marek Madej distinguishes two: wide – military and narrow – of political science. In the

first case, the threat can flow both from non-state actors, as well as from the state itself. Military approach focuses on the difference in the application of methods of warfare, like guerrilla tactics. However, this idea has many weaknesses, because the definition of threats is expanded, as in any armed conflict, evident disproportion of forces is visible, and the sides almost always use different modes of operation. Thus, the military approach causes that almost every conflict can be considered as asymmetric. In addition, a broad approach leads to relativization of the concept of asymmetric threats. It is impossible to compare the spectrum of asymmetry in the same way for a strong state such as the USA and a weak state such as Bangladesh. Finally, the military definition leads to blurring of the differences between the threats arising from the activities of states and the activities of non-state actors<sup>18</sup>.

The negative sides of the first concept make us lean towards the second option – the one of political science. As noted by M. Madej, narrow approach is associated with the activity of non-state entities. As compared to the previous concept, the recognition of political science does not focus solely on the methods of operation. This approach focuses on multiple grounds – from differences in the potential and the legitimacy of using the methods in rivalry between non-state actors and states. And although the concept of political science is not perfect, it eliminates the disadvantages that occurred in the broad one. It allows you to focus better on the categories of threats resulting from new wars. It is worth noting that regardless of adopting a narrow or broad concept, new wars are asymmetric not only from the military point of view. In addition to purely military grounds, asymmetry also manifests itself in phenomena of different fields such as: ecology, information technology, demography, economics, etc<sup>19</sup>.

In the view of the political science approach of asymmetric threats, we should answer the question: how being asymmetric is manifested in new wars? The answer is not simple. Diversity, being multidimensional and

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<sup>18</sup> M. Madej, *Zagrożenia asymetryczne – „nowy” problem bezpieczeństwa międzynarodowego*, in: A. Kaniewska (Ed.), *Bezpieczeństwo międzynarodowe*, Warszawa 2012, p. 80.

<sup>19</sup> Ibidem, pp. 82–83.

dynamics of changes in symmetry cause difficulties in its characterization. However, some elements are permanent in the context of new wars. The main regularities are undeniably no interest in territorial matters and active presence of non-state actors – beneficiaries<sup>20</sup>.

In the context of new wars it is difficult to talk about a specific battlefield. In traditional wars battles took place on a particular ground, the territory where the battlefield could be distinguished. Meanwhile, in asymmetric wars there are no geographical and chronological boundaries of the fights and all battles take place in dispersion. The sides use all available means to win the war. Furthermore, the objectives of asymmetric warfare are closely linked with the ground the war takes place. However, this area will never be limited in any way.

Other characteristics of asymmetric wars are:

- a) **Organization** – the fights are not necessarily lead by traditional armed forces but by non-state groups. The activities of such groups may, however, be initiated by states such as failed or rogue ones. To achieve their objectives the typical asymmetric groups are often camouflaged inside an enemy state. For a complete blur inside the attacked society, members of these groups do not wear uniforms, there is no clear and transparent hierarchy, ranks (as compared to the national armies). Training of such soldiers is also not assigned to a single location. Training bases can be created in any chosen country. Enigmatic organization and command system is intentional because of the need to protect own staff, leadership, methods of operation and goals.
- b) **Objectives** – attacks carried out by entities of asymmetric wars are not limited to military targets. Moreover, purely civilian targets are more preferred. The main idea behind the attacks is the desire to achieve spectacular psychological effect. Thus, the objectives of asymmetric warfare are total in character and may refer to the territory, population and resources. Legal restrictions do not apply while defining the objectives of the war, it is about the largest destruction possible. That is why, the totality and unpredictability

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<sup>20</sup> M. Madej, *op.cit.*, p. 83.

determine the asymmetric objectives. It was most clearly shown by the terrorist attack on the World Trade Center and the Pentagon on 11<sup>th</sup> September 2001, in which the effect of the attack was devastating for society. Civil aircrafts were used for its implementation, the symbolic objects were chosen as targets, and served as a battlefield. It is worth noting while commenting this example, that the actions were inspired and organized in many countries, and were implemented in one – the USA.

- c) **Range** – it has already been outlined by no interest in territorial matters, so the lack of any organizational and operational boundaries. The scale and scope of activities are not limited by geography, subject and object of attack can be struck on their territory, but also in every other corner of the world, such as tourists of the given country, embassies, resources. The scale of operations is characterized by high intensity.
- d) **Methods of operation** – conventional methods of operation are not preferred by entities leading asymmetric fights, instead they use a combination of methods and procedures specific to the special forces, guerrilla groups, criminal organizations and religious sects. Elementary factors of asymmetric warfare are: becoming like the enemy or blur in their society, not obeying rules and conventions, secrecy, variability and surprise<sup>21</sup>.
- e) **Low susceptibility to deterrence** – due to the lack of assigned territory and, usually, nationality, asymmetric groups do not fear retaliatory attacks from their opponents. The armed forces, despite a huge advantage in military potential, are not able to lead the fight against non-state entities. This is due to a simple reason: we do not know where the impact would take place, which forces should be used. Even worse, a possible attack could have serious legal and political consequences, such as attacking a group on the territory of another state would be a violation of its sovereignty. The best example is the U.S. special forces operation to capture Osama Bin

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<sup>21</sup> K. Piątkowski, *Wojna nowego typu?*, „Polska w Europie” 2002, No. 39, p. 15.



Laden<sup>22</sup>, which caused outrage and protests of Pakistani authorities<sup>23</sup>.

- f) **Low intensity** – the frequency of asymmetric attacks is very low. Most states while taking care of their own safety, are more focused on the threats from another state or non-military ones. This has serious implications, since the reduced safety perception may mean that the country, which becomes a target, would be completely unprepared for a possible attack. This would cause the increase in the number of victims, and most likely the psychological effect would double<sup>24</sup>.
- g) **The role of the media** – in theory, already during the Cold War period an increase in the involvement of the media in war conflicts was marked. During the Vietnam War (1965–1975) the American media played a crucial role – it is enough to mention the example of the Tet Offensive, which from a military point of view, was the failure of the Communists, but from the media perspective was their political success<sup>25</sup>. In the new wars there has been even

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<sup>22</sup> See more: <http://www.rmfm24.pl/fakty/swiat/news-osama-bin-laden-nie-zyje-zapis-relacji,nId,337765>,

(accessed: 02.10.2012).; W. Jagielski, *Świat po Osamie*, „Gazeta Wyborcza” 04.05.2011, [http://wyborcza.pl/1,76842,9535215,Swiat\\_po\\_Osamie.html](http://wyborcza.pl/1,76842,9535215,Swiat_po_Osamie.html), (accessed: 02.10.2012).

<sup>23</sup> After a successful raid of special forces on bin Laden’s mansion, Islamabad authorities have made a firm protest against the action conducted without their knowledge on the territory of Pakistan. Moreover, the people who helped U.S. intelligence services to determine the whereabouts of the leader of Al-Qaeda were arrested, [http://wiadomosci.gazeta.pl/wiadomosci/1,114881,9792819,Pakistan\\_drazni\\_Ameryke.html](http://wiadomosci.gazeta.pl/wiadomosci/1,114881,9792819,Pakistan_drazni_Ameryke.html), (accessed: 02.10.2012).

<sup>24</sup> M. Madej, *op.cit.*, pp. 84–85.

<sup>25</sup> J. R. Arnold, *Ofensywa Tet*, Poznań 2009, p.91; Even American historians are aware of the role played by the media during the Vietnam conflict. A historian, George Herring, has even set up a thesis of “stabbing in the back” of U.S. military operations by the media: *Media continued to describe events in a highly unfavorable and sometimes distorted words. Early messages about the devastating enemy victory went largely uncorrected. The fact that the United States and South Vietnam repulsed the attacks and quickly stabilized their positions, was completely lost in the image of chaos and disaster. Tet has provided compelling arguments to those television and newspaper commentators who had long opposed the conflict. “The war in Vietnam is not to be won,” reported columnist Joseph Kraft [...]. Many*

a greater increase in the importance of the media. Armed asymmetric groups often use media as a means of fighting with the state, thus they act as a go-between of the fighting parties and the public opinion. You can even risk saying that in asymmetric conflicts the use of weapons is displaced by the use of television images. Today filmed scenes are a powerful means of combat which are very effective in the fight against governments. In a democratic state there is no control and censorship of the media, so bloody scenes from the battlefields are often used even by domestic media, which leads to weakening of political decisions within the state. Asymmetric groups are aware of the fact that the creation of public moods by the media is a powerful weapon. Washington was convinced of the power of the media when after the end of the second War in the Persian Gulf, the terrorists began to use the media to show the execution of Western citizens<sup>26</sup>. The traditional role of the media in reporting on war events becomes an obsolete form. Today's media are one of the parties of the conflict, highly desired by the parties fighting, as having media on your side gives you a significant politico-military advantage. In conclusion, the greater is the importance of the camera, the more asymmetric is the conflict.

- h) **Technology** – the art of warfare evolves along with changes in the nature of war. Social, economic and technological development causes the transformation in the manner and style of life of the population. Inventions and technological innovations are forcing strategists to adapt the methods of fighting to the current environment. Technological advantage has always accompanied wars, but in the 21<sup>st</sup> century this aspect began to enlarge its importance. While in the past such technological innovations as railway were

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*influential people who supported the president or were only moderately critical, now have spoken strongly against the war*, <http://www.eioba.pl/a/1sez/wietnam-na-szklanym-ekranie-ofensywa-tet-i-amerykanskie-media>, (accessed: 02.10.2012).

<sup>26</sup> Islamic terrorists have made several executions, always recording all procedures and sending the recordings to the TV, see O. Fallaci, *Wywiad z samą sobą. Apokalipsa*, Warszawa 2005; <http://www.przegląd-tygodnik.pl/pl/artykul/terrorysci-lowcy-głow>, (accessed: 02.10.2012).

controlled by the state, the new technological inventions such as the Internet or means of telecommunication are available and controlled by non-state entities. What is more, leaving them only for the state would lead to their low efficiency. Modern technology makes conducting new wars easier. Data communication infrastructure, anonymous flow of money, freedom of movement and poor control mechanisms make the preparation and conduct of asymmetric operations more favourable. Due to the Internet and mobile phoning systems, asymmetric group members can easily connect with one another, exchange the necessary information and even hand over plans to build weapons, such as homemade bombs. The most important thing is that the communication is extremely fast and anonymous. Another aspect is the undergoing revolution in the RMA military technology,<sup>27</sup> which means *a remarkable development in the field of military technology, armaments and military potential, associated with the general progress of civilization, IT and technology. It leads to significant changes in the conduct of armed struggle, its planning methods, equipment, training methods and organization of the armed forces*<sup>28</sup>. The latest discoveries in the field of automation, robotics, nanotechnology, and above all information technology allow for production and use of extremely precise, sophisticated, deadly and mobile weapons. RMA is primarily used by large states, and the effectiveness of the application of technological innovations is undeniable. Only during the ongoing war in Afghanistan the operations in which high-quality technology, such as drone attacks, were opposed to tribal methods of the Taliban fighting<sup>29</sup>. However, the technology which is used by the strong states, has many weaknesses and dangers. For example, the United States, which is one of the most computerized countries in

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<sup>27</sup> RMA – Revolution in Military Affairs.

<sup>28</sup> Cited by: J. Piątek, *RMA gwarantem utraconej symetrii bezpieczeństwa?*, in: J. Piątek, R. Podgórska (Eds.) *Wybrane aspekty bezpieczeństwa*, Vol. 2, Szczecin 2007, pp. 230–245.

<sup>29</sup> [http://www.logo24.pl/Logo24/1,85826,7152179,Wojny\\_dronow.html](http://www.logo24.pl/Logo24/1,85826,7152179,Wojny_dronow.html) (accessed: 13.10.2013).

the world, rely smooth functioning of their government agencies on the computer network. Hence, every sphere from power industry, through transport, banking, telecommunication to medical emergency services is based on IT solutions. Non-state entities, which also have the information technology resources, could conduct (and sometimes they actually do) an attack on government computer networks; hackers working for private entities or non-state organizations, by breaking into government systems could lead to a destabilization of the state functioning. Thus, there is a real war going on, in which it is difficult to coordinate the defence lines, and winning comes without even firing a single gunshot. Attacked enemy (the state) is usually helpless and weakened. In fact, technological advances in making warfare asymmetric, created information technology wars specific to the 21<sup>st</sup> century. The most famous hacker attacks at the beginning of the new century have clearly demonstrated that the modern battlefield does not necessarily have to be located on the firm ground. The future of asymmetric operations is in cyberspace, that is where the real new war will occur.

### III. ECONOMY OF VIOLENCE, THAT IS CHEAP WARS

The relationship of economics and violence is as old as the world. From the age of antiquity, through the Middle Ages and subsequently following periods of history, people with power decided to use violence in order to gain more power, treasure, money, and influence. It was the desire to grow rich which largely determined the majority of conflicts known to mankind.

Immanuel Kant had already written about the calculation of profit and loss resulting from the war. The famous philosopher assumed that the socio-economic conditions would lead to the disappearance of the war and the establishment of peace: *it is caused by business sense that cannot coexist with war, and which sooner or later nation will be obsessed about*<sup>30</sup>.

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<sup>30</sup> H. Münkler, op.cit., p. 93.

According to Kant's thesis democratic states do not conduct wars with one another, because they are unprofitable. On the other hand, war is possible with a non-democratic state, and thus a balance of profit and loss is created. The developed countries see only the negative balance of the costs in the war. Especially if the war is fought in a symmetrical manner – against another developed state. However, the advantage of costs over incomes does not apply to asymmetric conflicts. The entities which lead them (warlords, terrorists, etc.) do not cover the considerable costs of warfare. Moreover, the purpose of their existence is to carry out such actions, which would cause severe financial losses of the opponent with low own expense.

Perhaps today the factor of profitability of wars is a major determinant of their progressive becoming not connected with the state. During the Cold War period expenses spent on armaments were huge and we cannot forget that it was R. Reagan's policy of involving into arms race which led to the collapse of the Soviet Union. Even disregarding the Cold War era, after 1989 armaments of states, the costs of military interventions, etc., were based on a multi-billion military procurement<sup>31</sup>. In addition, technological development meant that almost every military equipment can be computerized, not to mention expensive spy satellites or advanced missile defence systems<sup>32</sup>.

In contrast, the new wars are cheap. This is because they are usually carried out using light weapons: guns, mines, grenades, homemade explosives. Even in transport, pickup trucks are used instead of jeeps, trucks and armoured vehicles. Not without significance is also easiness in getting weapons, and their low cost (about which more detail will be presented in the next section), so that the asymmetric group leaders can easily equip their soldiers. Practically speaking, the leaders bear only costs of equipping their people with weapons, as later, in accordance with the principle: "the war must feed the war", these soldiers earn their own living by robbing, plundering and pillaging<sup>33</sup>. By comparison to the national armed

<sup>31</sup> Since 1988 SIPRI has maintained a database on military expenditure of 172 countries, see more: <http://www.sipri.org/databases/milex>, (accessed: 02.10.2012).

<sup>32</sup> Zob. więcej: <http://www.mda.mil/>, (accessed: 02.10.2012).

<sup>33</sup> H. Münkler, *op.cit.*, p. 98.

forces, to maintain an asymmetric group member seems to be very cheap, because the state soldier must be trained, armed, paid (his wages, insurance), etc. Thus, we see that the cost of maintaining a soldier with reference to, for example, a rebel or terrorist, is totally disproportionate. Moreover, we must remember that a soldier of armed forces is paid for by the society in taxes.

Economic attractiveness of new wars is also reflected by the openness of recruitment. While one can join the state armed forces after passing a series of qualification tests (psychological, physical), the warlords do not look at qualifications of a typical candidate. What matters is the fact that they can carry a gun and would be dedicated fighters for the profits which could be gained during the conflict. As it was mentioned earlier, there is a similar case with children, even easier material for a soldier. Regardless of age, for many people joining asymmetric groups is a chance for breaking out of poverty, a change of low social status, or showing themselves in their community. Easiness of the access to human potential fuels modern conflicts. As it is widely known without people there would be no conflicts, and in new wars there are more than enough of them.

Like the organization, similarly cheap are the methods of leading new wars. While in the classic sense the soldiers are trained to kill and to defeat the enemy, in relation to asymmetric conflicts this phenomenon becomes wider. Anyone who has a gun can kill, but not always bullets and shells inflict as much pain as other attacks. In the new wars the use of sexual violence against opponents is characteristic. Of course, the phenomenon of rape appeared in every armed conflict, and after the end of II World War, the Soviet rapes on German women could be a core of a separate scientific work<sup>34</sup>. Nevertheless, sexual violence in past conflicts usually

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<sup>34</sup> According to estimates, about 2 million German women were raped by the Red Army soldiers. In 1945, "Time Magazine" wrote: *Rapes, looting, and suicides have become common. The soldiers who entered the Haus Dahlem (maternity hospital and orphanage) repeatedly raped pregnant women and those who have recently given birth. The total number of victims of rape in Berlin itself (of women from seventy to ten years old girls) will never be known. Ryan's report, on the basis of physicians' estimates informed that it was a number from 20,000 to 100,000*, <http://historiami.pl/szal-gwaltow-sowieckich/>, (accessed: 02.10.2012); cf. A. Beevor, *Berlin. The Downfall 1945*, Warsaw 2005.

result from the principle of “the defeated takes the prize”. Meanwhile in the new wars, a woman and increasingly often also a man, is no longer solely an award for the winner, it is rather the object of attack, even if the war lasts, is not over or is already lost. During the wars in Serbia, Rwanda and Somalia, rapes were used for lowering the morale of the enemy. There is nothing surprising in this, because from a psychological point of view, an attack on someone’s woman-partner is a guarantee for the highest level of anger and desperation in a man. Besides guns, grenades and mines cost, and rapes are ... free. By raping one can save the cost of arms and ammunition, and at the same time the morale of one’s own troops are raised. Sex as a fighting weapon has become a part of the strategy in new wars, in which killing is not always profitable and not always the point is to kill. Not to mention that rapes are an integral part of ethnic cleansing, which are also linked with the asymmetric wars. Of course, according to international law codified, for instance in the Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949), sexual violence is forbidden, considered a crime, and the warring parties should ensure that there is no sexual assault. According to 27<sup>th</sup> article: *Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity. Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault*<sup>35</sup>. However, as already mentioned, in the wars of a new type law enforcement is not respected. Women and children become targets of easy, fast and effective attack from the members of asymmetric group.

Another characteristic of asymmetric warfare is its cruelty. The famous maxim of General Ulysses S. Grant: *War is a terrible thing, the only way to reduce the suffering of humanity is finish it quickly. To finish it quickly,*

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<sup>35</sup> Konwencja genewska o ochronie osób cywilnych podczas wojny, Genewa, 12.08.1949, (Dz. U., 1956, Nr 38, poz. 171, załącznik), [http://www.stosunkimiedzynarodowe.pl/traktaty/czwarta\\_konwencja\\_genewska.pdf](http://www.stosunkimiedzynarodowe.pl/traktaty/czwarta_konwencja_genewska.pdf), (accessed: 02.10.2012).



*you have to make it even more terrible*, could depict to some extent the behaviour in new wars. Although the leading entities do not want them to end quickly, they seek to ensure them to be more terrible. A common sight in the new wars is a picture of the mutilated victims or dismembered corpses. Moving away from humanity reaches its apogee. People involved in asymmetric conflicts are trying to spread fear and violence with cruelty. In Rwanda, it is not the rifle that has become the main tool of violence but a machete. Hutu executed Tutsi using side arms. The example of Rwanda is not isolated. In almost every asymmetric conflict, cutting off heads, limbs or depriving of ears or eyes become a terrifying everyday life. The desire to inflict pain, that is an attack on human corporeality is justified. Oppressors are no longer interested in killing a man, but rather in his humiliation and mental breakage that an image of a cripple would come to consciousness of his brethren – the psychological effect dominates the physical one.

The essence of the new war economy is not based solely on the fact that they are cheap. Most of all, their persistence is paying off. In the bipolar world superpowers financed conflicts in the world, in the case of asymmetric wars a powerful financial spiral of private-criminal character reveals itself. International corporations, oil companies, diamond dealers and criminal organizations take the place of the USSR and the USA<sup>36</sup>. Money might be drawn from private pockets. If only the private sector sees the benefits of the ongoing asymmetric conflict, without hesitation, it would finance the lease of mercenaries or a local army. And even if not from a private source, warlords can derive their financial resources from drug trafficking, prostitution and ore trade. We cannot forget also about the role played by humanitarian organizations in such practices. By providing assistance, such as food, they often push the economic situation of war. A drastic reduction in the cost of conducting war along with economic openness caused that leading new wars has become a lucrative venture.

The loss of the force monopoly by the state meant that the new type of wars are based entirely on asymmetry. Conducting actions with conven-

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<sup>36</sup> H. Münkler, *op.cit.*, p. 126.



tional forces is ineffective towards the activities of non-state entities, which perfectly fit into the concept of asymmetric wars. In the classic battles non-state actors would have no chance against the force of states, however, the newly created conditions not only give them the opportunity of efficient organization, but also the chance of effective action.

In a typical asymmetric conflict the symbolic scene of David defeating Goliath is being exposed. Hezbollah clashes with Israel proves best that the incompatibility of potential does not condemn the theoretically weaker party to failure<sup>37</sup>. For years paramilitary structure of the Lebanese militants have bullied the Jewish state with their attacks, and it is a country that with its technological and military potential outgrows their opponents on many levels. What is more, a country which (unofficially) possesses nuclear arsenal. Today, the government in Tel Aviv and members of the Knesset admit that despite the obvious advantages in resources and capabilities, Israel cannot achieve military superiority, which is to neutralize Hezbollah.

In fact asymmetry of wars and their low cost of running led to the fact that such groups as terrorists, guerillas, criminals and hackers have found a perfect tool to achieve their goals. The unusual thing about asymmetric wars is the possibility to use one-off and non-standard tactics. In October 2000, a terrorist attack on the American destroyer USS Cole docked in Aden roadstead was carried out<sup>38</sup>. Just two Shahids<sup>39</sup> were enough to kill 17 and injure another 39 fully trained American soldiers. They possessed limited resources – they used motorboats to attack the warship worth billions of dollars. This extremely audacious attack exposed the weakness of the armed forces towards asymmetric operations, and at the same time undermined the prestige of Washington.

The contemporary picture of global security is blurred and unclear. As long as in the international relations the lead role was performed by state wars, there was a symmetry in the organization and methods of operation.

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<sup>37</sup> See more: D. Duda, *Terroryzm islamski*, Kraków 2002, pp. 44–48.

<sup>38</sup> See more: R. Perl, R. O. Rourke, *Terrorist Attack on USS Cole: Background and Issues for Congress*, CRS Report for Congress z 30 stycznia 2001, [http://www.history.navy.mil/library/online/usscole\\_crsreport.htm](http://www.history.navy.mil/library/online/usscole_crsreport.htm), (02.10.2012).

<sup>39</sup> The Arab martyr or witness of faith, the one who gives his life in the name of God.

The complexity of the past put classic armed forces in the first place in the context of solving conflict and international issues. Unfortunately, the process of globalization and the collapse of the bipolar system led to changes in which war has seen a major transformation. Asymmetry has become a factor determining the image of today's wars. The two aforementioned examples of asymmetric military actions have illustrated best, how great a threat the countries will have to face in the 21<sup>st</sup> century.

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## **THE CHANGING EUROPEAN GAS MARKET AND THE EXPORT STRATEGY OF THE RUSSIAN FEDERATION**

**Keywords:** International Relations, International Security, European Union.

**ABSTRACT:** Russian authorities have for years been proclaiming that in order to ensure energy security and to increase their economic presence in North-East Asia their priority is to diversify gas export and to increase cooperation with the Asia-Pacific region. Despite frequent meetings at interstate and business levels, and numerous formal – but no binding – agreements, no tangible progress in this regard has yet been made. This paper argues, from a game-theoretic perspective, that peril for Russian geopolitical and economic interests ensuing from both inception of EU energy policy and evolution of the European gas market has been one of the factors hindering Russian plans of eastbound gas export diversification.

### **1. INTRODUCTION**

Since the mid-2000s, for nearly a decade, the subject of energy has prevailed in bilateral relations between the Russian Federation (RF) and the European Union (EU). Due to price disputes involving Russia and its former satellites, which caused interruptions in gas deliveries to Western and Central European states, a conclusion had been drawn that EU-RF energy interdependence might be a source of instability and can have a detrimental effect on economic development, social security and capabilities to achieve foreign policy objectives. This general observation induced policy-makers in Brussels and Moscow to make changes in their

respective energy policies and elevated as in 1970s, the energy security issue to the international political agenda.

As far as the Russian authorities are concerned, gas cooperation with the Asia-Pacific region has been the most beneficial option for the country's independence from the European gas market. Although RF leaders have often declared and pledged to take actions towards export diversification, and notwithstanding the constant increase of the economic and geopolitical relevance of the states of the Far East, since at the turn of the centuries Vladimir Putin took the presidential office the only gas export route from RF to Asia has been built by foreign investors. During that same period the national gas company *Gazprom* has been laying several new pipelines to European consumers and thus is on its way to significantly increase its westbound export.

In the context of rising natural gas consumption and the sharpening rivalry between countries to gain access to reserves of fossil fuels, should one takes into account the abundance of gas deposits in the RF and its significant position in the world supply system, it becomes of utmost importance, not only for Polish or European leaders but also globally, to comprehend the Russian energy policy decision-making process and to explain the outlined contradictions in the RF gas export strategy.

This paper is divided into five parts. In the first section there is a literature review on RF-East Asia energy cooperation, especially concerning major impediments to the negotiations' progress. The next section presents the external dimension of Russia's energy policy and the level of goal accomplishment. The evolution of the European energy market and the reactions of RF authorities aiming to preserve and protect the national interests are discussed in section three. Section four analyses, from the game-theoretic perspective, the relation between shifts in the European energy policy and the Russian decision on the gas export strategy resulting in the choice to either deepen cooperation with the West or to establish new gas contacts with the Asia-Pacific region. Section five concludes the research.

## 2. LITERATURE REVIEW

According to previous studies, in spite of long-standing diplomatic negotiations and numerous meetings at all levels, Russian gas export to the Asia-Pacific region is still in its early stage of development, in a phase of plans and rhetoric of officials rather than at a point of being started and implemented. Authors vary in their assessments of the main reason for this setback. The most common view is that the major obstacle has been a difference of economic interests manifested in the lack of price agreements. The leaders of the Asian-Pacific states have been emphasising their geographical proximity to gas deposits, a market situation and their level of economic development disparate from that in Europe as reasons to buy gas at a discount price. On the other hand, Russian authorities have been aiming to derive equivalent profits from European and East Asian markets, therefore they have been reluctant to agree to diversify the exported gas value for distinct consumers<sup>1</sup>.

The RF economic policy, especially the investment climate in the country and the authorities' bias towards foreign investors, is seen as another barrier for increasing Russian gas export in the eastern direction. A precarious legal environment and a deficiency of the rule of law, overwhelming corruption, red-tape, criminal organisations' influence on the economy, cases of authorities' interference in privately-owned energy businesses and expropriation of properties have all dimmed Russia's investment attractiveness to foreign companies. As a result, the technological and financial needs of the RF energy sector which are essential for the development of new gas deposits and an infrastructure located in a severe climate, have not been met with appropriate know-how and funds inflow<sup>2</sup>.

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<sup>1</sup> L. Jakobson, P. Holtom, D. Knox, J. Peng, *China's Energy And Security Relations: Hopes, Frustrations and Uncertainties*, „SIPRI Policy Paper” 2011, No. 29, pp. 34–35; M. Mareš, M. Laryš, *Oil and natural gas in Russia's eastern energy strategy: Dream or reality?*, „Energy Policy” 2012, Vol. 50, pp. 446.

<sup>2</sup> S. Blank, Y. Kim, *Why Is Russian Energy Policy Failing in Asia?*, „Pacific Focus” 2011, Vol. XXVI, No. 3, p. 411; M. Mareš, M. Laryš, op. cit., p. 446; M. Nojonen, *Introduction: Adjusting to the great power transition*, in: *Russia-China relations. Current state, alternative futures, and implications for the West*, A. Moshes, M. Nojonen (ed.), Tampere 2011, p. 19.

The next impediment for progress in gas cooperation with East-Asia is seen in the Russian foreign policy and RF elite apprehension of the country's role in the world geopolitical order. An unsettled territorial dispute with Japan, anxiety about sovereignty and territorial integrity due to illegal immigration from the People's Republic of China (PRC) resulting in the colonisation of the Russian Far East have shaped unfavourable conditions for an influx of Asian investments, building trust between partners and for a constructive gas dialogue. Furthermore, due to the structure of the PRC energy mix, particularly its minor share of gas in it, unconventional gas potential, diversification of import routes and competition between gas-producing countries, from e.g. the Middle East, Central Asia and Australia for access to the market, gas cooperation with this country might result in, inter alia, adverse to the policy-makers in Moscow, one-sided dependence and geopolitical subordination to the Chinese interests and marginalisation in North-East Asian affairs. The fear of becoming an energy appendage of Asian-Pacific states that are fast-developing, modernising themselves and gaining international prominence has been making Russian authorities more reluctant to increase energy export to the East<sup>3</sup>.

Finally, researchers and experts from the PRC assess that a culture gap that is hard to overcome and is a barrier for constructive political, economic and energy collaboration between the sides has arisen due to the Russian establishment's view of itself in European terms. For them this means that the RF authorities are used to defining national interests and have mostly been concerned with the position in Euro-Atlantic relations and cooperation with the West. As a consequence, the eastern dimension of Russia foreign and economic policy has been neglected, and there is a lack of mutual understanding in Russian-Asian contacts<sup>4</sup>.

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<sup>3</sup> L. Jakobson, P. Holtom, D. Knox, J. Peng, op. cit., pp. 32–33; S. Blank, Y. Kim, op. cit., p. 408; A. Lukin, *Russia and the Balance of Power in Northeast Asia*, „Pacific Focus” 2012, Vol. 27, no. 2, pp. 173–175; S. Blank, *The End of Russian Power in Asia?*, „Orbis” 2012, Vol. 56, No. 2, pp. 251–252, 256.

<sup>4</sup> L. Jakobson, P. Holtom, D. Knox, J. Peng, op. cit., pp. 9–10.

### 3. THE RUSSIAN ENERGY POLICY AND GAS COOPERATION WITH THE ASIA-PACIFIC REGION

Russia is a country abounding in natural gas, it has the biggest proven reserves in the world and has globally been the second largest producer of this fossil fuel. In 2011, 607 billion cubic metres (bcm/y) of gas were extracted in the RF<sup>5</sup>. According to a plan included in the *Energy Strategy of Russia for the period up to 2030* (hereinafter referred to as *the Strategy*), which was enacted on 13 November 2009 by decree of the Russian government's<sup>6</sup>, in a 20-year period this quantity should grow by around 50 per cent, i.e. to 885–940 bcm/y. The development of resources located in the Russian Far East, Eastern Siberia and the Shtokman deposit will be the foundation for this increase. Nevertheless, by the year 2030 gas originating from Western Siberia will be the biggest component of Russian gas output. Decreasing extraction from the Soviet-era deposits in the Nadym-Pur-Taz district, which reached their plateau in the 1980s and 1990s, is intended to be substituted by new production on the Yamal Peninsula and in the Ob-Taz Bay.

The main objective set in *the Strategy* as to the gas sector and its external policy is to diversify the directions of gas export. In 2011, 221.44 bcm/y were sent from Russia to foreign clients. A total of 93 per cent of the volume was used by consumers in European countries (67 bcm/y in the former Soviet Union republics – Estonia, Latvia and Lithuania are not included here, and 140 bcm/y in the rest of the European states). Only 7 per cent (14 bcm/y, which constituted merely 2 per cent of gross gas extraction) was exported to the Asia-Pacific region<sup>7</sup>. *The Strategy* stipulates that the amount of gas sold abroad in 2030 should rise to 349–368 bcm/y (see Table 1), of which 1/5 (about 70 bcm/y) will be sent to the East. It is worth noticing that RF policy-makers have been expecting an increase in

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<sup>5</sup> BP Statistical Review of World Energy June 2012, pp. 22, [www.bp.com](http://www.bp.com) (accessed: 23.01.2013).

<sup>6</sup> Ministry of Energy of the Russian Federation, *Energy Strategy Of Russia For The Period Up To 2030*, Moscow 2010, <http://www.energystrategy.ru> (accessed: 01.11.2011).

<sup>7</sup> BP Statistical ..., p. 28.

the export's share in the total output, which indicates a domestic market's energy efficiency improvement strategy<sup>8</sup>.

**Table 1.** Forecast of gas export from RF for the period up to 2030.

	2008	Phase I (by 2013 – 2015)	Phase II (by 2020 – 2022)	Phase III (by 2030)
Total gas output (bcm/y)	664.0	685.0–745.0	803.0–837.0	885.0–940.0
Total gas export (bcm/y)	241.0	270.0–294.0	332.0–341.0	349.0–368.0
Gas export as a share of the total output (per cent)	36.0	36.0–43.0	40.0–42.0	37.0–42.0
Growth of the total gas export (bcm/y)	–	29.0–53.0	47.0–62.0	17.0–27.0
Total gas export to Europe and FSU (bcm/y)	241.0	240.3–258.7	278.9–283.0	282.7–294.4
Total gas export to the Asia-Pacific region (bcm/y)	–	29.7–35.3	53.1–58.0	66.3–73.6
Share of the Asia-Pacific region in total gas export (per cent)	–	11.0–12.0	16.0–17.0	19.0–20.0
Growth of gas export to Europe and FSU (bcm/y)	–	-0.7–17.7	24.3–38.6	3.8–11.4
Growth of gas export to the Asia-Pacific region (bcm/y)	–	29.7–35.3	22.7–23.4	13.2–15.6
Share of the growth of gas export to the Asia-Pacific region in the growth of total gas export (per cent)	–	67–102	38–48	58–78

Source: Own elaboration based on data from Ministry of Energy of the Russian Federation, op.cit., pp. 136–146.

In *the Strategy*, Russian authorities have pointed to the Asia-Pacific region as the primary direction of new gas export capacity development. In the forecasted period export to Asian markets should account for 60 per cent of the increase of gas sold abroad. Phase I has been planned as a major stage of this policy's implementation. Delivery of 50 per cent of

<sup>8</sup> Ministry of Energy of the Russian Federation, op. cit., pp. 79–82, 136, 141.



total amount of gas destined for the East Asian states has been intended to start by 2015. For this to happen Phase I ought to be solely dedicated to the development of new export capacities to the Far East. In the next two phases the gas volume sold to the Asia-Pacific region should still be growing, although at a much slower pace. Phase II, which falls between 2015 and 2022, is also interesting from the perspective of Russian gas export policy analyses. Throughout this stage the biggest increase in the amount of gas sent to foreign customers is expected. This is due not only to rising consumption in the Asia-Pacific region, but also thanks to the recovery of European economies after the global financial crisis.

In *the Strategy* three countries, i.e. the PRC, the Republic of Korea (ROK) and Japan, have been identified as potential customers of Russian gas in Asia<sup>9</sup>. Negotiations at the intergovernmental and business levels have been conducted for many years, but without much progress or tangible success. No final and binding agreement concerning neither the terms of gas supplies nor the opening of a new export route to any of these three countries has been concluded. Talks with Chinese partners started in the mid-1990s. In 2004 *Gazprom* and the *China National Petroleum Company* signed the *Agreement on Strategic Cooperation* with the aim of establishing direct, pipeline-carried gas supplies from RF to PRC<sup>10</sup>. The next step was made in 2009, when the intergovernmental *Memorandum of Understanding to cooperate in the natural gas sector* was inked and the representatives of both companies put their signatures on the *Agreement on the Major Terms and Conditions for Russian Gas Supply to China*. The latter document defined the basic commercial and technical parameters of the deliveries but did not specify the price<sup>11</sup>. The supply contract was supposed to be signed during President Hu Jintao's official visit to Moscow in 2011; however, a disagreement over US 100 dollars per 1 000 cubic metres of gas between what the Chinese side was willing to pay and how Russian side had valued the commodity resulted in a deadlock in the

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<sup>9</sup> Ibidem, pp. 23.

<sup>10</sup> *Gazprom and CNPC signed a Cooperation agreement*, [www.gazprom.com](http://www.gazprom.com) (accessed: 01.11.2011).

<sup>11</sup> *Gazprom and CNPC sign Agreement on major terms and conditions for Russian gas supply to China*, [www.gazprom.com](http://www.gazprom.com) (accessed: 01.11.2011)

bargaining and prevented the signing from happening<sup>12</sup>. The parties resumed talks in December 2012 and are now hoping to finalise them by the end of 2013<sup>13</sup>. Negotiations with the ROK and Japan were conducted in a similar manner and are at a comparable stage.

Comprehensively, execution of the Russian gas export strategy's eastern dimension has been lacking a decision on the primary recipient of the fuel. This uncertainty has prevented the choice from being made whether to build new liquid natural gas (LNG) facilities or to lay down new pipelines. Due to financial constraints, implementing both options simultaneously is not viable. Furthermore, in contrast to the LNG, which is a more flexible export alternative, to start building a pipeline the final destination and end-consumers have to be previously determined. Well aware of these economic conditions, Russian authorities have concurrently been negotiating – without reaching any conclusion – not only with the three aforementioned states, but also with other developing countries in South-East Asia<sup>14</sup>. This strategy of keeping everyone in suspense and the *divide et impera* policy have thus far resulted in a failure to achieve the goal of export diversification through a significant increase of gas cooperation with the Asia-Pacific region, as was planned for Phase I.

#### 4. Russian policy towards the changing European energy market

In 2006 the European Commission (EC) issued *The Green Paper. A European Strategy for Sustainable, Competitive and Secure Energy*<sup>15</sup>, in

<sup>12</sup> L. Jakobson, P. Holtom, D. Knox, J. Peng, op. cit., pp. 33–35; S. Blank, Y. Kim, op. cit., pp. 412–413, B. Blanchard, *Russia, China fail to reach 30-year gas supply deal*, www.reuters.com (accessed: 02.01.2013).

<sup>13</sup> M. Akin, *Gazprom signals possible revival of talks with China*, www.reuters.com (accessed: 02.01.2013).

<sup>14</sup> Cf. *Speech by Alexey Miller, Chairman of the Gazprom Management Committee at the annual General Shareholders Meeting*, www.gazprom.com (accessed: 05.07.2011); *Gazprom seeks India deals, says Europe share to fall*, www.reuters.com (accessed: 02.01.2013).

<sup>15</sup> *Green Paper. A European Strategy For Sustainable, Competitive And Secure Energy [COM(2006) 105 final – unpublished in the Official Journal of the European Union]*, www.eur-lex.europa.eu (accessed: 25.02.2012).

which a basic framework and the principal directions of a new European energy policy were proposed. The document envisaged that a common, open and environmentally friendly energy market would be built where gas providers would have to vie for clients and security of supply would be ensured. This goal was supposed to be achieved through legal and financial instruments that would: bolster competitiveness by linking national gas systems *via* interconnectors, and by separation of extraction (upstream) and/or selling (downstream) gas business segments from piping activity (midstream) – a process commonly known as *unbundling*; increase renewables usage and improve energy effectiveness, which in turn should lower energy demand and thus help to accomplish ‘the sustainability’ aspect of the reform; enhance supply security by diversifying import routes and directions, and by developing cooperation with new gas-producers<sup>16</sup>.

The European gas market began to change not only as a consequence of the policy-makers’ decision, but also due to market factors. The financial crisis and the contraction of European economies both caused a decline in energy consumption by 10 per cent in the years 2008–2011. In addition to this smaller demand, the shale gas revolution in the US has resulted in a world gas glut and in the creation of free export capacities in the Middle East<sup>17</sup>, hence competition between gas-extracting countries for access to the European market has been on the rise, and a 16 per cent drop in the commodity’s value in the EU has been recorded<sup>18</sup>. Moreover, because of the surge in LNG availability, a global gas market has emerged and pressure on producers has been growing to abandon long-term contracts with

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<sup>16</sup> G. Bahgat, *Europe’s energy security: challenges and opportunities*, “International Affairs” 2006, vol. 82, no 5, pp. 962–964; A. Paterek, *Rola organów i instytucji Unii Europejskiej w kształtowaniu polityki bezpieczeństwa energetycznego*, in: *Międzynarodowe bezpieczeństwo energetyczne w XXI wieku*, E. Cziomer (ed.), Kraków 2008, pp. 282–289; K. Westphal, *Energy policy between multilateral governance and geopolitics: whither Europe?*, “Internationale politik und gesellschaft” 2006, No. 4, pp. 45–58.

<sup>17</sup> International Energy Agency, *World Energy Outlook 2010*, Paris 2010, pp. 195–196; *Gaz łupkowy – szanse i wyzwania dla Polski i Unii Europejskiej w świetle doświadczeń amerykańskich i rozwoju międzynarodowego rynku gazu*, E. Wyciszewicz (ed.), Warszawa 2011, pp. 12–13.

<sup>18</sup> Own elaboration based on data from *BP Statistical...*, pp. 23, 27.

gas prices indexed to oil in favour of short-term arrangements with prices linked to the spot market, which would be an alternative more adaptable to the current demand<sup>19</sup>.

The new European energy policy and its implementation have been perceived by Russian authorities as a threat to the country's national and gas interests since, in their opinion, Russian companies would be disposed of – at least in some scope – their assets in Europe and the RF would lose energy leverage in talks with EU partners<sup>20</sup>. Thus, they have been trying to politicise the problem and to make it an issue of bilateral negotiations, and not an internal EU matter. As far as *unbundling* is concerned, the RF government suggested leaving out transnational gas pipelines from the regulations of the Third Energy Package. Consultations about the proposition were conducted between March and October of 2011, but as neither side was willing to change the stance they were futile<sup>21</sup>.

The next attempt to internationalise the issue of European energy regulations and to force EU institutions to a political dialogue was undertaken in autumn of 2012, when the EC launched an investigation into

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<sup>19</sup> S.A. Gabriel, K.E. Rosendahl, R. Egging, H.G. Avetisyan, S. Siddiqui., *Cartelization in gas markets: Studying the potential for a "Gas OPEC"*, „Energy Economics” 2012, Vol. 34, No. 1, p. 137; H.V. Rogers, *The Impact of a Globalising Market on Future European Gas Supply and Pricing: The Importance of Asian Demand and North American Supply*, Oxford 2012, pp. 9–12, [www.oxfordenergy.org](http://www.oxfordenergy.org) (accessed: 12.01.2012).

<sup>20</sup> *Prime Minister Vladimir Putin and President of the European Commission José Manuel Barroso give a news conference following the meeting of the Russian government and the EU Commission*, [www.premier.gov.ru](http://www.premier.gov.ru) (accessed: 01.03.2011). The then Prime Minister V. Putin's assessment of the EU Third Energy Package, which introduced rules for the *unbundling* policy, was not entirely accurate and fair. Three forms for the *unbundling* were proposed: ownership unbundling, independent system operator and independent transmission operator. Only the first form requires a selling of assets by a vertically integrated company, but it was up to each EU Member State's decision as to which option would be chosen.

<sup>21</sup> V. Soldatkin, *Russia sets out proposals to EU on energy package*, [www.reuters.com](http://www.reuters.com) (accessed: 02.01.2013); D. Busvine, *Russia-EU energy talks hit dead end – minister*, [www.reuters.com](http://www.reuters.com) (accessed: 02.01.2013). Russian authorities, realising that it would be difficult to change the general rules of the Third Energy Package, have also been striving to obtain exclusions from particular regulation (e.g. third party access to pipeline capacity) for individual gas pipelines.

*Gazprom's* suspected anticompetitive market practices in Central and South-Eastern Europe<sup>22</sup>. The Russian response to the inquiry was two-fold: as threats to divert gas export to the Asia-Pacific region and as an increase of the state's control over strategic companies, including *Gazprom*, and their foreign activities. The Presidential decree obligated the enterprises to gain government approval before either disclosing business information to foreign regulators, altering contracts or selling property abroad. Formal involvement of the Kremlin officials, in their mind, ought to transform the legal dispute of a supervising body and a company under investigation into political talks between equal subjects of international public law<sup>23</sup>.

Battles with the Third Energy Package and the *unbundling* policy have been fought by the Russian establishment not only at negotiation tables but also in courts. In March 2012 *Gazprom* brought a case to the arbitration tribunal in Hague under the UNCITRAL Rules against the Lithuanian government. This Baltic state had decided to implement a full owner-ship unbundling policy, which would force a vertically integrated energy company to sell its transportation assets in Lithuania. *Gazprom* representatives have claimed that the Lithuanian government, by threats of financial sanctions and renationalisation of *Lietuvos Dujos*, a firm of which the Russian monopoly is a shareholder, had intimidated them into agreeing to an adverse division of the Lithuanian company and the sale of its mid-stream segment<sup>24</sup>.

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<sup>22</sup> *Antitrust: Commission opens proceedings against Gazprom*, [www.europa.eu](http://www.europa.eu) (accessed: 10.01.2013).

<sup>23</sup> C. Belton, A. Barker, J. Chaffin, *Kremlin shields Gazprom from EU probe*, [www.ft.com](http://www.ft.com) (accessed: 12.09.2012); V. Soldatkin, F.Y. Chee, *Kremlin enters EU-Gazprom row with strategic firm rules*, [www.reuters.com](http://www.reuters.com) (accessed: 14.09.2012); Sergey Kupriyanov: *Gazprom always abides by legal requirements of countries where it operates*, [www.gazprom.com](http://www.gazprom.com) (accessed: 12.09.2012).

<sup>24</sup> D. Pinchuk, N. Adomaitis, *Gazprom takes on Lithuania in EU policy test case*, [www.reuters.com](http://www.reuters.com) (accessed: 05.03.2012); *Gazprom seeks international arbitration against Lithuanian Government*, [www.gazprom.com](http://www.gazprom.com) (accessed: 05.03.2012). These have not been the only arbitration proceedings between *Gazprom* and the Lithuanian government concerning *Lietuvos Dujos*. In a ruling from late July 2012, the Arbitration Court in Stockholm determined the extent for possible intervention in the company's internal matters and the ways of conducting business by the court in Vilnius at the instance of the Lithu-

The decision on implementing the South Stream project can be perceived as yet another element of the Russian strategy for defending its economic and political interests on the European gas market. This 2 430-kilometre long pipeline has been designed to carry 63 bcm/y of gas to consumers in Bulgaria, Serbia, Hungary, Slovenia and Italy. The construction costs are currently estimated at US 39 billion dollars<sup>25</sup>. The project is intended to diversify import routes from Russia to the EU and to create an alternative for gas transit through Ukraine, but it may also have a tremendous effect on the outlook for gas demand in Central and South-Eastern Europe. Should the South Stream be built, an economic justification for the Southern Energy Corridor, whose aim is to diversify import by connecting Caspian and Middle East gas deposits with the EU market, will be weakened. The official inauguration of the project's construction phase before all necessary permissions have been obtained and two years sooner than the actual works are planned to start should be read as an attempt to influence the decision-making process of the Azerbaijani Shah Deniz gas deposit's shareholders on the export route. Their choice, which is going to be made in mid-2013, will shape the Southern Energy Corridor and will be significant for the EU Central-European states' energy security<sup>26</sup>.

Price discounts awarded by *Gazprom* to its European partners have become an important part of the strategy to preserve the RF's role as the EU's dominant gas supplier. The Russian monopoly has agreed to retroactively lower prices for its biggest consumers, such as *E. ON* and *RWE* in Germany, Italy's *ENI* and *Edison* or the Polish *PGNiG*. Consequently, *Gazprom* had to reimburse US 4.5 billion dollars in the first three quarters

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anian Energy Ministry. Both sides claimed that they had won the case and that the adjudication was favourable for them. Cf. R. Griffin, *Lithuania, Gazprom at odds over arbitration ruling on Lietuvos Dujos*, [www.platts.com](http://www.platts.com) (accessed: 02.01.2013).

<sup>25</sup> *Gazprom sees South Stream costing \$39 bln*, [www.reuters.com](http://www.reuters.com) (accessed: 29.01.2013).

<sup>26</sup> Z. Baran, *Security Aspects of the South Stream Project*, 2008, pp. 9–11, [www.hudson.org](http://www.hudson.org) (accessed: 01.11.2011); P. Baev, I. Øverland, *The South Stream versus Nabucco pipeline race: geopolitical and economic (ir)rationalities and political stakes in mega-projects*, „International Affairs” 2010, Vol. 86, No. 5, pp. 1088–1090; Sz. Kardaś, E. Paszyc, *Za wszelką cenę: Rosja rozpoczyna budowę South Streamu*, „Komentarze OSW” 2012, No. 98; p. 1–7, [www.osw.waw.pl](http://www.osw.waw.pl) (accessed: 11.12.2012); A. Anishchuk, V. Soldatkin, *European energy firms back Gazprom at pipeline ceremony*, [www.reuters.com](http://www.reuters.com) (accessed: 07.12.2012).

of 2012, and a similar figure has been anticipated in the company's 2013 budget<sup>27</sup>. These moves have been aimed at lessening consumers' pressure on the company to change the contracts' model and to discard long-term agreements with oil-linked prices for short-term arrangements as well as for gas value in spot markets. The activities of *Gazprom*'s competitors, for instance *Statoil*, which have increased the share of spot prices in their contracts, are not making this task easy<sup>28</sup>.

## 5. MODEL OF THE RUSSO-EUROPEAN GAS COOPERATION

### IN ACCORDANCE WITH RUSSIAN AUTHORITIES' DECLARATIONS, SHIFTS IN THE EU ENERGY POLICY MUST HAVE RESULTED IN A SIGNIFICANT INCREASE OF THE RF'S

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<sup>27</sup> M. Akin, M. Goettig, *Poland deal: Gazprom's last Europe gas price battle settled*, [www.reuters.com](http://www.reuters.com) (accessed: 02.01.2013); *Gazprom reports its financial results under IFRS for the nine months ended September 30, 2012*, [www.gazprom.com](http://www.gazprom.com) (accessed: 17.01.2013); O. Astakhova, V. Soldatkin, *Gazprom plans \$4.7 bln refund to European customers in 2013*, [www.reuters.com](http://www.reuters.com) (accessed: 09.02.2013). Researchers from the Netherlands prove in a theoretical model that when competing with profit-oriented suppliers, politically-motivated *Gazprom* has an incentive to devalue its gas price in order to increase its share in the EU market and in this way to support Russian foreign policy. Building the Nord and South Stream pipelines and discounts awarded to European consumers are empirical evidence for this hypothesis. Cf. T. Jansen, A. van Lier, A. van Witteloostuijn, T.B. von Ochsse, *A modified Cournot model of the natural gas market in the European Union: Mixed-motives delegation in a politicized environment*, „Energy Policy” 2012, Vol. 41, pp. 280–285.

<sup>28</sup> H. Gloystein, *Norway weakens Russia's grip on European gas market*, [www.reuters.com](http://www.reuters.com) (accessed: 15.02.2013). The Oxford Institute for Energy Studies' researchers have showed theoretical and empirical evidence proving the hypothesis that the market has been heading towards the hub-based gas pricing model. Therefore, Russian attempts to prevent this change can be perceived as pointless and would only delay the inevitable. J. Stern, H. Rogers, *The Transition To Hub-Based Gas Pricing In Continental Europe: A Response to Sergei Komlev of Gazprom Export*, „Oxford Energy Comment” February 2013, [www.oxfordenergy.org](http://www.oxfordenergy.org) (accessed: 12.02.2013).



**GAS COOPERATION WITH THE ASIA-PACIFIC REGION. SHOULD THIS BE ACCURATE THEN THE POLICY OF DEFENDING THE RUSSIAN POSITION ON THE EUROPEAN ENERGY MARKET THROUGH, E.G. LAYING NEW PIPELINES TO THE EU, OUGHT TO BE INTERPRETED AS IRRATIONAL BEHAVIOUR. BUT THIS IS A FALLACY ARISING FROM ASSUMPTIONS THAT THE EU GAS MARKET IS HOMOGENEOUS, THAT ALL MEMBER STATES ARE IDENTICALLY DEPENDENT ON GAS IMPORT FROM THE RF AND, THEREFORE, ARE ALL IN THE SAME DEGREE INTERESTED IN COLLABORATING WITH NON-RUSSIAN GAS EXPORTERS. IN FACT, IN ITS ENERGY DIMENSION THE EU IS A SET OF 27 SEPARATE COUNTRIES WHICH INDEPENDENTLY DEFINE THEIR ENERGY POLICY AND BALANCE AND DO SO UNDER DIVERSE DETERMINANTS WHICH LEAD TO, FOR EXAMPLE, DIFFERENT APPROACHES TO GAS COOPERATION WITH THE RF<sup>29</sup>.**

With the purpose of correctly analysing the impact of the European gas market's evolution on the Russian gas export strategy, a new model of repeated game was created in which three players are participating: Russia (as a supplier) and two types of European states (as consumers). In line with Pierre Noël's research<sup>30</sup>, European countries are divided into: states highly dependent on Russian gas import (HD), and countries with a medium or low share of gas from Russia in their total gas-consumption balance (LD). The first group consists of countries importing above 50 per cent of fuel consumed yearly from the RF. They are primarily new EU Member States in Central and South-Eastern Europe (except for Romania, which primarily uses domestically-extracted gas), and also Austria, Finland and Greece. All other countries, mainly EU Member States prior to 2004, belong to the latter group.

<sup>29</sup> E. Wyciszkievicz, *Perspektywy wspólnej polityki bezpieczeństwa energetycznego Unii Europejskiej*, „Polski Przegląd Dyplomatyczny” 2006, No. 1, pp. 69–70; A. Paterek, op. cit., p. 290.

<sup>30</sup> P. Noël, *Beyond dependence: how to deal with Russian gas*, „European Council on Foreign Relations Policy Brief” 2008, No. 9.



Each player has two available strategies: to cooperate with the supplier/consumers or to develop contacts with new partners. For financial and technical reasons the Russian energy sector is unable, on its own, to notably increase export simultaneously in the western and eastern direction<sup>31</sup>, as Russian authorities must choose to either deepen ties with European states (EE) or collaborate with new consumers in the Asia-Pacific region (EA). European states, both HD and LD, have to decide to either cooperate with Russia (CR) or to increase import from other gas-producing countries (CA). The former strategy assumes a more liberal attitude to RF energy presence on the European gas market, the latter supposes strict execution of EU regulations, even if this would cause tensions in relations with the RF elites.

A primary variable in the model is the chosen strategy's effectiveness (+ei), which represents energy security and stability of gas flows. The strategies are successful if the RF's willingness to export gas in the western direction intersects with either the LD or HD countries' decision to import gas from Russia. The model assumes that, should Russia choose the EA strategy or either the HD or LD countries would opt for the CA strategy,

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<sup>31</sup> Previous studies on the Russian energy policy indicate that there has been a risk of gas shortages due to underinvestment in new gas deposits development and an export obligation exceeding the difference between production and domestic consumption. Although the global financial crisis may have postponed conclusions from those forecasts, it did not completely eradicate the threat. Therefore, the assumption about the Russian gas industry's lack of means to simultaneously increase export to European and Asian consumers should be regarded as highly possible. Cf. E. Palazuelos, R. Ferna, *The future of Russian gas exports to East Asia: Feasibility and market implications*, „Futures” 2011, Vol. 43, pp. 1069–1081; V. Milov, L.L. Coburn, I. Danchenko, *Russia's Energy Policy, 1992–2005*, „Eurasian Geography and Economics” 2006, Vol. 47, No. 3, pp. 285–313; A. Riley, *The Coming Russian Gas Deficit: consequences and solutions*, „Centre for European Policy Studies, Policy Brief” 2006, No. 116, [www.ceps.eu](http://www.ceps.eu) (accessed: 14.03.2013); D. Simmons, I. Murray, *Russian Gas: will there be enough investment?*, „Russian Analytical Digest” 2007, No. 27, pp. 2–5, [www.css.ethz.ch](http://www.css.ethz.ch) (accessed: 01.11.2011); E. Wyciszkiewicz, *Rosyjski sektor naftowo-gazowy – uwarunkowania wewnętrzne i perspektywy rozwoju*, in: *Geopolityka ropy i gazu. Współzależność energetyczna a stosunki między państwami na obszarze postsowieckiego*, E. Wyciszkiewicz (ed.), Warszawa 2008, p. 27; J. Stern, *Future Gas Production in Russia: is the concern about lack of investment justified?*, Oxford 2009, [www.oxfordenergy.org](http://www.oxfordenergy.org) (accessed: 01.11.2011).

the demand would be met with appropriate supply and therefore the strategy would be regarded as effective. When a player's strategy is considered a failure, i.e. it is not met with the expected response of other partakers, then cost ( $-ci$ ) occurs as a consequence of taking the wrong decision, thus resulting in either gas shortages (with reference to the LD or HD countries) or with no buyers for the fuel (in the case of the RF).

The next variable in the model are the opportunity costs ( $-oi$ ). Should the RF authorities decide to export gas to the Asia-Pacific region and, simultaneously, European countries are eager to buy Russian gas, then by virtue of price differences between Asian and European gas markets Russia would earn less than it could have. European states would experience opportunity costs if either type sacrificed its gas supplies' diversification interests in order to cooperate with the other.


Should the HD and LD countries coordinate their energy policies, they would benefit ( $+si$ ) from the successful implementation of the EU energy strategy and the creation of a common European gas market. If the consumers are unable to do this, they will suffer an additional cost ( $-fi$ ) that embodies the failure of the concept as proposed by the EC.

If the HD states chose the CA strategy or the Russian authorities decided that gas should be sent to the East, the country would experience a loss ( $-ti$ ) of energy as a tool in political and economic bargains with the European partners (the so-called energy weapon). Should the LD countries opt for the CR strategy and, simultaneously, RF chose to export gas to Europe, Russia would make a profit ( $+wi$ ) representing the gain of energy leverage in negotiations with the EU and/or its Member States.

In accordance with the rules, the game's outcomes are presented in Matrix 1.

**Matrix 1.**

RF – EE					
<div></div>		HD			
		CA		CR	
LD	CA	$-c_1 - t_1, +e_1 - o_1 + s_1, +e_1 + s_1$		$+e_2, +e_2 - o_2 - f_2, +e_2 - o_2 - f_2$	
	CR	$+e_3 + w_3 - t_3, +e_3 - f_3, +e_3 - f_3$		$+e_4 + w_4, +e_4 + s_4, +e_4 - o_4 + s_4$	

RF – EA				
			HD	
			CA	CR
	LD	CA	$+e_5 - t_5, +e_5 - o_5 + s_5, +e_5 + s_5$	$+e_6 - o_6 - t_6, +e_6 - o_6 - f_6, -c_6 - o_6 - f_6$
		CR	$+e_7 - o_7 - t_7, -c_7 - f_7, +e_7 - f_7$	$+e_8 - o_8 - t_8, -c_8 + s_8, -c_8 - o_8 + s_8$

Order of the payments (RF, LD, HD)

The establishment of RF considers energy resources as an instrument of a geopolitical influence in the array of foreign policy tools. For that reason, in order to fully utilise political power springing from gas abundance and by that means successfully protecting national interests abroad, the Russian authorities' top priority is to have a dominating position in the import balance of each state that the fuel is piped to. Preference for export to European markets, for which Russia is already a source but not a prevailing one, of consumed gas over development of new energy links to East-Asian markets is a ramification of this approach. The profitability of gas export is the next position in the Russian hierarchy of importance. Income reaped from trade in energy resources is a significant component of the national budget, and thus it plays a stabilising role in Russian political and social systems. This feature of the RF energy policy results in a preference for export to open markets in the EU, where gas prices are high, above cooperation with highly diversified Asian-Pacific markets with frequently internally regulated prices<sup>32</sup>.

For the European decision-makers, both in the HD and LD countries, the most important objective is energy security. But, due to dissimilarities in energy mixes, this community of interests ends when it comes to meth-

<sup>32</sup> *The Foreign Policy Concept of the Russian Federation approved by Dmitriy A. Medvedev, President of the Russian Federation on 12 July 2008*, [www.mid.ru](http://www.mid.ru) (accessed on (accessed: 13.05.2010); E. Wyciszkiec, *Rosyjski sektor...*, pp. 7–8; B. Molo, *Polityka bezpieczeństwa energetycznego Federacji Rosyjskiej*, in: *Międzynarodowe bezpieczeństwo energetyczne w XXI wieku*, E. Cziomer (ed.), Kraków 2008, pp. 121–122; K. Smith Stegen, *Deconstructing the “energy weapon”: Russia’s threat to Europe as case study*, „Energy Policy” 2011, Vol. 39, pp. 6506–6510.

ods of import diversification. For states that are highly dependent on gas originating from the RF the best option is to collaborate with non-Russian gas producers and to curb the Russian presence on the European gas market. The opposite solution is preferred by countries importing small or medium volumes of Russian gas. The difference has to be overcome and interests reconciled should the HD and LD states want to achieve a goal nearly as important as that of energy security, namely, energy solidarity through the EU's common energy policy implementation and European gas market integration. Success in this regard, no matter who would have to sacrifice their energy interests and which option would eventually win, manifested in the *speaking with one voice on energy issues* approach, would make the bargaining position of the EU and individual countries stronger as it would be one of two of the world's biggest gas markets. Moreover, states could diversify import *via* their neighbours' energy systems and access to their import infrastructure. The bonus to these tangible gains would be international recognition for the EU for successful cooperation and coordination of multiple national energy policies.

In Matrix 2 the number representing the position in the players' preferences orderings (not a utility) is assigned to each outcome from Matrix 1.

**Matrix 2.**

RF – EE			
		HD	
		CA	CR
	LD	CA	1, <u>6</u> , <u>7</u>
		CR	<u>6</u> , 3, 3
			<u>7</u> , 5, 4
			<b>8, 8, 6</b>
RF – EA			
		HD	
		CA	CR
	LD	CA	<u>5</u> , <u>7</u> , <b>8</b>
		CR	4, 4, 1
			3, 1, <u>5</u>
			2, 2, 2

Order of the payments (RF, LD, HD). Best responses. Nash equilibria.

The game solved by the best respond method has two Nash equilibria in pure strategies that are marked in Matrix 2. Another equilibrium could also be set in mixed strategies, but because it would be impossible to precisely determine the utilities of particular outcomes, the author was unable to establish it. The game has no Pareto-dominating Nash equilibrium.

An analysis of the balance points leads to the conclusion that players are better off should they all coordinate their strategies and simultaneously decide to either collaborate (choose strategies EE and CR) or develop gas contacts with new partners (strategies EA and CA). The former is a better option for the RF and LD countries, the latter – for the HD states. From that an additional inference concerning preferences of both types of European states can be drawn. Their preferences orderings make the game similar to a ‘Battle-of-the-Sexes’ game, in which two players would like to cooperate (in this instance in energy issues) but they differ in the optimal solution (the most advantageous gas supplier).

The third conclusion concerns the outcome of the game up to now. Prolonging implementation of the plan to diversify Russian gas export to the Asia-Pacific region and decisions to lay the Nord and South Stream pipelines, i.e. projects in which the RF and both types of European states are participating, imply that to date the game has ended in the (EE, CR, CR) strategy profile. This has been possible for two reasons: first of all, the repeated character of the game and the long-standing political and economic (and also gas) contacts between Russia and the EU have resulted in an understanding of the partner’s intentions and interests as well as in mutual confidence in rational behaviour. Secondly, by an intensive energy dialogue with Western governments and by concessions to European companies, RF authorities have showed their commitment to the EU gas market, which has facilitated gas cooperation with countries dependent on Russian fuel to a small or medium extent. This, in turn, forces highly dependent states, which in this situation can expect gas cooperation between RF and LD, to choose their less favourable but – under the circumstances – more rational strategy and to take part in Russian projects and, therefore, to hinder their own gas diversification plans.

The last inference from the model analysis concerns the (EA, CA, CA) strategy profile. Because it is a Nash equilibrium, Russian threats to direct

new gas export capacities to the Asia-Pacific region are credible and as such must be taken seriously. The reason why this scenario has not yet been fulfilled can be found, among others, in the evolution of the European gas market and the proposed shifts in the EU energy policy. Due to the danger of the RF's ability to use energy as a foreign policy tool, in addition to lower prices than on European markets, the changes have created an additional cost for Russian cooperation with East Asian states and thereby, political profitability of the {EA} strategy has declined. Temporary abandonment of plans to boost gas cooperation with the Asia-Pacific region in favour of energy collaboration with European states and the demonstration of adherence to that market allows RF authorities to influence changes and to delay them. A return to Russian diversification plans can occur when: (1) the transformation will be inevitable, or (2) less harmful for Russian interests, or (3) cooperation with the RF due to e.g. EC sanctions will cause additional detriments to EU states, or (4) the condition for eastbound export will be relatively more politically and economically beneficial for Russia.

## 6. CONCLUSIONS

Market integration and liberalisation as well as enhanced competition between gas suppliers for access to the EU market, i.e. processes that entail an evolution of energy relations in the Europe, have been perceived by Russian elites as a threat to the national interests. In this situation, due to financial and technical constraints, RF officials had to choose to either export Russian resources westbound with the hope that this would prevent changes from taking place or to accept the transformation and adapt to it by developing gas cooperation with the Asia-Pacific region.

Price discounts for *Gazprom's* European clients and redundant projects of the new gas pipelines to Europe, which would increase Russian currently under-utilised export capacities to the EU by 50 per cent, and at the same time an adamant position in bargains with East Asian potential customers and the lack of a decision on a strategic partner for gas cooperation in Asia are all evidence that so far, in spite of the *Russian Energy Strategy's* principles, RF authorities have decided to focus on the European

gas market. Adjournment of the gas export diversification plans has been a necessary price for the opportunity to defend Russian geopolitical and economic interests there. By doing so the leaders are behaving rationally and have chosen a strategy that would yield the best outcome.

An analysis of the Russian gas export strategy model indicates that for the RF, under the current circumstances, developing new eastbound transmission capacities is the best policy only if European countries would be unwilling to import gas from Russia and if the adverse character of the European gas market's transformation would be inevitable. But EU Member States vary in their security of supply interests, hence this scenario might be precluded. Should one assume that the shape of the European energy relations is not an outcome of the consumers' unilateral decision but a result of interaction between gas producers and the fuel consumers, then RF authorities have been induced by changes to actively cooperate with EU countries so as to create a more favourable (or at least less harmful) European energy order. Thus, by creating additional costs in the form of a peril for Russian ability to use gas as a leverage in bargains with EU and its Member States, evolution of the European market is reducing the relative geopolitical attractiveness of energy cooperation with the Asia-Pacific region and, therefore, in addition to other disadvantages it is having a detrimental effect on the process of implementing the RF's export diversification policy.

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## **THE THREAT OF MEGA-TERRORISM: AVAILABILITY, INHIBITORS AND MOTIVATION**

**Keywords:** International Relations, terroryzm

**ABSTRACT:** The prospect of weapons of mass destruction (WMD) terrorism poses a danger for contemporary societies. However, the incidents related to an application of weapons of mass destruction (that is, nuclear, chemical, biological and radiological weapons) by non-state actors are relatively rare. The aim of the paper is to present recent incidents and to estimate the threat from particular types of WMD. The author focuses both on the question of motivation to undertake these operations and on the problem of technological capabilities.

To sum up, the risk of a massive WMD terrorist attack should be perceived as quite moderate due to the technological barrier, but selective attacks carry a greater potential risk because of their higher probability and significant psychological effect.

### **1. INTRODUCTION**

The threat of the so-called mega-terrorism (super-terrorism), that is, weapons of mass destruction terrorism, results from the combination of two security trends which are two distinctive factors of the post-Cold War era. The former is a growing threat of weapons of mass destruction itself, and the latter is a transformed nature of terrorism which significantly increases the probability of using weapons of mass destruction by terrorist organizations. The empowerment of international terrorist organizations accompanies this trend. These organizations have become a subject of international relations due to the real capability to combat sovereign

states<sup>1</sup>. The establishment of the anti-terrorist coalition after 9/11 attacks<sup>2</sup> actually enhanced the status of these organizations.

## 2. THE NATURE OF CONTEMPORARY TERRORISM

Contemporary terrorism, especially religiously motivated, is called postmodern terrorism. The type of violence is the crucial difference compared to the classic terrorism (generally politically motivated). Instead of instrumental violence, which is an enforcement method to carry out a given political objective (most often government concessions), postmodern terrorism applies expressive violence. The act of violence is an end in itself<sup>3</sup>. The pursuit of killing a vast number of the "infidel" also matters in case of faith-based terrorism<sup>4</sup>. Accidental victims are no longer perceived as an inevitable sacrifice, essential to achieve the goal, however unwanted. In the past, the public opinion support (e.g. support by a country's population) served as a legitimacy factor, which excluded mass casualties. Nowadays, postmodern terrorism does not apply such methods to reduce or even eliminate accidental victims as bomb warning made verbally over the phone. An attack itself was a sufficiently clear message and victims could interfere the process of acquiring public opinion support.

At present, the situation is the opposite – the maximization of the number of victims is an expected factor. It is because postmodern terrorism does not require any public opinion support – religion is a reference point. A religious character of the attacks is – in their authors' opinions – an adequate justification, so there is no need to search for any additional

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<sup>1</sup> A. Bógdał-Brzezińska, *Porządek międzynarodowy w perspektywie badań angielskiej szkoły stosunków międzynarodowych*, in: R. Kuźniar (Ed.), *Porządek międzynarodowy u progu XXI wieku. Wizje – koncepcje – paradygmaty*, Warsaw 2005, p. 309.

<sup>2</sup> *International Contributions to the War Against Terrorism*, available at: <http://www.defense.gov/news/Jun2002/d20020607contributions.pdf>, (accessed 28.03.2012).

<sup>3</sup> Ł. Kamiński, *Technologia i wojna przyszłości. Wokół nuklearnej i informacyjnej rewolucji w sprawach wojskowych*, Krakow 2009, p. 194.

<sup>4</sup> J. Pawłowski, *Broń masowego rażenia orężem terroryzmu*, Warsaw 2004, p. 19–20.

motivation in this earthly world<sup>5</sup>. According to Joseph Nye contemporary terrorism is based on mass casualties, whereas terrorism in the 20<sup>th</sup> century tended rather to acquire mass audience<sup>6</sup>. Certainly, modern communication technologies, first of all the internet, make it possible to increase the number of the audience more than ever before. However, it is not necessary now to trigger reactions between terrorists, public opinion and the government. Both, intimidating the society and the impact of the so-called theater of terror still exist, but striking fear into the society is no longer a means to influence the government. An objective of conventional terrorism was to exert an influence on the government to change its politics (or even eliminate it), whereas the society served as a means of communicating ideas and a pressure element. On the contrary, the post-modern terrorism's objective is the whole society as not deserving any respect (for example representatives of a different faith or even of a faction within a faith – as in the Shia-Sunni clash – or the condemned “godless and decadent” Western societies). The maximization of the number of victims has become thus a desirable feature of postmodern terrorist attacks.

Herfried Münkler writes about recent tendencies breaking the self-limitation of terrorism, which used to restrain the usage of weapons of mass destruction. These tendencies include:<sup>7</sup>

- the internalization of terrorism; this trend had begun in the ‘60s and boosted in the ‘90s; the internalization of terrorism results in a dispersion of a violence circle (for example passengers of an attacked plane come from different countries), which makes it impossible to select victims – it is the first step to spark the spiral of violence;
- religious fundamentalism as a crucial part of terrorists’ motivation; this kind of terrorism does not address public opinion in order to win the society over to terrorists’ side (like conventional terrorism, e.g. separatist terrorism), which could result in the drop of the

<sup>5</sup> H. Münkler, *Wojny naszych czasów*, Krakow 2004, p. 147–149.

<sup>6</sup> J.S. Nye jr., *Soft Power. Jak osiągnąć sukces w polityce światowej*, Warsaw 2007, p. 52–53.

<sup>7</sup> H. Münkler, *Wojny naszych czasów...*, op.cit., p. 136–138, 142–143, 147, 149.

number of victims or in their selection; the terrorism driven by religious fundamentalism strives for the maximization of the number of victims among the society seen as an enemy, alternatively for the establishment of a new community (e.g. a new Islamic community which is convinced that an effective struggle against the West is possible);

- terrorism is no longer an initial stage before any further action (e.g. as a preparation for an uprising – it could reduce the number of victims in order to win any supporters over), however, it is the strategy itself, which justifies the maximization of the number of victims;
- the conflict between a post-heroic mentality attributed to the West and heroic mentality represented by terrorist groups; this factor explains wide-spreading suicide attacks, which are extremely difficult to defend from (there is a great variety of ways of attacks, as it is not necessary to consider any way of escape); what is more, a suicide attack notifies of the determination of its author, especially if it is addressed to post-heroic societies (a psychological impact caused by this type of message is greater in post-heroic societies);
- taking advantage of media revolution: a requirement of getting through media hype induces to apply more and more spectacular operations in order to “produce” terrifying pictures; an attack with the use of weapons of mass destruction perfectly meets this requirement;
- the exclusion of a compromise: there is no room for negotiations, when terrorists leave a picture of violence itself, without explaining a reason of an attack or making demands; any compromise is excluded in advance; an additional feature of this strategy is an ambiguous aim – it is not about meeting any specific demand, which could close a terrorist campaign, but it is about causing an overwhelming fear and feeling of the permanent lack of security.

### 3. THE APPLICATION OF WEAPONS OF MASS DESTRUCTION BY TERRORISTS

These circumstances may enable the terrorists to apply weapons of mass destruction. These types of weapons appear to be tailor-made in order to maximize the number of victims and the scale of fear. Consequently, a strong motivation to acquire and apply the weapons of mass destruction by terrorist groups can be supposed. However, the analysis of terrorism history demonstrates that the application of weapons of mass destruction by terrorists is rather an exception than the rule.

According to the study by National Defense University in 2001 there were 180 cases of illicit (terrorist or criminal) biological agent activity in the 20<sup>th</sup> century. Only 21 of these cases involved its real use, while the threats only were among a vast majority of cases.

**Table 1.** Confirmed cases of illicit biological agent activity

Type	Terrorist	Criminal	Other/Uncertain	Total Cases
Acquire and Use	5	16	0	21
Acquire	3	7	2	12
Interest	6	4	0	10
Threat/Hoax	13	29	95	137
Total Cases	27	56	97	180

Source: W.S. Carus, *Bioterrorism and Biocrimes: The Illicit Use of Biological Agents Since 1900*, Washington 2001, p. 8.

Over the recent years (since the '80s) one can indicate the following cases of applying biological weapons by terrorist or similar groups:

- an attempt to poison people at The Dalles town in the United States in 1984 by the members of the Neo-Sannyas sect (its leader was a Hindu guru Bhagwan Shree Rajneesh). The purpose of the attack was to take over the reins of local authority by changing the council election's results (it was presumed that sick inhabitants could not take part in the election). It should be noted that relations between the local community and the members of the sect were extremely tense. Salad bars were the target of the attack. It ended

with poisoning of 751 people, but there were no fatalities. The epidemic was recognized as group food poisoning on the ground of natural reasons and after one year it was bound with the sect activity<sup>8</sup>.

- Larry Wayne Harris, the member of the American neo-Nazi group Aryan Nations, acquired from a biochemical company the freeze-dried *Yersinia pestis*, the pathogen that caused bubonic and pneumonic plague in 1995. Harris claimed that the material was necessary to conduct an experiment, which would be the background of his book (a kind of a manual describing the methods of protecting against biological attacks), since he was afraid of a biological attack by Iraq. The information about the transaction was found out by the health care service and then by federal authorities. Harris was arrested, finally it occurred that he had possessed a plague bacteria legally. He was only accused and convicted of a fraud concerning the acquisition and was sentenced to 18 months probation and 200 hours of community service. At his own expense he published a book *Bacteriological Warfare: A Major Threat to North America*. The result of his activity was the enactment of a law imposing on government institutions an obligation of more scrupulous monitoring of deliveries containing infectious agents<sup>9</sup>.
- Biological attacks by the Aum Shinrikyō sect (Eng. Supreme Truth, established by Shōkō Asahara). The sect tried to acquire an Ebola virus – its members came with this purpose to Zaire in 1992, officially with a humanitarian aid<sup>10</sup>. Aum Shinrikyō made a few attempts to apply biological weapons. In 1990 it spread a botulinum toxin out of a vehicle around the Japanese parliament. In 1993 the sect members tried to disturb the wedding ceremony of the Prince

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<sup>8</sup> J. Kastner, *Food and agriculture security: an historical, multidisciplinary approach*, Santa Barbara 2011, p. 69.

<sup>9</sup> W.S. Carus, *Bioterrorism and Biocrimes: The Illicit Use of Biological Agents Since 1900*, Amsterdam 2002, p. 152.

<sup>10</sup> M. Leitenberg, *The Experience of the Japanese Aum Shinrikyo Group and Biological Agents*, available at: <http://www.fas.org/bwc/papers/aumpap.htm>, (accessed 14.03.2012).

of Japan by spreading a botulinum toxin. The same year the sect conducted an anthrax attack in Tokyo, spreading it from a building roof. The ineffectiveness of those attacks drew the sect's attention to chemical weapons<sup>11</sup>.

- Anthrax terrorist attacks in the United States in the period of 16<sup>th</sup> September to 25<sup>th</sup> November 2001. Letters containing anthrax spores were sent to media (NBC News and New York Post) and several important institutions (e.g. Senate). It was the first time anthrax was used as a biological weapon. There were 22 people poisoned (11 were infected by cutaneous anthrax – on the skin – and 11 by pulmonary anthrax). 5 out of them died – all in consequence of pulmonary infection<sup>12</sup>. It was a well-prepared attack, what an accurate adjustment of physical characteristics demonstrated – micro-holes in anthrax-containing envelopes were about 100 microns in diameter, powder fraction was about 50 microns, and anthrax spores between 4 and 6 microns. Hence every single move of an envelope resulted in spreading spores<sup>13</sup>. Contaminated deliveries were sent also to the US embassy in Vilnius and to the editor-in-chief of the Pakistani paper Daily Jang<sup>14</sup>.

The official investigation was closed in February 2010. The only official suspect was Dr. Bruce Ivins, a microbiologist at the U.S. Army Medical Research Institute of Infectious Diseases in Fort Detrick. Ivins committed a suicide on 29<sup>th</sup> July 2008, taking an intentional overdose of Tylenol after learning that formal accusation of him is possible. However, the results of the investigation are very questionable – evidence against Ivins was circumstantial, his suicide could be related to the fear of his unusual sexual preference disclosure. Moreover, possible initiators of the attack were not found and the investigation did not reveal any connections between attackers and foreign terrorists groups<sup>15</sup>. These relations seem to be pos-

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<sup>11</sup> J. Pawłowski, *Broń masowego rażenia orężem...*, op.cit., p. 95.

<sup>12</sup> B. Michailiuk, *Broń biologiczna*, Warsaw 2004, p. 16.

<sup>13</sup> J. Pawłowski, *Broń masowego rażenia orężem...*, op.cit., p. 17.

<sup>14</sup> *Ibidem*, p. 99.

<sup>15</sup> K. Kęciek, *Kto wysyłał węgliką?*, available at: <http://www.przegląd-tygodnik.pl/pl/artukul/kto-wysylal-waglika>, (accessed 14.03.2012).

sible because of the date of the attacks – shortly after an 9/11 attack. Furthermore, the information about biological weapons (e.g. a manual of spreading agents by means of agricultural aircrafts) was found in personal belongings of one of the 9/11 terrorists<sup>16</sup>. What is more, during the War in Afghanistan the Northern Alliance soldiers found in al-Qaeda barracks in Kabul an instruction to produce ricin<sup>17</sup>.

The use of chemical weapons for terrorist purposes concerns actually one case, however a very serious one, that is, the Tokyo underground attack by the Aum Shinrikyō sect on 20<sup>th</sup> March 1995. The terrorists used liquid sarin placed in plastic bags and lunch boxes. At prearranged time the attackers, who were in 3 different subway trains, punctured the sarin packages with umbrella tips. The attack was launched during the morning rush hour. As its result 13 people died and nearly 6 thousands were seriously poisoned. In fact, the main purpose of the attack was not to cause mass casualties, but to get rid of policemen from the Police Headquarter, who had used these subway lines<sup>18</sup>. Earlier, in 1994, the sect had carried out an unsuccessful attack on judges in order to prevent the court from delivering a prospective verdict in trial over the fraud case, which was unfavorable for the sect. As a result of the so-called Matsumoto incident 8 accidental people died and over 200 were injured.

A chemical attack was also planned by Ramsi Yousef, an organizer of the World Trade Center bombing in 1993. He intended to use cyanide as a part of a self-made explosive device, however, its construction details and the mode of the action are not clear. The idea of using cyanide was eventually rejected due to high costs (the attackers were forced to reduce the total cost of preparing the device to only 15 thousand US dollars)<sup>19</sup>. Finally, the attackers collected and detonated urea nitrate (with nitroglycerin to boost the blast) conventional explosive device. 6 people were killed and more than 1 thousand were injured in the attack.

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<sup>16</sup> B. Michailiuk, *Broń biologiczna...*, op.cit., p. 17.

<sup>17</sup> J. Pawłowski, *Broń masowego rażenia orężem...*, op.cit., p. 74.

<sup>18</sup> Ibidem, p. 42.

<sup>19</sup> E. Croddy, C. Perez-Armendariz, J. Hart, *Broń chemiczna i biologiczna – raport dla obywatela*, Warsaw 2003, p. 94.



Any case of applying nuclear and radiological weapons for terrorist purposes has not been identified so far. The most important incident related to this sort of weapons took place in Moscow on 23<sup>th</sup> November 1995. Shamil Basayev, the leader of the Chechen rebel movement, announced on the NTV television that he had buried a container holding radioactive cesium-137 in the Moscow's Izmailovsky Park. *The reporters discovered a canister – indeed, it contained cesium-137 (the object was a piece of an X-ray machine stolen from the hospital in Budennovsk).* However, there was not any detonator and the amount of cesium-137 was rather small. The incident was not an attempt of a radiological attack, but a message to the Russian authorities, saying that Chechen rebels possess radiological materials and are ready to use them<sup>20</sup>.

Any attack on a nuclear power plant or radioactive waste store in order to cause radioactive pollution has not been recorded yet even though this form of weapons of mass destruction terrorist attack has been seriously considered for more than a decade<sup>21</sup>. After 9/11 attacks the possibility of making use of a hijacked passenger airliner by terrorists drew public attention. Existing nuclear power plants were constructed in order to withstand a light aircraft or jet fighter accidental impact (concrete reactor domes were successfully tested in the United States and Japan by the F-4 fighter hitting in at 800 km/h)<sup>22</sup>. No one imagined that much bigger aircrafts were a real danger.

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<sup>20</sup> G. Cameron, *Nuclear Terrorism: A Threat Assessment for the 21st Century*, London 1999, p. 143.

<sup>21</sup> However, there were three incidents related to the infiltration of security systems of the South Afrika's Pelindaba Research Center. Details of these incidents were not made public, but it is known that the most serious one took place on 8th November 2007. The team of four armed men deactivated several layers of security systems, shot an off-duty emergency services officer and stole a computer from the emergency control center. At the same time, the second group of attackers failed in an attempt to break in from western perimeter. It is probable that the coordinated attack targeted at weapons-grade nuclear material storage. M. Zenko, "A Nuclear Site Is Breached" – South African Attack Should Sound Alarms, available at: [http://belfercenter.hks.harvard.edu/publication/17791/nuclear\\_site\\_is\\_breached.html](http://belfercenter.hks.harvard.edu/publication/17791/nuclear_site_is_breached.html), (accessed 29.10.2012); Another Infiltration Reported at South African Atomic Site, available at: <http://www.nti.org/gsn/article/new-infiltration-reported-south-african-atomic-plant/>, (accessed 29.10.2012).

<sup>22</sup> W.B. Pietrzak, *Terror atomowy – czy tylko kwestia czasu?*, "Raport – Wojsko Technika Obronność", 2004, No. 2, p. 39.

In a hypothetical scenario described in the scientific weekly magazine *New Scientists* a passenger airliner Boeing 747 with 200 thousand liters of fuel stroked in radioactive waste tanks in Sellafield in Northern England. The accident could result in releasing 1500 kilograms of radioactive cesium-137. Due to the high population density of surrounding areas it could end in 2 million people sick with thyroid cancer (to compare, after the Chernobyl disaster there were 11 thousand of these cases). The number of possible fatalities is difficult to estimate, but it could be around several thousand.<sup>23</sup>

Security measures to counter a nuclear power plant attack refer to 3 major concerns:<sup>24</sup>

- to control nuclear chain reaction,
- to assure that a reactor core does not lose its coolant and “melt down” from the heat, even if chain reaction stops,
- to protect storage facilities for radioactive spent nuclear fuel.

In 1967, the American Atomic Energy Commission (AEC) instituted a rule related to the robustness of nuclear power plants. It specified that nuclear power plants are “not required to provide for design features or other measures for the specific purpose of protection against the effects of (a) attacks and destructive acts, including sabotage, directed against the facility by an enemy of the United States, whether a foreign government or other person, or (b) use or deployment of weapons incident to U.S. defense activities.”<sup>25</sup>

After 9/11 attacks the Nuclear Regulatory Commission (NRC), successor of AEC, focused on the vulnerability of nuclear power plants to terrorist attack and established new security requirements. NRC approved its final rule on 29<sup>th</sup> January 2007 (effective since 18<sup>th</sup> April 2007). Although specific details were not released to the public, the rule increased the number of assumed attack scenarios in general and revised the threat

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<sup>23</sup> P. Gawliczek, *Terroryzm z wykorzystaniem broni masowego rażenia (megateroryzm) jako zagrożenie asymetryczne. Formy przeciwdziałania*, Warsaw 2007, p. 88.

<sup>24</sup> M. Holt, A. Andrews, *Nuclear Power Plants: Vulnerability to Terrorist Attack*, CRS Report for Congress, Washington 2007, p. 1, 4–6.

<sup>25</sup> M. Holt, A. Andrews, *Nuclear Power Plants Security and Vulnerabilities*, CRS Report for Congress, Washington 2009, p. 2.

posed by expanded capabilities of adversaries. It implicated the introduction of more detailed procedures, for example the extension of the range of vehicles, which require special entry permits (e.g. water tanks).<sup>26</sup>

These regulations did not involve security measures directed at a hijacked airliner attack, which provoked public criticism. The main concern was the prospect of a big airliner (especially filled up with fuel) striking into the containment building and consequently a core melt-down or reactor's fire. It could result in widespread radiation exposure. However, the specialists' opinions about the seriousness of that threat were mixed<sup>27</sup>. NRC rejected the proposal of the Union of Concerned Scientists – nuclear power plants would be surrounded by aircraft barriers made of big steel beams and cables (the so-called "beamhenge" concept<sup>28</sup>). NRC experts argued that nuclear power plants are already prepared for that kind of attack to some extent (security measures involve only the mitigation of the effects of aircraft crashes instead of their complete prevention). They also pointed out that active protection against airborne threats is addressed by other federal organizations, including the military<sup>29</sup> and that nuclear power plants are a difficult target because of their low profile and relatively small size. According to Nils Diaz, former NRC Chairman, even in case of striking the reactor building "the likelihood of both damaging the reactor core and releasing radioactivity that could affect public health and safety is low."<sup>30</sup>

In 2007, NRC proposed new rules for new certified designs or new reactor licenses using uncertified designs. Nuclear power plant's design features, capabilities, and operations should be able to avoid or mitigate the effect of a big airliner crash. The new rules, taking into account the effect of the impact of a large, commercial aircraft were approved on 17<sup>th</sup> February 2009. Based on them the Westinghouse company redesigned the

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<sup>26</sup> Ibidem, s. 1.

<sup>27</sup> Ibidem, s. 1.

<sup>28</sup> For more information about the project, please read: Bridging the Gap Between Nuclear Dangers & a Safe, Sustainable Future, available at: <http://www.committeeto-bridgethegap.org/beamhenge.html>, (accessed 25.08.2012).

<sup>29</sup> M. Holt, A. Andrews, Nuclear Power Plants Security..., op.cit., p. 3.

<sup>30</sup> Ibidem, p. 4.

AP1000 reactor (the reactor was previously certified, so the upgrading was not required by NRC). The new design included adding steel plates inside and outside of the reactor's concrete containment structure in order to increase the protection level against the large aircraft penetration.<sup>31</sup>

Other scenarios of a nuclear energy facility terrorist attack are taken into account. Due to that possible incident nuclear sites are subject to exceptionally rigorous security measures. For instance, American nuclear power plants are divided into three security zones:<sup>32</sup>

- buffer region,
- protected area (restricted access, only for a part of employees, monitoring of visitors) – vital area (more strict protection, additional access requirements).

Each American nuclear power plant has to conduct security exercises every three years. The test is a kind of a simulated attack („force-on-force exercises”) – both plant's guard force and mock adversary force are equipped with weapons with laser combat simulation system (they also wear laser sensors to indicate hits). It is also possible to simulate other weapons and explosives or specific damages. Nuclear plant guards know neither exact time of an attack's simulation (they are only informed that an attack occurs during a specific period) nor an attack scenario. They are obligated to maintain normal operating activities of the plant. The program of force-on-force exercises began in 2004.<sup>33</sup>

The first three-year cycle of exercises included 172 force-on-force inspections in all 64 American nuclear plants during the period from 2004 to 2007. Two of them ended in simulated destruction of the vital infrastructure (it could cause large-scale radioactive release in reality). The exercises met with criticism, when information about managing the adversary force by the Wackenhut company (which is a provider of security service for several nuclear plants at the same time) came to light. This conflict of interest resulted in a distortion of exercises' scores. Finally, Wackenhut was excluded from the security contracts when the incident

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<sup>31</sup> M. Holt, A. Andrews, *Nuclear Power Plants: Vulnerability...*, op.cit., p. 4–5.

<sup>32</sup> *Ibidem*, p. 1.

<sup>33</sup> M. Holt, A. Andrews, *Nuclear Power Plants Security...*, op.cit., p. 5–6.

with Peach Bottom nuclear plant guards sleeping on duty was revealed (the video recording showing sleeping guards was done by two ex-workers and presented in a local TV)<sup>34</sup>.

The new security measures were approved by NRC 17<sup>th</sup> December 2008 as a result of the analysis of these exercises. The measures notice the following:<sup>35</sup>

- preventing plutonium-bearing mixed oxide fuel from theft or diversion,
- preventing digital computer and communication systems and networks from cyber attacks,
- preparation of the strategies of responding to an aircraft attack (e.g. a pattern of conduct in case of warning of an aircraft attack and to mitigate the effects of large explosion and fires),
- implementing more rigorous programs for authorizing access (including enhanced psychological assessments and programs of behavioral staff observation),
- modification of the requirements in order to personnel training (including more rigorous physical fitness standards),
- implementing physical security requirements (including ensuring the availability of backup security command center and uninterruptible power supplies to detection systems, enhancing video capability, protection from waterborne vehicles ramming into the plant gate).

#### **4. THE INHIBITORS OF THE USE OF WEAPONS OF MASS DESTRUCTION BY NON-STATE ACTORS**

The weapons of mass destruction, in spite of their numerous advantages as a weapon of terror, have not been widely applied by terrorist organizations. While the nature of postmodern terrorism indicates that the lack of motivation is not the root of the problem (WMD are a highly

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<sup>34</sup> Ibidem, p. 6–7.

<sup>35</sup> Ibidem, p. 9.

desirable fighting method), we can attribute this situation to the difficulty to acquire militarily usable WMD.

Fruitless efforts of the Aum Shinrikyō sect (beside a high level of motivation and huge financial and organizational capabilities<sup>36</sup> the sect failed to apply biological weapon effectively) lead to the conclusion that a massive biological terrorist attack is a formidable challenge. Production of biological agents is not an insurmountable obstacle for non-state actors<sup>37</sup>, but their preparation in such way that they would be applied on a massive scale. Another inhibitor is a necessity to develop an efficient way of releasing pathogens. Many ways of releasing them are not adequate in order to carry out a biological attack on a large scale, such as insects (they are unpredictable), poisoning water supplies (it requires a large amount of pathogens, which could be detected by water filter systems<sup>38</sup>), contaminated food (pathogens can be neutralized in the food production process), an infected person (in this case, the most suitable pathogen is smallpox virus due to its contagiousness and mortality; however, it is extremely difficult to obtain it as the only pathogens are stored in the laboratories in Atlanta and Koltsovo<sup>39</sup>).

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<sup>36</sup> However, it is worth mentioning that there were more chemists and physicists than microbiologists in the sect. K. Langbein, Ch. Skalnik, I. Smolek, *Bioterroryzm*, Warsaw 2003, p. 39.

<sup>37</sup> The provocation by the "Sunday Times" journalist (purchasing bacteria in 1998) and the simulation of building a biological weapon factory from off-shelves materials carried out by Pentagon in 1998–2000 proved an easy access to the material used to produce biological weapons. K. Langbein, Ch. Skalnik, I. Smolek, *Bioterroryzm...*, op.cit., p. 141–143.

<sup>38</sup> The effect of a hypothetical chemical or biological attack against water supply system is reduced by the need to dilute a chemical/biological agent. What is more, chlorination and ozonation can neutralize many pathogens. The water quality is constantly monitored and waterworks are under surveillance. E. Croddy, C. Perez-Armendariz, J. Hart, *Broń chemiczna i biologiczna...*, op.cit., p. 111–116.

<sup>39</sup> In 1980, the World Health Organization announced an eradication of smallpox virus. There are only two official repositories of smallpox in the world: US Centers for Disease Control and Prevention in Atlanta (USA) and the State Research Center of Virology and Biotechnology VECTOR in Koltsovo (near Novosibirsk, Russia). Despite the initial plan to destroy this virus, the need to preserve it in case of a hypothetical epidemic in future was recognized (a hypothetical scenario assumes a biological attack

Using an aerosol is the optimal way to release pathogens. There are two kinds of aerosols: liquid (it is less efficient but easier to prepare) and gas (it demands dry spores, which are very difficult to prepare. For example, the scientists in Hussein's Iraq were not able to break through this technological barrier<sup>40</sup>). The requirements for preparation an anthrax weapon (which appears to be one of the most effective biological weapons for terrorist purposes<sup>41</sup>) can serve as an example of difficulties of a biological warfare. It is necessary to grow highly virulent strain and its adequate preparation (grinding material and adding antistatic agents). Then the spores can be used to make a highly concentrated aerosol form. None of these steps is easy to fulfill.

Another obstacles in the process of preparing and carrying out an attack are the difficulty with the ready-to-use weapon storage (many biological materials undergo the inactivation relatively rapidly), and the risk of the infection both in the production process and as a result of an attack<sup>42</sup>.

A large-scale biological attack carried out by a non-state actor are seems to be unlikely. A selective attack (similar to 2001 anthrax attacks) is more probable. A direct attack (a selective transmission of a biological agent) would not result in the large number of victims, but an attack's potential psychological impact can be enormous.

The forecast of a possible chemical attack by a non-state actor is similar as in case of a biological weapon. Even the large-scale attack by the Aum Shinrikyō sect does not significantly change this prediction. Admit-

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carried out by a state or an organization which preserves smallpox virus secretly). E. Croddy, C. Perez-Armendariz, J. Hart, Broń chemiczna i biologiczna..., op.cit., p. 97–102.

<sup>40</sup> K. Langbein, Ch. Skalnik, I. Smolek, Bioterroryzm..., op.cit., p. 146–148.

<sup>41</sup> Anthrax spores are highly survivable and capable of withstanding many counter-measures. Pulmonary infection is extremely dangerous. Only a quick diagnosis gives a chance to survive, but it is not an easy task to distinguish anthrax from other, more common cases of pulmonary illness. As the result, the majority of infected persons cannot avoid delays in diagnosis and treatment. An antibiotic therapy can be effective, but only on the condition of an early diagnosis.

<sup>42</sup> The Japanese Changtech biological attack (1941) can illustrate this danger. It ended not only in about 10 thousand Chinese deaths, but also 1700 Japanese. J. Pawłowski, Broń masowego rażenia orężem..., op.cit., p. 90–91.

tedly, this case indicates that without any assistance from a country a non-state organization could acquire a large amount of chemical precursors, but finally the technological barrier would not be broken down. In spite of the access to well-equipped laboratories, highly trained personnel, and substantial financial resources the sect produced sarin of an insufficient quality, whereas different chemical agents (e.g. VX) were turned down as too complicated<sup>43</sup>. What is more, the outcomes of the Tokyo attack were limited due to a crude method of releasing an agent which was applied. The construction of a chemical agent releasing device, which can be able to cause mass casualties, is more challenging than the preparation of a chemical agent (this is the same problem as in the case of a biological weapon). Consequently, the most serious WMD terrorist attack resulted in 13 deaths only. Compared to the effects of a conventional terrorist attack the results of applying WMD by a non-state actor seem to be very unextraordinary. Obviously, psychological results of a possible chemical attack carried out by a non-state actor are to be taken into consideration, however, limited physical effects make the “weapon of mass destruction” term paradoxically quite inadequate.

The evaluation of a radiological and nuclear weapons threat is complicated because of the fact that these kinds of weapons have been never adopted by any non-state actor. A radiological weapon is undoubtedly easier accessible than a nuclear weapon, however, even in this case the construction of a radiological dispersal device capable of causing mass casualties is an immeasurably difficult task. It is because of the requirement to acquire an appropriate amount of a fissile material and to develop an effective way to release contamination. An additional problem is the radioactivity of fissile materials, which bring a risk during transport and operating. It involves radiation hazard for staff. Moreover it increases the

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<sup>43</sup> Actually, each kind of a chemical weapon suffers a serious setback in order to be applied as a weapon of massive attack by a non-state actor. The production of tabun, for example, is hindered by the excretion of toxic prussic acid; production of sarin, soman, and VX requires high and accurately controlled temperature, additionally corrosive substances are excreted; mustard gas and lewisite can be relatively easily produced, but their components are hardly accessible due to the implementation of the Chemical Weapons Convention. J. Pawłowski, *Broń masowego rażenia orężem...*, op.cit., p. 43.



possibility of being unveiled by state service. For these reasons, the most probable option of a radiological weapon terrorist application is the detonation of a ready radioactive element<sup>44</sup>. Radioactive isotopes are also much more hard to reach compared to chemical and biological materials, let alone conventional explosive materials. It is due to their relative low prevalence and trade control measures as well (even if these measures are insufficient, they are an additional obstacle to acquire radioactive materials).<sup>45</sup>

Considering a nuclear weapon, terrorist organizations focus probably on acquiring a ready-to-use weapon. The most possible scenario assumes a loss of the arsenal control by a nuclear state<sup>46</sup>. Terrorist organizations tend to seize a ready-to-use (or almost ready) weapon<sup>47</sup> instead of getting components, knowledge or technologies (what is characteristic for threshold states). The technological barrier related to the nuclear weapon construction seems to be too difficult to overcome for a non-state actor<sup>48</sup>. A uranium gun-type nuclear weapon is characterized by the relatively low level of technological sophistication what makes it moderately difficult to

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<sup>44</sup> M. Witzak, B. Kot, Ocena możliwości użycia broni masowego rażenia w przyszłych konfliktach zbrojnych i wynikające z niej zagrożenie dla terytorium Polski, "Myśl Wojskowa", 2005, No. 6, p. 82.

<sup>45</sup> For more information about the radiological attack estimated threat, please read: P. Gawliczek, *Terroryzm z wykorzystaniem broni masowego rażenia...*, op.cit., po. 23.

<sup>46</sup> Small size nuclear warheads could be very useful in this case. They were designed in the United States (W-54 warhead, which was an element of the Davy Crockett system; it was a low yield tactical nuclear weapon, intended to be used in a nuclear battlefield; The Davy Crockett, available at: <http://www.brookings.edu/projects/archive/nucweapons/davyc.aspx>, (accessed 15.04.2012)) and in the Soviet Union. In USSR suitcase nuclear bombs were developed (weight: about 30–40 kg; yield: about 1 kiloton of TNT), destined for the destruction of crucial elements of infrastructure. During the Boris Yeltsin's presidency a special commission was established in order to investigate circumstances concerning suitcase nukes. The commission was headed by General Alexander Laded, Secretary of Security Council. It unveiled that only 48 bombs out of 134 fabricated were found (W.B. Pietrzak W.B., *Terror atomowy...*, op.cit., p. 38).

<sup>47</sup> J. Pawłowski, *System przeciwdziałania rozprzestrzenianiu broni masowego rażenia*, Warsaw 2008, p. 30.

<sup>48</sup> P. Gawliczek, *Terroryzm z wykorzystaniem broni masowego rażenia...*, op.cit., p. 19.

design and produce, but it requires a large amount of highly enriched uranium (at least 50 kg for each device)<sup>49</sup>. By contrast, a plutonium-fueled implosion-type weapon is a distinctly complex device.

Marcin Kloske indicates the contradiction in the requirements related to a nuclear weapon if it would be used by a non-state actor. According to him, an essential requirement is its small linear dimension, the simplicity of its design and the easiness of manufacturing it. On the other hand, the possibility to apply poor quality plutonium or even used nuclear fuel is expected. Living up to these contradictory expectations (a high yield and poor quality fissile material) is objectionable or even impossible. As a result, the prospect of building own nuclear weapon by terrorist organizations is rather not upon us today.<sup>50</sup>

## 5. CONCLUSION

The risk of a WMD terrorist attack should be perceived as quite moderate if taking into consideration both a relatively small number of WMD applications by non-state actors and the technical requirements indicated above. However, a possible WMD acquisition by a non-state actor (especially when it comes to chemical and biological weapons) has to be taken into account. Two key factors indicate this possibility: contemporary, postmodern terrorism provides the motivation to include WMD in the catalogue of terrorist methods and there is a potential of the relatively easy production of some kinds of WMD. It is necessary though to consider the distinction between the ability to produce WMD and to carry out a massive attack. Carrying out a massive attack is determined by the proper preparation of an agent and development of an efficient way to release it. The technological barrier related to these requirements is still extremely challengeable for non-state actors.

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<sup>49</sup> J. Kubowski, *Broń jądrowa. Fizyka, budowa, działanie, skutki, historia*, Warsaw 2008, p. 47.

<sup>50</sup> M. Kloske, *Możliwość zastosowania broni masowego rażenia przez organizacje terrorystyczne*, "Myśl Wojskowa", 2006, No. 1, p. 94.

Selective attacks carry a greater potential risk because of their higher probability. The extent of losses, which might be the result of selective attacks, must be relatively small, but their psychological effect can be significant and can lead to very painful consequences. The nature of WMD favors the psychological effect because contemporary societies are not “familiar” with the way WMD works (compared to the conventional weapons). What is more, the results of using weapons of mass destruction, which make them abhorrent and bring condemnation of their users, can intensify the psychological effect.

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## **CORRELATION OF NORMATIVE RESOLUTIONS WITH NORMATIVE LEGAL ACTS**

**Keywords:** Supreme Court of the Republic of Kazakhstan, normative resolutions, criminal law.

**ABSTRACT:** In the given article the issues concerning normative resolutions which are given by the Supreme Court of the Republic of Kazakhstan according to criminal cases are pointed out. The structure and mechanism of normative resolutions are discussed. Correlation of normative legal acts are investigated. Normative legal acts consist of legal norms, they regulate and manage social relations. It means that, as the normative legal acts play an important role on the judicial sphere, they create, change the norms and even can stop their activity. Here we may include constitutional laws, codes, laws, all charters of the President of the Republic of Kazakhstan which have legal power. Normative resolutions are equal for all, according to definite cases it is used not for one person, but for several people. Also, normative resolutions are used in accordance with legal acts, and until the used norm loses its power it can have definite power.

According to the 4<sup>th</sup> article of the Constitution of the Republic of Kazakhstan, Constitution, normative resolutions of the Supreme Court and Constitutional Council are rights which are widely used. These acts which are mentioned above and are shown in the Constitution can be divided into two groups: normative legal acts; normative resolutions.

Normative legal acts consist of legal norms, they regulate and manage social relations. It means that, as the normative legal acts play an important role on the judicial sphere, they create, change the norms and even can stop their activity. Here we may include constitutional laws, codes, laws, all charters of the President of the Republic of Kazakhstan which have legal power.

The issues among normative legal acts are solved by general order. For instance: 1) If there are any contradictions among laws which are accepted by Constitution and Parliament, the norms of Constitution are used. Because, in comparison with another normative legal acts, Constitution has senior legal power; 2) If there are any contradictions among laws, the rules of the law which was finally accepted are used; 3) If there is a contradiction among decisions which were taken by organs whose legal authority is low and normative legal acts, the decisions of those organs whose legal authority is high are used; 4) If there are any contradictions among decisions which were taken by one and the same organ, the rules of the normative legal acts were last received are used; 5) If contradictions are appeared among normative-legal decisions which were taken by one organ, the decisions which were specially taken are used; 6) If there are contradictions among general and special normative-legal decisions which were taken by different organs, the general decisions are used.

Now, if we speak about normative resolutions, in the system of legal acts, its role is not fully defined and founded, it isn't included in the list of normative-legal acts. That is why, during using normative resolutions which were mentioned above, there are some problems in practice from theoretical point of view. According to this, there are quite a lot of debates among scientists about legal authority of normative resolutions in the judicial literature.

The following issues lead to the appearance of the mentioned problems: "Does the official explanation of the Supreme court contain separate legal norms or do they correspond to the part of mentioned legal norms; are the explanations of court organs to the legal norms official and is it possible to acknowledge court explanations as the beginning of law". The mentioned problems arose in 40–50s.

The activities on recognition the initial explanations of USSR Supreme Court plenum as the beginning of criminal law were done<sup>1</sup>. Scientists who supported first direction thought that it is wrong to relegate court explanations to the beginning of the law, but some scientists considered this action

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<sup>1</sup> А. Градовский, *О судебном толковании законов по русскому праву*, Журнал гражданского и уголовного права 1974, No. 1.

right. Those scientists who support first direction point out that court explanations supplement the laws, and recognizing them as the beginning of law in our country may have bad influence on the law.

According to Lazarev V.V.: in the native law system “acts which are usually accepted by state organs and officials are key sources of doctrine and laws, that is why they serve as completion of deficiency. And another part of state organs only help to define deficiencies, but they have no right to correct the norms”<sup>2</sup>.

This opinion is right, because all the time the deficiencies in laws are not corrected by creation of rights, they are solved by the usage of special institutions during right using process. The legal system is regulated with the help of the mentioned institutions, and also its profitability and mechanism which is necessary for regulation of the society are formed. As for court, it is temporary system of deficiencies’ correction. Of course, during finding the deficiencies in the process of using law, they cannot fully restore it, they can only make necessary offers to the law executive bodies about accepting new legal norms.

P.E. Nedbailo pointed out it as the following “the explanation which is recognized as a part of legal norms and with the help of which the opportunity to change the content of legal norms is given and during practice it can be harmful for correct implementation of the activities”<sup>3</sup>. According to N.G. Kadnikov “Or course, court explanation is especially important for using the law. But court explanation cannot be the beginning of law, it can only be a direction for correct explanation of the collected thoughts to the legal norms with the help of the law”<sup>4</sup>.

G.S. Sapargaliyev pointed out that “normative resolutions of the supreme court are not included into normative legal acts. Because, there are no legal norms about appearance, changing and stopping legal relationships in the normative resolutions. But they are included into the legal

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<sup>2</sup> В.В. Лазарев, *Правоположения: понятие, происхождение и роль в механизме юридического воздействия*, Правовых издание 1976, No. 6.

<sup>3</sup> П.Е. Недбайло, *Применение советских правовых норм*, М. 1961. р.355.

<sup>4</sup> Н.Г. Кадников, *Квалификация преступлений и вопросы судебного толкования: теория и практика. Учебное пособие*, М. Норма 2003, р.74.



system”<sup>5</sup>. S.S. Alekseev<sup>6</sup>, N.V. Mihakeva<sup>7</sup>, L.V. Smirnov<sup>8</sup> consider that according to the law and according to the defining property the explanations of Supreme Court Plenum can be included into normative acts.

According to M.Suleimenov, right (law) is system of legal norms which is defined and approved by the state and which regulate social relations and provide the opportunities of state coercion (rights are same for all people)<sup>9</sup>. According to his opinion court practice cannot be recognized as the beginning of the right (law). Because, the beginning of the law is concrete meaning, the decisions which were taken there must be concrete and full.

We considered right to to use the full opinion M.T. Alimbekov who is the head of the Supreme Court of the Republic of Kazakhstan about content and importance of court resolutions. He confirmed that the main law of our country is Constitution of the Republic of Kazakhstan, laws which correspond to the constitution, ratified international terms and resolutions of the Constitutional Council and Supreme Court. According to this, those who make the law through confirming this constitutional rule, as normative resolution is a part of the law used in the republic, set some legal norms. If we consider this from logical point of view different beginnings of law can be the forms of legal norms: normative legal acts, court precedent, terms with normative content, standards of jurisprudence and etc. Normative resolution of the Supreme Court can be the beginning of the law.

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<sup>5</sup> G.S. Sapargaliyev, *Normative resolutions of the Supreme Court as the source of functioning law in the Republic of Kazakhstan*, The courts and their role in strengthening of state independence: Proceedings of the international scientific-practical conference dedicated to the 10th anniversary of the independence of the Republic of Kazakhstan, Astana, 15–16 March 2001. Astana, the Supreme Court of the Republic of Kazakhstan, 2001. pp. 62–67.

<sup>6</sup> С.С. Алексеев, *Общая теория права: Т. 1.* pp. 354–355.

<sup>7</sup> Н.В. Михалева, *Судебная практика судов общей юрисдикции как источник права, Судебная практика как источник права*, Отв. Ред. Серии Б.Н. Топорнин. М. 2000, р. 138.

<sup>8</sup> Л.В. Смирнов, *Деятельность судов Российской Федерации как источник права*, Журнал российского права. 2001, No. 3. р. 51.

<sup>9</sup> М.К. Сулейменов, *Нормативные постановления Верховного Суда в системе источников права*, Зангер No 1, январь 2010.

We think that the results of interpretation works consist of: general duty, continuation of the activity, versatility of usage; if we take into consideration all the properties of normative resolutions as wide spreading of subjects, such acts which are considered as a collection of interpretational norms can be called normative interpretational acts. Normative resolutions have the power of regulation.

According to constitutional rule, the following question can appear: can law producing role of court be conformed to the theory of power dividing? I can answer as the following. Yes, the issues of legal work of court, indeed, are very complicated. On one hand, the function of legal work of court cannot be conformed to the rules of power dividing. On the other hand, the importance of power dividing role does not separate one branch of power from another, that is it has an absolute form. And, vice versa, their functions are mixed, special organizational-legal activities are made in many countries. They supply not only their limits; they give an opportunity for all branches of power to communicate with each other on a definite level. With the help of this mutual relation, speaking definitely with a help of court power the opportunity to improve and develop the law is appeared.

The Supreme Court shows in normative resolutions its legal directions as legal conclusion and offer of courts, so they actively take part in the process of making law, form positive right and have influence on improving and developing laws which are used. According to M. Alimbekov in the process of using legal norms through court when it is necessary to learn different explanations and terms court practice plays an important role. Speaking definitely, only the high bodies of court power are of great importance and can fully understand the content of normative acts during analysis of such explanations. Some legislation consist of many terms. For example, civil legislation contain nonsystematic terms of evaluation which have quantitative and qualitative forms (any limitation, continued interval, violation of law), or some terms which do not have concrete legislative rule (tradition, civil decline, household agreement). The mentioned special role of the Supreme Court of the Republic of Kazakhstan takes all such deficiencies in one system.

Nowadays there is no subject who can give official explanation to the law from judicial point of view. And we can surely say that taking into

consideration the forms of normative resolution which are directed to interpretation, specification and allocation, the Supreme Court of the Republic of Kazakhstan fully amend all deficiencies.

Taking into consideration the importance of right building form of normative resolutions, today we must do our best in order to increase the quality of an official document which is mentioned above. Firstly, taking into consideration new requirements which are put to their object and content it is necessary to regularize the order of forming normative resolutions' content. Secondly, it is necessary to discuss normative resolutions and form the concrete order of the beginning of their acceptance. All these mentioned above give an opportunity to systematize law technics of law forming act of the Supreme Court of the Republic of Kazakhstan and form the concrete order of making the normative resolutions.

If the court acts of the Supreme Court according to definite case were accepted after discussion of legal directions and legal rule, other courts if they have the same cases would come to the same decision, this gives an opportunity for court practice in the republic to be held identically<sup>10</sup>.

According to Zh.N. Baishev the Supreme Court has no right to accept normative resolutions which have contradictions with constitution and laws, but it has the right and must give explanation to other courts about how to use the legislation which have such contradictions and also if there is some deficiency in law, on the basis of court practice, rules of law and analysis of system. In the result of analyzing cases of one definite category smooth decisions are appeared, definite variants and some law notions and terms are formed<sup>11</sup>.

"The norm of Constitution which give the right to the Supreme Court to accept normative resolutions, indeed, legitimize the right of the Supreme Court to give an official explanation to the law norms which demand additional explanation even if they correspond to the Constitution under

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<sup>10</sup> M. Alimbekov, *Normative resolutions of the Supreme Court as the official acts of judicial law-making*, "Zanger" 2010, No. 1, pp.4–7.

<sup>11</sup> Zh.N. Baishev, *The place and role of the normative resolutions in the system of normative legal acts and functioning law*, Proceedings of the international scientific-practical conference, 2009, p. 23.

the privilege of fair court of the republic” – says doctor of legal sciences, professor Z.Zh. Kenzhaliyev<sup>12</sup>.

According to I.Zh. Bahtybayev and G. Sapargaliyev normative resolutions of the Supreme Court and Constitutional Council have no property of normative legal act, ...they are accepted as acts which have normative property. ...they are structural part of the right, they form right in its power and develop it. In this way I.Zh. Bahtybayev specifies the sources right while using the normative resolution of the Supreme Court<sup>13</sup>.

In his explanation of the Criminal code of the Republic of Kazakhstan I.Sh. Borchashvilly pays great attention to the normative resolutions of the Supreme Court and according to his opinion those resolutions work together with discussed norms, their rules are compulsory for all users of the law who take part in the court of criminal case, that is bodies of reference service, examining magistrates, public prosecutors, advocates, judges<sup>14</sup>. The Supreme Court practise the use of constitutional norms by other courts and give necessary explanations according to it: – points K.A. Mami<sup>15</sup>.

But in Russian literature the resolutions of high instance court plenums are normative acts<sup>16</sup>. If we take all this from second side, of course, when we consider the contents of explanatory acts separately from content of explanatory legal norms, according to their self-sufficiency and form they

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<sup>12</sup> Z.Zh. Kenzhaliyev, *Constitutional and legal nature of the judiciary and the rule-making of the Supreme Court of the Republic of Kazakhstan*, Proceedings of the international scientific-practical conference, 2009, pp. 60–61.

<sup>13</sup> I.Zh. Bahtybayev, *The problems of applying the regulatory decisions of the Supreme Court of the Republic of Kazakhstan in the activities of the operative – investigative and control functions*. Proceedings of the international scientific-practical conference, 2009, p.124.

<sup>14</sup> I.Sh. Borchashvilli, *The problems of applying the regulatory decisions of the Supreme Court of the Republic of Kazakhstan in the activities of the operative-investigative and control functions*. Proceedings of the international scientific-practical conference, 2009, p.127.

<sup>15</sup> K.A. Mami, Zh. Baishev, *About legal nature of the normative resolutions of the Supreme Court of the Republic of Kazakhstan*, “Jurist” 2004, No. 5, pp.20, 70–75.

<sup>16</sup> А.Ф. Черданцев, *Толкование права и приговора*, М. Юнити, 2003. А.Ф. Черданцев, *Толкование права и приговора*, М. Юнити, 2003.

can be recognized as beginning of law. But, it is considered to be contradictory to the normative legal acts and to the theory of law explanation. Because, the acts of official explanation cannot be used without separate explanations of law norms. And also, they cover only limitation of norm explanation, if the mentioned norm is finished, the explanation becomes invalid. G.Ya. Stoyakin agrees with the given point of view<sup>17</sup>.

We think that, court acts are of legislative form. Courts, during consideration of definite cases can separately decide what norms to use. Sometimes, courts can give explanations to the law norms, and as it is considered from one side, some contradictions may appear. In those cases the issues of recovering such contradictions are described in constitutional aspect. To regulate this problem is the competence of Constitutional Council of the Republic of Kazakhstan. The constitutional Council paying attention to the normative acts understudy and their use in law practice evaluate their role in the system of legal acts and supply the finding of constitutional meaning of the used law. Then, decided issues are embedded through additions to the laws of the Republic of Kazakhstan. That is why, giving explanation is one of the ways to achieve necessary results in implementing norms of law.

There are some questions in the judicial literature concerning official or non official characters of explanations which were given to the law through Sureme Court. About this, according to the Constitution of the Republic of Kazakhstan, giving of explanation is carried out by Constitutional Council and Supreme court. In the Constitution of the Republic of Kazakhstan giving explanation for direct laws is not pointed, only giving of some official explanations in oblique way is pointed. In order to be sure in it we may look at Constitution and normative legal acts of the Republic of Kazakhstan.

According to the 4-article of Constitution the Supreme Court of the Republic of Kazakhstan produces normative resolution. And according to the 81-article of Constitution The Supreme Court of the Republic of Kazakhstan shall be the highest judicial body for civil, criminal and other

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<sup>17</sup> G.Ya. Stoyankin, *The role of court practice in forming civil legal relationship*, "Practice. Comments. Survey. Informational magazine" 2005 (internet version), Vol. 24, No. 4.

cases which are under local and other courts, exercises the supervision over their activities in the forms of juridical procedure stipulated by law, and provide interpretation on the issues of judicial practice.

Not only courts but other bodies must use the normative resolutions of the Supreme Court of the Republic of Kazakhstan. Here we mean state and non-state organizations, enterprises and institutions, social organizations and citizens. In the territory of the Republic of Kazakhstan the Supreme Court must do everything in order to keep the law and use it correctly. That is why resolutions of the Supreme Court cannot be considered as non-official. In practice normative resolutions of the Supreme Court of the Republic of Kazakhstan are significant legal acts which are of great importance in the way of keeping the law and its correct execution.

And, normative resolution of the Supreme Court of the Republic of Kazakhstan is the object of implementation of interpretations of the Supreme Court. It means that, the Supreme Court investigates court practice according to legal procedures and materials of procedure, and according to their conclusion the Supreme Court manages the issues of keeping the law by other Republican courts during administration of justice. While following the law they give explanations according to questions appeared, if any. According to the collected results, the Supreme Court shows its interpretations in the form of normative resolution. In the 4-article of the Constitution of the Republic of Kazakhstan it is pointed that the provisions of the Constitution, the laws corresponding to it, other regulatory legal acts, international treaty and other commitments of the Republic as well as regulatory resolutions of Constitutional Council and the Supreme Court of the Republic shall be the functioning law in the Republic of Kazakhstan.

The Supreme Court of the Republic of Kazakhstan produces normative resolutions by taking on court practice. During the process of producing the mentioned resolutions it is guided by such reasons as “there is no unity during understanding and using of laws”, “mistakes during using material laws”, “some questions which need explanations appeared during use of legislations” and etc. According to it the Supreme Court of the Republic of Kazakhstan through other bodies of court evaluates the use of laws and gives explanations. And if they evaluate the law, it will be considered the

process of legal creative work. The basis of the beginning of explanation of the Supreme Court is its content. There the ways of using mentioned law, the ways of understanding terms and ways analyzing the pointed events are shown.

Normative resolutions are equal for all, according to definite cases it is used not for one person, but for several people. Also, normative resolutions are used in accordance with legal acts, and until the used norm loses its power it can have definite power. According to the law "About normative legal acts" which was passed on 24 of March in 1998, normative resolutions of the Supreme Court of the Republic of Kazakhstan are main normative acts (3-article, 2 part). The Constitutional Council of the Republic of Kazakhstan in its decision №3 from 6 of march, 1997 pointed that the decisions of the Supreme Court about accepting normative resolutions must be accomplished without any argument. The reason for this was address of President of the Republic of Kazakhstan to Constitutional Council from 10 of February, 1997. Оған Қазақстан. And in its decision the Constitutional Council pointed that the normativity is explanation which was given according to the characters of subjects during the court process and those explanations which were given in accordance with issues of using legislations of the Supreme Court. And such normative resolutions are compulsory for all courts in the republic, and it is given in accordance with issues of using legislative norms in the court practice and in accordance with the Constitution of the Republic of Kazakhstan<sup>18</sup>.

That is why, Constitution, and on the basis of it and its law in decisions of constitutional council the Supreme Court takes an opportunity to accept normative resolutions, but these rights are limited in the circle of "issues of using legislative norms in the court practice", – formulates L Chanturiya<sup>19</sup>. Professor R. Knipper asserts that in The Federal Republic of Germany the Supreme Court has no authority to accept normative

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<sup>18</sup> L. Chanturiya, *About the legal nature of the judicial acts within the judicial and law-making*, "Zanger" 2010, No. 1.

<sup>19</sup> R. Knipper, *The interpretation, analogy and the development of the court and legislative powers*, "Zanger" 2010, No. 1.



resolution, and deficiencies of norm of law are improved by discussing the problem during court process<sup>20</sup>.

As it is shown in the 78-article of Constitution: "The courts shall have no right to apply laws and other regulatory legal acts infringing on the rights and liberties of an individual and a citizen established by the Constitution. If a court finds that a law or other regulatory legal act subject to application infringes on the rights and liberties of an individual and a citizen it shall suspend legal proceedings and address the Constitutional Council with a proposal to declare that law unconstitutional". The normative resolutions of the Supreme Court of the Republic of Kazakhstan can appeal with such offer to Constitutional Council at any period of legal process. Here, all courts can strictly keep the object and content of appealing to Constitutional Council which is pointed in 22-article of Constitutional law "About Constitutional Council of the Republic of Kazakhstan" from 29 of December, 1995. Normative resolutions of the Supreme Court of Kazakhstan are functioning rights as normative acts. The positions of normative resolutions are formed through comprehension of court practice. The content of resolutions consists of law reports. And normative status of resolutions high branch of judicial authority is based on general sitting of the Supreme Court.

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<sup>20</sup> Resolution of Board on criminal case of Armed Forces of the Republic of Kazakhstan, 19.02.03, No. 2H-25-03.



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## **CURRENT INTERNATIONAL SITUATION IN THE SOUTH CHINA SEA THE PATH TO CONFRONTATION?**

**Keywords:** Southeast Asia, South China Sea, territorial disputes, natural resources, international law

**ABSTRACT:** In recent years, the South China Sea area has become the arena of competition between the countries of Southeast Asia that set up claims to maritime areas and the islands, and, all the more, want to control and exploit what can be found under the seabed, namely the deposits of oil and gas. The situation in the area cannot even be resolved by the United Nations Convention on the Law of the Sea (Montego Bay, 1982). Apart from the resources found in the sea and under the seabed, this body of water is an important shipping route, which makes it a strategically significant area for each of the countries located there, or those whose interests involve the South China Sea.

In this work, I describe the current situation in the waters of South China Sea: whether the countries bordering it strive for conflict or just secure their interests. It turns out each of the states will set up demands to the islands on this sea and especially to everything that lives in the sea and is to be found under the seabed. Minor, and also more significant incidents will happen, but it does not seem likely that any serious open conflict between the states of the region will break out in the close future. None of the countries pursues it and they do everything they can to maintain the status quo.

In recent years, the South China Sea area has become the arena of competition between the countries of Southeast Asia that set up claims to maritime areas and the islands, and, all the more, want to control and exploit what can be found under the seabed, namely the deposits of oil and gas. The situation in the area cannot even be resolved by the United Nations Convention on the Law of the Sea (Montego Bay, 1982). Apart

from the resources found in the sea and under the seabed, this body of water is an important shipping route, which makes it a strategically significant area for each of the countries located there, or those whose interests involve the South China Sea.

In this work, I would like to describe the current situation in the waters of South China Sea: whether the countries bordering it strive for conflict or just secure their interests.

In general, it may be stated that Asia is characterized by considerable diversity as far as the geography, intensity and character of the armed conflicts are concerned. At the same time many conflicts, especially territorial disputes, are frozen, which means they can burst out at any moment. The majority of these frozen conflicts are interstate disputes, which also differentiates the Asian continent from the rest of the world. One of such critical points is the South China Sea<sup>1</sup>.

The South China Sea is a genuine Gordian knot of the territorial disputes between the countries situated on its coast. It particularly concerns the islands located in the waters of the sea itself. The relevance of these islands began to be recognized as early as in the first half of the 19<sup>th</sup> century, but they have been attracting the largest interest since the second half of the 20<sup>th</sup> century until the present day<sup>2</sup>.

The largest, still unresolved conflict and trigger point in the region is the dispute over the Paracel Islands and the Spratly Archipelago, located in the South China Sea. The whole region of the South China Sea is very attractive as regards raw materials resources, such as crude oil and natural gas, and therefore reconciling the parties of the dispute over the two archipelagos appears to be an extremely difficult task. It is strongly influenced by the constantly growing demand for energy resources in the countries of the region undergoing dynamic development, so they are striving to take over and exploit the difficult-to-access reserves to be found under the South China Sea bed<sup>3</sup>.

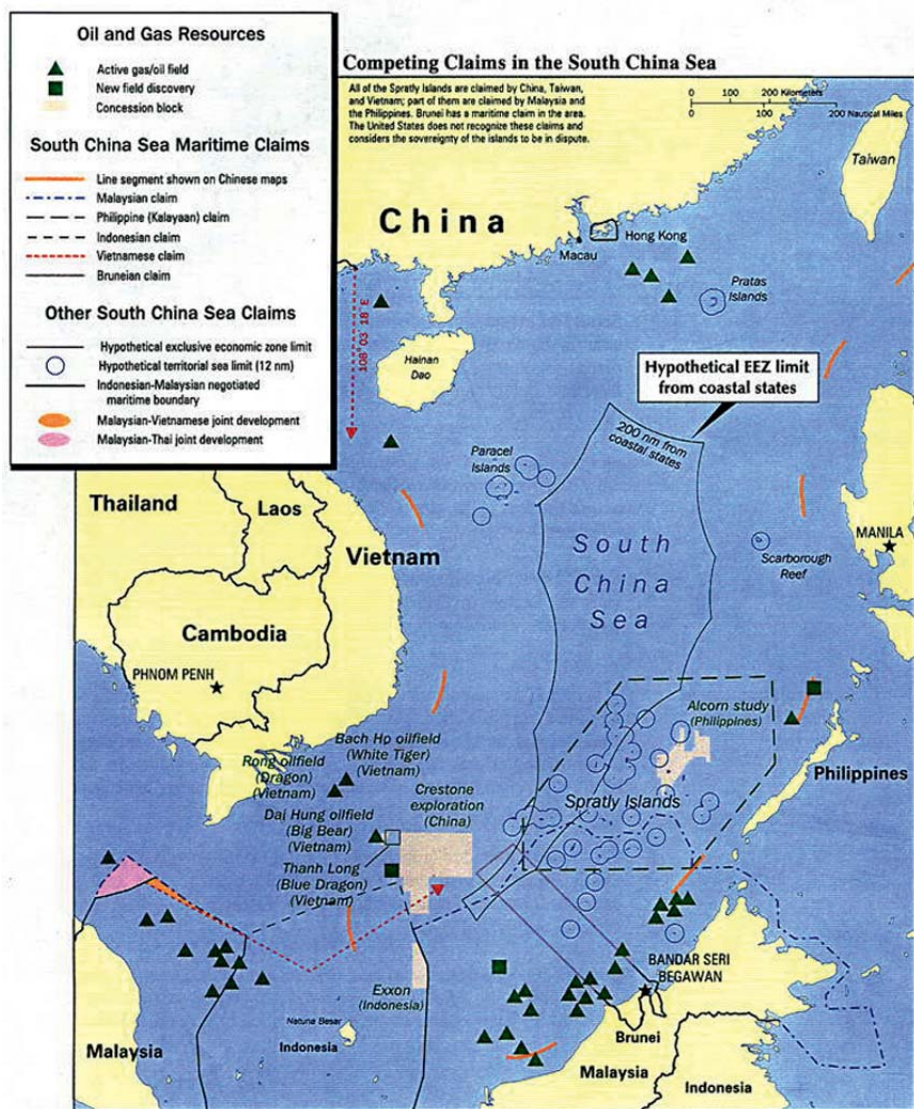
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<sup>1</sup> *Najważniejsze konflikty w Azji Południowej i Południowo-Wschodniej*, „Rocznik Strategiczny”, 2011/2012, p. 330.

<sup>2</sup> K. Kościelniak, *Chinese-Vietnamese Relations after 1945 and Their Influence on the Internal Security of Vietnam In the 21st Century*, in: J. Marszałek-Kawa (Ed.), *Is the 21st Century the Age of Asia? Deliberations on Security*, Toruń 2011, p. 49.

<sup>3</sup> *Ibidem*, p. 119.

Map 1. Competing Claims in the South China Sea



Source: <http://www.globalsecurity.org/jhtml/jframe.html#http://www.globalsecurity.org/military/world/war/images/south-china-sea-cia.jpg> (accessed: 25.06.2013).

The claims to incorporate numerous islets in the South China Sea into the territories and to the seabed with its potential resources are set up by all the coastal. These include the People's Republic of China, the Socialist Republic of Vietnam, the Republic of the Philippines, the Republic of China (Taiwan), the Republic of Indonesia, Malaysia, and the Nation of Brunei. The estimations regarding the reserves of oil under the waters of the South China Sea continuously change because of the small number of bores, from 28 billion barrels according to American sources, up to 213 billion barrels according to Chinese sources, out of which as much as 1/3 is said to be found in the area of the Paracel Islands and the Spratly Islands<sup>4</sup>.

Apart from the above-mentioned raw materials, there is also the most important resource of this sea, namely the living marine resources, as the food originating from this body of water covers 25% of demand for proteins of the inhabitants of coastal states in the region<sup>5</sup>.

Along with the increasing dependence on the supplies of energy carriers, growing attention has been paid to the security on the maritime shipping routes<sup>6</sup>. Therefore, the dominance on the sea in the form of possessing a strong navy and coastal guards is of considerable significance for each of the parties. These forces are meant to contribute to gaining the supremacy in the face of the disputes over the maritime areas in question.

This is why in the Asia-Pacific region the demarcation of the maritime areas is of such fundamental importance, especially in connection with their extension to the exclusive economic zones. It turns out that this issue is particularly complex because of rich natural resources located in these zones<sup>7</sup>.

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<sup>4</sup> J. Bojko, G. Piwnicki, *Mocarstwowa polityka Chin na morzach Azji Południowo-Wschodniej*, in: J. Marszałek-Kawa (Ed.), *Chiny supermocarstwem XXI wieku? Rozważania na temat polityki i gospodarki Państwa Środka*, Toruń 2010, p. 124.

<sup>5</sup> Ibidem, p. 126.

<sup>6</sup> G. Piwnicki, J. Bojko, *The Great Wall and the Blue Waters. Evolution of the Chinese Maritime Strategy*, in: J. Marszałek-Kawa (Ed.), *Is the 21st Century the Age of Asia? Deliberations on Security*, Toruń 2011, pp. 299–300.

<sup>7</sup> L. Łukaszuk, *Polityka morska państw Azji i Pacyfiku (wybrane zagadnienia)*, in: J. Nakonieczna, J. Zajączkowski (Eds.), *Azja wschodnia i Azja Południowa w stosunkach międzynarodowych*, Warszawa 2011, pp. 332–333.

Even the United Nations Convention on the Law of the Sea (Montego Bay, 1982) does not provide resolution to this problem<sup>8</sup>.

Large geostrategic importance of the disputed areas and the unsettled legal status of the archipelagos may pose a threat to the safety in the region. Occasionally, there are various tensions between the states taking part in the dispute, e.g. capturing fishing vessels by force. It should also be remembered that using force and the annexations of the islets have already happened in this region. Militarily, Vietnam and the Philippines cannot compete with the People's Republic of China, but in spite of this fact, both countries show the Chinese their determination, to such an extent that they are ready to fight for the archipelagos<sup>9</sup>.

The international dispute on the South China Sea that has been escalating for years and which is becoming such an important flash point in this part of the world, causes open clashes that claim casualties to happen (such clashes earlier occurred between China and Vietnam<sup>10</sup>). The year 2009 brought the escalation of the conflict, when China submitted the UN *Commission on the Limits of the Continental Shelf its own map, according to which c. 80% of the isles, islets and coral reefs located on the South China Sea were incorporated into the borders of the People's Republic of China*. These Chinese claims brought about the official objections of Vietnam, the Philippines and also Brunei, Malaysia and Indonesia<sup>11</sup>.

In June 2012 Vietnam proclaimed a new maritime law, according to which the areas from the map presented by China in 2009 were classified as Vietnamese, especially the ones from the region of the Paracels and the Spratly Islands. The Philippines, on the other hand, adopted a definitely confrontational policy<sup>12</sup>.

<sup>8</sup> Journal of Laws of the Republic of Poland [DzU, 2002, Nr 59, poz. 543].

<sup>9</sup> T. Skowronek, *Spór o Morze Południowochińskie*, <http://geopolityka.org/analizy/1500-spor-o-morze-poludniowochinskie> (accessed: 19.06.2013).

<sup>10</sup> E.g. in 1974 the conflict claimed c. 60 victims, and in 1988 c. 70 victims.

<sup>11</sup> *Wyspy niezgody na Morzu Południowochińskim – groźny spór międzynarodowy z Chinami w roli głównej*, <http://konflikty.wp.pl/kat,1020361,title,Wyspy-niezgody-na-Morzu-Poludniowochinskim-grozny-spor-miedzynarodowy-z-Chinami-w-roliglownej,wid,15725887,wiadomosc.html> (accessed: 19.06.2013).

<sup>12</sup> *Wyspy niezgody na Morzu Południowochińskim – groźny spór międzynarodowy z Chinami w roli głównej*, <http://konflikty.wp.pl/kat,1020361,page,2,title,Wyspy-niezgody-na-Morzu-Poludniowochinskim-grozny-spor-miedzynarodowy-z-Chinami-w-roliglownej,wid,15725887,wiadomosc.html> (accessed: 19.06.2013).



On the Association of Southeast Asian Nations (ASEAN) summit in 2012, China unexpectedly introduced an additional item onto the agenda of the last day, namely the issue of safety on the South China Sea. Both the US Secretary of State Hillary Clinton and the head of Chinese diplomatic service Yang Jiechi did not raise in their speeches the thorny subject of the territorial disputes, but they urged upon international cooperation in this strategically significant region of Asia. Making reference to the issue of the disputed islands, Clinton only stated that the problem should be resolved in agreement with international law and maritime law. Such comment obviously does not defuse the tense situation, because each of the parties of the conflict interprets its historical right to the disputed areas differently. Yet, the Americans are attempting to mark their presence in this important region of the world and, on the other hand, they do not intend to tease the Chinese party, for whom it is a principal issue in the relations with their neighbours<sup>13</sup>.

The problem raised on the ASEAN summit, i.e. the issue of the disputed Paracel Islands claimed by the Vietnamese, is becoming more and more serious in the aspect of the potential profits from the exploitation of oil and natural gas deposits discovered in the region. In 2011 the Chinese navy opened fire to a Vietnamese oil platform on which the works were to be started on the disputed area. In the same year, Vietnamese fishing boats were warned in the same manner. In June 2012, a Chinese deep-sea platform began the works in the area of the disputed islands. The vicinity is being patrolled by Chinese vessels. The conflict about the Huangyan Islands (Scarborough Shoal) became more acute when the vessels of the Philippine Navy blocked the access of the Chinese fishing ships to the fisheries situated in the disputed area, in April 2012. In retaliation, the Chinese sent their vessels which are patrolling the disputable area. On 28<sup>th</sup> June 2012 the head of Philippine diplomacy, Albert del Rosario, during his official visit to Japan, sought support from the Japanese Minister of

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gody-na-Morzu-Południowochińskim-grozny-spor-miedzynarodowy-z-Chinami-w-rolu-główniej,wid,15725887,wiadomosc.html (accessed: 19.06.2013).

<sup>13</sup> *Zaostrzają się spory terytorialne Chin z Japonią, Wietnamem i Filipinami*, <http://konflikty.wp.pl/kat,1020361,title,Zaostrzaja-sie-spory-terytorialne-Chin-z-Japonia-Wietnamem-i-Filipinami,wid,14760661,wiadomosc.html> (accessed: 19.06.2013).

Foreign Affairs Koichiro Gemba. The Japanese acceded to the request of the Philippines and they promised cooperation in the field of increasing the security on the South China Sea. For this purpose, they committed to provide Manila with 12 modern surveillance units<sup>14</sup>.

In April 2012 the Philippines informed that a group of Chinese fishing ships had been detected in the area of the Huangyan Islands (Scarborough). A battleship was sent to the site which found fish, clams and corals, which, according to the Philippine authorities, had been illegally caught or mined. Soon, the Chinese surveillance ships appeared in the region. The Philippines also sent to the region their own patrol boats of the coast guard. Such tension continued for several weeks<sup>15</sup>.

Another factor increasing the tension between China, Vietnam and the Philippines that emerged in 2012 were the new Chinese biometric passports, in which appeared a map including within a demarcation line the islands acknowledged by China and Taiwan. The Vietnamese and the Philippine authorities maintain that by stamping the passports which contain the fallacious map on arrival to their countries, they would de facto consent to the Chinese point of view. Vietnam and the Philippines do not agree to using this line on the Chinese maps used in the passports, demanding China to respect the integrity of the territories and marine areas of their countries<sup>16</sup>. The Chinese ignored the problem, regarding that everything is correct and consistent with international law.

The controversies among the states of the region were also aroused by granting the units of the Chinese coast guards the right to control all the foreign ships that are in the waters of the twelve-mile belt of the territorial sea around the above-mentioned archipelagos, the Paracel Islands and the

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<sup>14</sup> *Zaostrzają się spory terytorialne Chin z Japonią, Wietnamem i Filipinami*, <http://konflikty.wp.pl/kat,1020361,title,Zaostrzaja-sie-spory-terytorialne-Chin-z-Japonia-Wietnamem-i-Filipinami,wid,14760661,wiadomosc.html> (accessed: 19.06.2013).

<sup>15</sup> *Filipiny obawiają się Chin. Sporne wyspy zarzewiem nowego konfliktu?*, <http://konflikty.wp.pl/kat,1020359,title,Filipiny-obawiaja-sie-Chin-Sporne-wyspy-zarzewiem-nowego-konfliktu,wid,14975434,wiadomosc.html> (accessed: 19.06.2013).

<sup>16</sup> *Filipiny i Wietnam krytykują kontrowersyjne chińskie paszporty*, <http://konflikty.wp.pl/kat,1020361,title,Filipiny-i-Wietnam-krytykuja-kontrowersyjne-chinskie-paszporty,wid,15116313,wiadomosc.html> (accessed: 19.06.2013).



Spratly Islands. The new prerogatives, which came into force at the beginning of 2013 aroused considerable concern, not only of the states of the region, but also of the third states, such as the USA, India and ASEAN<sup>17</sup>.

Due to the military and political potential, the dominant party on the South China Sea in the ongoing conflict is the People's Republic of China, possessing an overwhelming military potential. It forces the remaining states to enhance the fighting potential of their own armed forces and to tighten the military cooperation.

All the countries of the region strengthen especially their marine military forces. They purchase new vessels or they modernize the old ones. The majority of the states are attempting to introduce their own constructions into service. Apart from the navy, large emphasis is put on the air forces which are also strengthened through purchasing of new aircrafts.

This is why, for instance the Socialist Republic of Vietnam considered the modernization of the navy to be the priority, purchasing in Russia four Gepard (Cheetah) class frigates (two of them are already in service) and twelve Molnyia class corvettes known under NATO reporting name *Tarantul* (two of them are already in service, while the remaining ten are to be built in the Vietnamese shipyards under Russian supervision). Vietnam also built a gunboat TT-400TP of their own construction (two vessels of this class are already in service), and it negotiates the purchase of four modern Sigma class corvettes with the Netherlands<sup>18</sup>.

Vietnam also wishes to have their own submarine fleet, and therefore a contract was signed with Russia in April 2011 for the purchase of six Kilo class submarines (Project 636) which can make Vietnam one of the leaders in the region as regards the capabilities of the submarine forces<sup>19</sup>. The first vessels of the type arrived in Vietnam as early as 2013.

Malaysia also strengthens its naval forces. The core of the Malaysian fleet are four Laksamana class corvettes, two Lekiu class frigates, four Mahameru class minehunters. In 2002 the Malaysian marine forces

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<sup>17</sup> *Zaostrza się sytuacja na Morzu Południowochińskim*, [http://www.altair.com.pl/news/view?news\\_id=9214](http://www.altair.com.pl/news/view?news_id=9214) (accessed: 25.06.2013).

<sup>18</sup> [https://en.wikipedia.org/wiki/Vietnam\\_People%27s\\_Navy](https://en.wikipedia.org/wiki/Vietnam_People%27s_Navy) (accessed: 14.05.2013).

<sup>19</sup> *Najlepsza rosyjska broń dla Wietnamu*, [http://polish.ruvr.ru/2012\\_10\\_27/Wietnam-Rosja-bron/](http://polish.ruvr.ru/2012_10_27/Wietnam-Rosja-bron/) (accessed: 08.05.2013).

ordered two Scorpene class submarines which were delivered to Malaysia in 2009, and so this state became the owner of one of the most modern units of this class in the region. In 2011 Malaysia signed two contracts whereby its naval forces will receive 20 patrol vessels<sup>20</sup>.

Another party of the conflict, namely the Philippines, also considers rearmament. But, the naval forces of the Philippines are in a difficult situation caused by the lack of funding over the last years. It should be stated that the most valuable part of them are the marine infantry and the landing forces. In 2011 the Philippines assigned c. 300 million USD for the development of the forces and means of patrolling the disputed areas on the South China Sea. This amount is primarily allocated for covering the most urgent needs. It demonstrates the change of the priorities, investment in the armed forces which is to secure the national interests of the Philippines. Among the ambitious plans for the development of the Philippine naval forces is the purchase of submarines for the amount of c. one billion USD by 2020<sup>21</sup>.

The remaining states do not lag behind and are introducing armament programs as well<sup>22</sup>. All of this is intended at remaining within the circle of players on the South China Sea. Everybody is conscious that if they do not modernize their armed forces, they will stay behind in the fight for the domination over this body of water. And although they are aware that they will not defeat China, they still wish to matter. This is why the incidents with the use of sharp ammunition on the South China Sea occur frequently.

In the last years, there were recurrent incidents on the waters on the South China Sea involving Chinese and Vietnamese units. For instance, in July 2007, a unit of Chinese fleet fired at Vietnamese fishing boats at work in the disputed territory. On 20<sup>th</sup> November 2007 the authorities of the PRC announced the formal incorporation of the Spratly Islands and the Paracels under the administration of Hainan province. At the same time (16<sup>th</sup>-23<sup>rd</sup> November), Chinese warships carried out manoeuvres in

<sup>20</sup> G. Kolański, *Azjatycki wyścig*, „Przegląd Morski” 2013, No. 1, pp. 25–27.

<sup>21</sup> Ibidem, p. 27.

<sup>22</sup> See: G. Kolański, *Azjatycki wyścig*, „Przegląd Morski” 2013, No. 1, pp. 18–31.

the area. The Vietnamese party replied with a protest note and with the permission, for the first time since the beginning of *doi moi*, for the anti-China protests in front of the PRC diplomatic posts in Hanoi and in Ho Chi Minh City<sup>23</sup>.

Another up-to-date example are the events in March 2013. On 25<sup>th</sup> March 2013, the Spokesperson of the SRV Ministry of Foreign Affairs Luong Thanh Nghi informed that on the 20<sup>th</sup> March 2013, Chinese patrol boats fired at a Vietnamese fishing boat which was near the Hoangsha island in the archipelago of the Paracel Islands. The Spokesperson of the PRC Ministry of Foreign Affairs Hong Lei stated that the Vietnamese unit had not been damaged, and the reaction itself was necessary and eligible because of the illegal actions of the Vietnamese boat on the Chinese waters<sup>24</sup>.

Such incidents occur with the involvement of the units of the region's remaining states, which additionally increases the tension. However, even such perilous incidents do not trigger open armed conflicts. It appears that none of the states wish for such a solution.

Everybody is aware that the disputes over marine territories have their roots in the geographical diversification of the region, in its terrain whose characteristic feature is the prevalence of the seas and straits, and also in the economy of the region, as the majority of trade carried out by the Asian states is conducted over the shipping routes that run through the area<sup>25</sup>. This produces unavoidable conflicts.

Avoiding larger conflict on the South China Sea thus far was the resultant of many factors, out of which the most significant one seems to be the Chinese attitude consisting in balancing the issues in the sphere of security<sup>26</sup>.

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<sup>23</sup> Ibidem, p. 107.

<sup>24</sup> <http://Wietnam.vnnet.vn/vnp/Ru-RU/13/136/136/44666/default.aspx> (accessed: 02.04.2013).

<sup>25</sup> B. Skulski, P. Skulski (Eds.), *Bezpieczeństwo międzynarodowe w regionie Azji i Pacyfiku. Wybrane zagadnienia*, Wrocław 2010, p. 118.

<sup>26</sup> J. Bojko, G. Piwnicki, *Mocarstwowa polityka Chin na morzach Azji Południowo-Wschodniej*, in: J. Marszałek-Kawa (Ed.), *Chiny supermocarstwem XXI wieku? Rozważania na temat polityki i gospodarki Państwa Środka*, Toruń 2010, p. 131.

A larger military conflict might erase all the efforts to create a stable and peaceful neighbourhood that have been made so far, and thus impair the Chinese endeavour to fulfil the national dream of power and prosperity<sup>27</sup>. This is why the situation will not change, each of the states will set up demands to the islands on this sea and especially to everything that lives in the sea and is to be found under the seabed. Minor, and also more significant incidents will happen, but it does not seem likely that any serious open conflict between the states of the region will break out in the close future. None of the countries pursues it and they do everything they can to maintain the status quo.

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## **POLAND IN THE ENTRIES OF GERMAN METAPEDIA**

**Keywords:** German Neo-Nazi movement, Anti-Polish propaganda, historical revisionism Metapedia, encyclopaedia online.

**ABSTRACT:** German Neo-Nazi groups have not stopped their Anti-Polish activity yet. They still, in the first place, come with revisionist objectives, not matter how Cold-War-or Polish-People's-Republic-propaganda-like it can sound. The activity of the structures would not be possible without ideological backup. And so the Neo-Nazi 'white collars' determine the directions of the actions. One of such projects is Metapedia, a Neo-Nazi Wikipedia in which one can find many, shocking for us, information on Poland and the Poles. We cannot ignore it since, despite historic events, the 21st century Neo-Nazism has also many supports in our country.

Metapedia<sup>1</sup> is an extreme right-wing<sup>1</sup> encyclopaedia online, created as a wiki – project in 16 different language sections. The first, Swedish language version was made available on the Internet on October 26, 2006, while the German-language version appeared in May 2007 and at first it covered a few hundred entries. Definitely the greatest pool of entries is available in the Hungarian-language version; more than 100,000 entries.

The project uses the 'MediaWiki' software and developing entries is only possible after registration. The contents are developed by historic revisionism and they downplay the crimes of the Nazi regime<sup>2</sup>. Even

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<sup>1</sup> Metapedia als nationales Pendant zu Wikipedia, in: *Innenministerium des Landes Nordrhein-Westfalen: Verfassungsschutzbericht des Landes Nordrhein-Westfalen*, 2008. p. 88.

<sup>2</sup> Ibidem, p.87.

though the German Metapedia; calls itself as 'Weltnetz-Enzyklopädie', in its entries it tries, in order to maintain the purity of the German language, to avoid anglicisms.

According to the impresum of the Internet site, the company responsible for the activities of Metapedia is 'NFSE Media AB, Sweden', with the registered seat in Linköping<sup>3</sup>. The company is ran by Lennart Berg<sup>4</sup>, while the IP address is located on the American server of 'Softlayer Technologies Inc.' with the registered seat in Dallas<sup>5</sup>.

'Metapedia; claims that in its project it will write the truth and present facts – and not what most authors claims politically correct –with what they only brainwash their readers. Although the political and ideological agitation compliant with the declaration of Metapedia itself, is undesirable, one can find there an exceptional care for revisionist truth or definite whitening Hitler's actions, including the crime of genocide<sup>6</sup>.

In its articles Metapedia, e.g. attempts, in a subtle way, at questioning information on holocaust, suggesting that genuine scientific research as part of the currently binding criminal law, cannot be made with due care. A whole Metapedia tries to make an impression that there was no regular extermination of the Jews and it describes their deportations in a euphemistic way. E.g. in the entry on 'Crystal Night' of 1938 it denies that the attacks on the Jews and Jewish institutions were performed upon an official order of the then authorities and it marginalises the consequences of those pogroms<sup>7</sup>.

Metapedia, similarly as 'Encyclopaedia Germanica', exercises its extremist ideas cover up with scientific diligence<sup>8</sup>. Obviously we deal here with

<sup>3</sup> DomainTools – Domain registration confirmation "Metapedia", <http://whois.domaintools.com/metapedia.org>, (accessed: 28.12.2012).

<sup>4</sup> Antwort der Bundesregierung auf die Kleine Anfrage der Bundestagsabgeordneten Monika Lazar Bundestags – Drucksache, 2008, Vol. 16/10215, p. 6f.

<sup>5</sup> Ibidem.

<sup>6</sup> Metapedia als nationales Pendant zu Wikipedia, in: Innenministerium des Landes Nordrhein – Westfalen: Report of the Office for Protection of the Constitution NRW for 2008, 2009, p.89.

<sup>7</sup> Metapedia als nationales Pendant..., op. cit., p. 85.

<sup>8</sup> T. Pfeiffer, Virtuelle Gegenöffentlichkeit und Ausweg aus dem „rechten Ghetto“. Strategische Funktionen des Internets für den deutschen Rechtsextremismus, in: S. Braun,

a demand for propaganda of the impact which, in fact, through various projects, gathers people with similar ideas or political views<sup>9</sup>.

The prefix 'meta' refers to the term 'meta-politics' and in that context it is understood as a conquest of the zone of politics by taking over the leadership – intellectual thinking. The founders of that approach are found on the 'new right wing'<sup>10</sup> and the 'verbal camouflage' they use is to facilitate providing the project and its concepts to a wider audience<sup>11</sup> who will find new ideas on that website; ethno-pluralism and euro-nationalism or those devoted to pro-European cultural war<sup>12</sup>.

In the brown alternative to Wikipedia, an overwhelmingly high percentage of entries refer to the Third Reich and Nazism. They provide detailed explanations that e.g. WWII started from 'Jewish declaring war on Germans', and the so-called German attack on Poland in 1939, was only a preventive action to protect the 'German nation' living in Poland from Polish provocations. There are also quoted never-ending fragments from 'Mein Kampf' to prove that Hitler had never planned holocaust, ergo, he even could not possibly carry it out and the use of the quote by Kurt Tucholsky, totally non-cohesive with the situation, is to suggest that the use of poisoning gas, in fact, was a Jewish idea. Hitler's official's crimes are left unsaid; e.g. committed by Hermann Goering represented in the articles in a favourable light against idyllic or family photos. Also the fire of Reichstag of 1933 remains with no comment whatsoever and arson is attributed to a Dutch, Marius von der Lubbe. The Allied bombings at the end of WWII, on the other hand, are presented in Metapedia as 'Anglo-American bomb terror' and the Federal Republic of Germany itself is nothing more than only an occupied structure – a transitional state and

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A. Geisler, M. Gerster (Eds.) *Strategien der extremen Rechten. Hintergründe – Analysen – Antworten*, Wiesbaden 2009, pp. 290–309, here p. 302.

<sup>9</sup> Ibidem, p. 307.

<sup>10</sup> P. Nowak, *Rechte Wikipediakopie zwischen Anspruch und Wirklichkeit*, „Telepolis“, 10.02.2008, <http://www.heise.de/tp/artikel/27/27205/1.html>, (accessed: 28.12.2012).

<sup>11</sup> T. Pfeiffer: *Virtuelle Gegenöffentlichkeit ....*, op. cit., p. 307.

<sup>12</sup> Wikipedia-Verschnitt: *Das rechte Online-Nachschlagewerk Metapedia*, [http://endstation-rechts.de/index.php?option=com\\_k2&view=item&id=367:wikipedia-verschnitt-das-rechteonlinenachschlagewerk&Itemid=386](http://endstation-rechts.de/index.php?option=com_k2&view=item&id=367:wikipedia-verschnitt-das-rechteonlinenachschlagewerk&Itemid=386), (accessed: 28.12.2012).



once it is abolished, 'the Fourth Reich' will emerge. Neither does Metapedia disregard the topic of 'German living space' which is to stretch between the Moza, Memel, Adige and Belt Rivers<sup>13</sup>.

The structure; both the layout and the style of Metapedia make an impression of a serious enterprise. The right-wing ideology appears only at the second glance since often while developing the entries, the entire articles are copied from Wikipedia, and only some of their fragments are changed, omitted or new imagined facts are added, which essentially distorts the truth. Additionally the posts on politicians such as Helmut Schmidt or Daniel Cohn-Bendit are to enhance the impression that we are dealing with normal encyclopaedia online. Among the quotations on respective persons, there are visible, however, comments on their origin or immigration which in the brown orientation of Metapedia get well situated<sup>14</sup>.

To confirm the above statement, we can quote an example of the entry 'Jan Kiepura' provided in Metapedia.

Here one reads e.g. 'Jan Kiepura (born on May 16, 1902 in Sosnowiec, † on August 15, 1966 in Harrison, New York) was a Jewish singer and actor. Kiepura was born from the relationship of a Catholic baker and a Jewish woman, Maria Najman. Since 1925 he had been singing in the Warsaw Opera, then mostly in the German Reich. Dr Goebbels located him on a list of foreign artists, especially protege by the Reich. In 1934 he was appointed to the Berlin Opera. As an actor he appeared in many film productions and become the favourite of the German audience. In 1935 he appeared at the International Festival of Composers in Hamburg where he acted in the Polish opera 'Halka', one of the most frequently stages foreign operas in the Third Reich. He married Marta Eggerth and in 1938 he left for the US where he started working for the Metropolitan Opera. After 'the liberation' he was also very popular in RFN. He dies in 1966 in the US<sup>15</sup>.

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<sup>13</sup> B. Weber, Eine braune Alternative, „Die Tageszeitung“, 2008, <http://www.taz.de/1/archiv/digitaz/artikel/?ressort=tz&dig=2008%2F07%2F25%2Fa0034&cHash=f6287f7370>, (accessed: 29.12.2012).

<sup>14</sup> Ibidem.

<sup>15</sup> G. Frey, *Prominente ohne Maske – Drittes Reich, 1000 Lebensläufe bekannter Zeitgenossen*, Monachium 1998, p.123.

The above entry is like honey for our Polish hearts. Jan Kiepura, the favourite of German audiences, sponsored by Goebels, acting in the Berlin Opera and, on top of it all, promoting Polish national opera 'Halka' – confounds the victimization of the Jews since after his other he indeed was a Jew himself.

One shall also note Metapedia using inverted commas for the word 'liberation'. Such phrasing aims at discrediting the legal order valid in Germany since for the Metapedia readers, Germany has been still an occupied zone.

Our country due the history of the German-Polish relations in Metapedia plays an important role. The interpretation of that history is slightly brown in colour and is exposed to ongoing editorial manipulations.

And so, according to Metapedia, Poland is referred to as 'Polen' (in Polish 'Polska', also old-fashioned 'Polackei') is located in central Europe<sup>16</sup>. The area currently occupied by the Polish state, is, to a large extent, the territory Eastern Germany, and other components of the German Reich, handed over by the victorious powers of WWII in to temporary Polish administration. It causes a considerably restriction of the sovereignty of Poland, as a vassal state<sup>17</sup>.

Developing the entry of 'Polen', they claim that according to the international law, it is only justified that the territory of Poland exists within the borders up to 1914. All the Polish annexations and occupations of the

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<sup>16</sup> Literally the term 'Binnenstaat' was used which in Metapedia is defined as a country, which is continental, with no direct access to the sea. The inland countries in Europe (according to Metapedia) or especially Hungary, the Czech Republic and Poland. Since 1945 the last two have been governing Eastern Germany which are part of the fully ceased and incapacitated German Reich.

<sup>17</sup> Polen, "Metapedia", <http://de.metapedia.org/wiki/Polen>, (accessed: 30.12.2012).

territories of Germany during second thirty-year war<sup>18</sup> are contrary to the valid Hague regulations<sup>19</sup>.

Metapedia claims that the German name 'Polen' comes from the name of the tribe of Polanen (Polish: 'Polanie') which in the 5<sup>th</sup> century settled down between the Odra and the Vistula Rivers, in the areas of pagan Germanic tribes, around Poznan and Gniezno.

The main entry History of Poland [with no additional notes] on the Metapedia website is short but full of content. Here it is: 'Poland in its entire history has been many times at the mercy of the then in power of the gentry and the power related to it. It resulted in a many-time partition of the country until its total annihilation with the greatest threat for Poland being the neighbourhood of the Russian empire under the hegemony of which Poland remained for a long time [not a single word on the Prussian annexation]. During WWI the empires of Germany and Austro-Hungary decided to create a Polish state with permanent borders [the author of the entry obviously does not specify any reasons the powers had in mind while establishing the Polish state]. On November 5, 1916, the German Empire established within the borders defined by the Congress in Vienna – the Kingdom of Poland'<sup>20</sup>.

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<sup>18</sup> "Metapedia" provides the following explanation to the second thirty-year war in the following way: the date which demonstrates chronological, cause and context-related relations between the First World War, the between-the-wars period and WW II. It has been used since the beginning of 1940, especially outside the territory of Germany. The term has been introduced to historiography during the debate in 1988. Another name for that period is 'the European civil war'. It has originated from the thirty-year war which took place about 300 years earlier after which Germany was also considerably devastated. The Second Thirty-Year War got intensified in Europe at the end of WWII through vast and regular expulsions, mass extermination, especially of Germans, mostly due to the bombing terror of the Allies (genocide). Politically the propaganda-correct history and construction of the formation of the German occupation (the Federal Republic of Germany) denies that fact or considers it a non-documented thesis. Winston Churchill wrote to Stalin on February 27, 1944, 'I consider WWII to be a thirty-year war against the German started in 1914'.

<sup>19</sup> *Polen...*, op. cit.

<sup>20</sup> Polen, Metapedia, available at: <http://de.metapedia.org/wiki/Polen>, (accessed: 30.12.2012).

**Photograph 1.** According to Metapedia: Poland in its present borders compliant with the valid international law, without temporarily annexed territories of Germany and allocated according to the so-called 'Treaty of Versailles'the Gdańsk corridor.



Source: <http://de.metapedia.org/wiki/Polen>, (accessed: 31.12.2012)

And further on, 'After 1918 the victorious powers decided to define the borders of Eastern Europe according to the majority division, according to the population, residing those territories. The leading role in that matter was played by British Minister of Foreign Affairs, Lord George Nathaniel Curzon. The German Reich as the so-called the defeated, was forced with no referendum, to give up the rights to Prussian provinces; Western Prussia and Poznań (province) for the benefit of Poland. As a result, 200.000 Germans had to leave the territories allocated to Poland. At the same time, based on the so-called Curzon Line, the eastern border of

Poland was established. However, in the areas East from the line there were no Polish nationals. At that time Poland developed unprecedented and aggressive nationalism (chauvinism) which ended up in 1920 with an attack on Soviet Russia, Belarus and Ukraine. In the following period, Poland turned its look at the West. Thousands of German nationals was then murdered or expelled by the Poles<sup>21</sup>.

In the primary window of Metapedia on the entry of Polen, we can find a short entry on the causes of the outbreak of WWII and aggression on Poland; namely 'the causes of WWII go back to the grounds of Polish imperialism and inevitable later German reaction to Polish crimes committed on Germans between 1918 and 1939. Historian Siergiej Nikołajewicz Kovalev<sup>22</sup> claims that Poland is guilty of the outbreak of WWII'<sup>23</sup>.

A bigger entry has been developed for WWII itself. One can learn from it that 'up to 1938, Adolf Hitler had wanted to join Poland to the Anti-Bolshevik alliance and so his demands on clear the German-Polish relations, were very moderate. However, Poland was not willing to negotiations, and it looked as if it was looking for support for its Anti-German coalition in England and France. Only then was Hitler forced to military campaign against its neighbour<sup>24</sup>. During that occupation there was created the General Government where the Poles could still quite freely develop their culture.

The topic was developed in more detail in the entry Der Polenfeldzug where one can read that 'the Polish campaign was a limited German self-defence in response to many Polish sabotage actions and later, once Poland was granted English guarantees –also the military ones. A few days before the start of military actions Adolf Hitler presented a 16-point proposal of

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<sup>21</sup> Ibidem.

<sup>22</sup> Siergiej Nikołajewicz Kowaliow is a Russian historian of the military and the head of the department of scientific research in the history of the military of the North-Western region of the Russian Federation in the Institute of Military History of the Ministry of Defence of the Russian Federation. He is a colonel and holds a degree of PhD in historic sciences; he lives in Petersburg.

<sup>23</sup> Polen ..., op.cit.

<sup>24</sup> M. Broszat, *Nationalsozialistische Polenpolitik 1939–1945*, Stuttgart 1961, p.10.

cooperation<sup>25</sup> the Polish government reacted to with general mobilization, which, in those conditions, was the same as declaring a war<sup>26</sup>.

However, it make it clear, it is explained that 'commanders in chief of the German army in their proclamation of September 1, 1939 addressed to the Wehrmacht troops, means that the Polish population 'is not their enemy' and 'all the international law regulations' must be met. On the other hand, each form of resistance was to be fought with the entire force, however, stressing the issue of discipline. The accusation that the army in its wild fury was burning down Polish villages –as shown in the Anti-Wehrmacht exhibition 'Größte Härte... – Verbrechen der Wehrmacht in Polen September / Oktober 1939' –is false by definition'<sup>27</sup>.

'Wehrmacht had no interest whatsoever in any destructive actions against the Polish people', one can read further in Metapedia and the climax of the Polish-German conflict after the end of the campaign in Poland in 1939 was the Warsaw Uprising of August 1944 in which Polish Domestic Army was trying right before the approach of the Red Army to conquer the city [Warsaw]. Further on one can find out that the uprising has been already covered by many papers, especially that the Polish insurgents could capitulate with honour and they were treated as war prisoners.

Despite, multiple cruelties earlier committed by the Poles on the Germans, the German troops remain humane in the way they treated the enemy prisoners.

The accusations, getting repeated against Wehrmacht, that in Poland it was shooting down accidental hostages, was burning down houses or bombing civilian facilities, have already been many times denied through evidence. The claim that the German army did not perform any purposeful extermination in Poland is also shown by the number of 16,000 of those shot during the [September] campaign with more than 20 million population [of Poland], which is not the evidence of exterminating war; just the opposite. At no time was it seriously considered to liquidate or to

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<sup>25</sup> *Der-Fuehrer.org: Adolf Hitlers 16-Punkte-Vorschlag an die polnische Regierung*, <http://der-fuehrer.org/reden/deutsch/Aufsaeetze/1939-08-30.htm>, (accessed: 31.12.2012).

<sup>26</sup> "Metapedia" – die alternative Enzyklopädie, Polenfeldzug, <http://de.metapedia.org/wiki/Polen>, (accessed: 31.12.2012).

<sup>27</sup> *Polen...*, op.cit.

destroy Poland, even during war actions after 1939<sup>28</sup>, claims the author of the Metapedia entry.

Metapedia provides many articles on the question of the Polish-German border. It claims that, unlike many popular data, Poland does not have 528 km of the Baltic Sea shore since the entire coastal strip is part of the German Reich and Poland in its borders has been still an inland country, with no access to the sea. For 'the brown ones', according to their concept of the international law, still what is important are only those borders which as part of the Congress Kingdom of Poland, Poland was given at the Congress in Vienna in 1815. They also claim that under the so-called Treaty of Versailles, Poland was granted in 1919, to weaken Germany, a considerable part of Western Prussia and the entire German Poznan.

In Metapedia one can also read that after WWII a bigger part of Germany, was, once German nationals got expelled or murdered, against the international law, annexed by Poland; the territory temporarily administered by Poland stretches in the North to the Baltic Sea and in the West – to the Odra and the Nysa Rivers. The Neo-Nazis claim that the reason to the expropriation of considerable territories of Germany was an alleged expulsion of Polish people from the territories of Eastern Poland by Soviet Russia, which refers to moving Poland westwards. Further on they claim that 'the areas [of Eastern Poland] were in 1920 during the Polish invasion on the Soviet Union expropriated [and so the thesis about the displacement of the Poles from the Eastern territories and granting them the Western territory, is indeed false since that Poland has never had any right to the Western territory] as a result of which upon the Peace of Riga on March 18, 1921 given to the Republic of Poland. The present Poland's Eastern border is almost identical with the Curzon Line being against the international law'<sup>29</sup>.

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<sup>28</sup> D. Heintz, „Größte Zumutung...“. *Vergehen gegen die historische Wahrheit*, Straelen 2007, p. 91.

<sup>29</sup> *Polen ...*, op.cit.

In Metapedia there is a common belief that today's western and northern 'borders' [the word 'borders' is written in inverted commas] of Poland show the contempt to all the international conventions and they are a result of Polish crimes of expulsions of the Germans after the end of WWII.

To support those theses, there are demonstrated, out of context, parts of entries. It is reported e.g. that in the Polish Institute of Western Studies in 'Mała Biblioteczka Ziemi Zachodnich' already in 1942 the war was presented as 'the war for politically great Poland where the target is the Polish seashore of the Baltic Sea from Kłajpeda (Memel) to Szczecin and the border on the Oder River [...]'<sup>30</sup>. The new Polish 'western border' should be, if need be, enforced with no international mandate. In 1943 in the memorandum it was demanded [by the Poles] for the policy of accomplished facts still before the peace conference to rule out the possibility of make the referendum [the Poles did not want repeated Silesian referenda from the period after WWI]. At the same period there was committed a crime of the expulsion of the German people perceived [by the Poles] as indispensable for a successful establishment of the new Polish 'western border'<sup>31</sup>.

As an example of the Polish imperialism, the authors of the Metapedia entries provide the Polish topic of the article 'O lewy brzeg środkowej i dolnej Odry'<sup>32</sup>. According to the Neo-Nazi, it is an attempt of providing evidence that the new western border of Poland should also cover the left bank of the Odra River and so the cities such as Frankfurt and Görlitz should be included into Poland.

And so [in their opinion] already in 1946 displacements of German nationals from Szczecin got intensified for this German city to be taken over into Polish hands completely.

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<sup>30</sup> Ibidem.

<sup>31</sup> Ibidem.

<sup>32</sup> Z. Wojciechowski, *O lewy brzeg środkowej i dolnej Odry*, „Przegląd Zachodni” 1945, Vol.1, No. 2/3, pp. 61–87.



Photograph 2. Poland with annexed German territories.



Source: <http://de.metapedia.org/wiki/Polen>, (accessed: 31.12.2012).

The Neo-Nazis on the Metapedia websites also refer to the question of the so-called 'Polish concentration camps'. In their opinion, those are 'the camps which were built by the government of Poland, mostly in the regions conquered by Poland or occupied and the first ones [in Europe] were created for the Germans to be imprisoned there, after the establishment of the Polish state on the former German territory of the Poznan province. That fact [again in the opinion of the Neo-Nazis] is now will-ingly left unsaid. The question covers also the camps built by the Poles after 1945 in the territory of Germany East from the Odra and the Nysa Rivers. In Polish concentration camps for German war prisoners in Poland and in the territories temporarily administrated by Poland, about 120,000 people were imprisoned and at least 20,000 lost their lives'<sup>33</sup>.

<sup>33</sup> H. Hirsch, „Die Zeit“, 1998, Vol. 37.

In Metapedia we also find the term ‘Polnische Wirtschaft’ (‘the Polish economy’) very popular in Germany, although slightly no longer present, is a euphemism for neglected post-German areas: Silesia, Eastern and Western Prussia which after 1945, according to the Neo-Nazis, being temporarily under Polish administration got into ruin.

According to the author of the entry, this term is today very often used as a swearing and deeply rooted in the homes of German displaced persons. In the years of unjustified use – even after illegal recognition of the border of the Odra and the Nysa Rivers as the so-called Polish border – the residents of the post-German territories did nothing to maintain the immovable properties in a good shape. The same refers to the entire infrastructure found there.

**Photograph 3.** According to Metapedia, the location of the concentration camps and annihilation for the Germans. Literal translation: the presentation presents annexed areas of Eastern Germany by Poland and the Sudetes Mountains joined to the Czech. German names of locations were in the meantime cancelled.



Many German owners who were able to see their property again, stated in horror that the houses were deteriorating and the fields have been laid fallow. The term of 'the Polish economy' is thus a said result of laziness and apathy, which resulted in neglect and the fall of the former 'German granaries'<sup>34</sup> – one can read in Metapedia.

The brown ideology in its propaganda [also in Metapedia] often refers to the articles in the opinion-giving periodicals, save that it publishes such fragments which correspond to other political views.

And so on the Metapedia website, in a section of article from 'Der Spiegel' one reads: '60,000 to 80,000 people who lost their lives, as evaluated by the Koblenz Federal Archives over 1945/48 in 1255 camps of the Polish communist security services; in most cases those were innocent civilians, including many elderly people and small children'<sup>35</sup>.

Those actions of Metapedia, which treats some articles selectively, it is also confirmed by the quotation that 'Polish historian, Paweł Wiczorkiewicz, claims that in a Polish daily 'Rzeczpospolita' that Hitler did not want the war with Poland, only until March 1939 could see his neighbour as a potential ally, this stand was only discredited by the alliance of Poland with Great Britain. In that way the British and the French consciously got Poland into a trap'<sup>36</sup>.

As an interesting fact [Metapedia] shows that 'The Polish nation almost completely consists of polonized Germans, and it is especially clear in the most popular Polish first names. They are almost only traditional German first names which got adjusted to the local colour or also simply transformed'<sup>37</sup>.

However, in Polish literature one can read that 'even though the Polish stat has almost 1/2 of the population of Germany, however, it is striking that Polish literature even in half did not produce so many outstanding

<sup>34</sup> Polnische Wirtschaft, "Metapedia", <http://de.metapedia.org/wiki/Polen>, (accessed: 31.12.2012).

<sup>35</sup> D. Hauser, *Zu heiß zum Anfassen?*, "Der Spiegel", 1995, Vol. 11.

<sup>36</sup> "Metapedia" refers to the article in 'Die Welt' of September 20, 2005, p. 32.

<sup>37</sup> Polnische Vornamen, "Metapedia", <http://de.metapedia.org/wiki/Polen>, (accessed: 31.12.2012).

writers and poets as Germany; even more, even not 1/10. One shall also note that in other fields of culture and art the situation is no better<sup>38</sup>.

The effect of those interpretation is the Neo-Nazi view that so the enemy's state [Poland] did not sign any peace treaty with Germany and so there are no legally binding regulations on any further procedures concerning the temporarily administered [by the Poles] German territories, one shall state that the present international, legal and constitutional statute of Poland has no permanent grounds, and so the sovereignty of Poland is considerably limited<sup>39</sup>.

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<sup>38</sup> Polnische Literatur, „Metapedia“, <http://de.metapedia.org/wiki/Polen>, (accessed: 31.12.2012).

<sup>39</sup> *Metapedia – die alternative Enzyklopädie, Polen – Volk*, <http://de.metapedia.org/wiki/Polen>, (accessed: 31.12.2012).

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## **SOLDIER WOMAN WOMAN IN THE ARMS OF THE MARS**

**Keywords:** violence, gender, soldier woman, military service.

**ABSTRACT:** A term „violence”, despite transformations of the meanings, has always been connected with relations between genders, and as such, what it means in a given society to be a woman and a man and which economic, social and psychological relations have been assigned to these categories. At least since the 18th century, unequal share of the power between men and women has been justified with, among others, a different share of “passion” and different potential of violence. A real power ready to use violence should be focused on the men side while a tasks of women should be neutralizing men’s readiness to use violence, achieved by subjecting themselves to men. For thousands of years military battles have been almost exclusively a man’s privilege. Even 100 years ago, women did not have a right to vote even in western countries with the longest democratic traditions. Today, giving a woman the highest office in a state is not unusual. So can we talk about a fall of the patriarchy and replacing men by women even in such man fields as war and military battles?

A term „violence”, despite transformations of the meanings, has always been connected with relations between genders, and as such, what it means in a given society to be a woman and a man and which economic, social and psychological relations have been assigned to these categories. At least since the 18<sup>th</sup> century, unequal share of the power between men and women has been justified with, among others, a different share of “passion” and different potential of violence<sup>1</sup>. A real power ready to use violence should be focused on the men side while a tasks of women should be neutralizing

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<sup>1</sup> Z. Melonik, *Kryzys męskości w kulturze współczesnej*, Poznań 2002, p. 137.

men's readiness to use violence, achieved by subjecting themselves to men. According to such a theoretical approach of for example Hobbes and Freud, controlling the violence, which always is potential, is a condition of keeping the political order and so protects men's supremacy<sup>2</sup>.

Undoubtedly wars have broken out because of women. In so called primitive societies kidnapping a woman is a common *casus belli*. Despite the fact that a half of the human kind are women, most of them are calm and not aggressive by nature. It happens that women, like Lady Macbeth, incite to violence. Mothers can get over a son's death and even kill a coward. There happen inspired women leaders who take the crowds and inspire to greater sacrifices than many men. But war is the only field which women, with some exceptions, have always stayed out of. Women expect protection from a danger from men and they can punish severely those who cannot fulfill the task. They follow the armies, nurse the wounded, replace men when they go to a war but they do not fight. To limitations of the war lets add one more thing, the war is a man's business<sup>3</sup>. Limitations like not fighting women has become a standard of the war studies, a soldier even if committing war bestiality seemed differently when acting against women and children than against men. Knight fights and soldier's code presumes saving women. It has been taught for centuries while training soldiers. The term "soldier woman" is a kind of provocation, sounding even offensively for a woman. The Americans say a warrior.

For thousands of years military battles have been almost exclusively a man's privilege. Even 100 years ago, women did not have a right to vote even in western countries with the longest democratic traditions. Today, giving a woman the highest office in a state is not unusual. So can we talk about a fall of the patriarchy and replacing men by women even in such man fields as war and military battles?

According to Arnold Ludwig, the American psychiatrist, it is too soon for that. For 15 years, Ludwig has conducted studies on a nature of leadership analyzing personal data of 1941 leaders who in the 20<sup>th</sup> century were

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<sup>2</sup> T. Hobbes, *Lewiatan czyli materia, forma i władza państwa kościelnego i świeckiego*, translation. C. Znamierowski, Warszawa 2005, p. 18.

<sup>3</sup> P. Bourdieu, *Męska dominacja*, Warszawa 2004, p.46.

on a position of the highest executive in 199 countries of the world and 1914 of them were men and barely 27 of them were women. Within the exclusive group of women-leaders, nearly half of them owed their positions to relations with the Great Leader. All of them had a reputation of a man in a skirt – they have not owed their successful political career to their women's charm and gentleness.

When in the 1970s the West was taken by the second wave of the feminism, a motto of fighters (of both genders) for equal rights for women and their equal with men access to all professions was that women differ from men only anatomically. All differences in their behavior, character and social roles are just an effect of upbringing. For some time, the opinion has been promoted so hardly that those who have dared not to agree had problems with spreading their opinions. One of those daredevils was the Head of the Faculty of Sociology of the New York City College Steven Goldberg. In his book he proves that men because of a bigger amount of testosterone are more aggressive, ambitious and keen on fighting for a high position is a hierarchy of a pack<sup>4</sup>. This is why they are present everywhere where aggression is desired. Goldberg was right about many things presenting that a politically correct upbringing would not change a thing. We are different. There are no two identical people even among uniovular twins, in every society there is a range of characteristics like height, weight, intelligence or natural curiosity. The differences have biological explanation and depend on genetic conditions. The differences have a substantial meaning. Men are more extreme and testosterone mobilizes them to fight for female and a high social position which even strengthens the effect of the extremes. Women are less keen on risky behaviors and fight for a position in a social hierarchy. And they have never had to do this. Most of the Nobel Prize winners (or state leaders) are men but men are also 90% of people locked in prisons and most of the homeless people. That is why it cannot be surprising that men's and women's way of a social life has always been different. In solving conflicts women more often than men avoid forcible solutions. Women more often engage in a close friendship and social relations with few faithful allies, they have strongly developed

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<sup>4</sup> S. Goldberg, *The Inevitability of Patriarchy*, New York 1973.



empathy. Men are different. There easily appear bigger, not so tightly connected groups, where there is a hierarchy of status and a constant fight for a position of the alpha. Men are naturally designed to compete between each other for a position in the social hierarchy. However, the society and its culture decide mostly what form this competition has. Thus, war, fights and acts with a use of weapons and their derivatives are fields, where there prevail laws of the jungle and where men do particularly well. However, it seems that we are really sure of those observations. But present times and the future bring a lot of uncertainties. What size of equal rights is there if there is any? Will actions connected with fight stay dominated by men? Some people are prone to say that men make it highly brutal<sup>5</sup>. A famous American researcher of politics, professor of Harvard University Joseph Nye for a few years now has been promoting a conception of using the so called soft power<sup>6</sup>. It would seem that he had grounds to promote such solutions. Nye was the head of National Intelligence Council and he also worked in State and Defense Department. However, ridiculousness of his theories are visible for example in a lack of answer for another question. If the war dominated by man-soldiers, man-politicians is brutal then would a feminine form of it be still a war? If the world was evolving in a direction that Nye presents, a man way of solving problems would lose a lot of its attractiveness and efficiency. Using the soft power requires mutual understanding and empathy – features that are women's target. Even saying that women may naturally have a different approach to life than men would have been not so long ago offensive for radical feminists who would deny existence of substantial biological differences between representatives of both genders. Radical feminism propagating identity of natural characters creates as a consequence a man-woman. Women for who this radicalism is understandable have to behave exactly like men.

Undoubtedly a woman in a uniform of a soldier still causes a lot of controversies and extreme feelings.

Spanish women have been serving in the army since 1992, Finn women since 1995 and in 1999 in Poland women were allowed to study in military

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<sup>5</sup> B. Ehrenreich, *Rytuały krwi*, Warszawa 2001, p. 32.

<sup>6</sup> J.S. Nye, *Soft Power: The Means to Success in World Politics*, New York 2005, p. 24.



colleges<sup>7</sup>. Women also serve in, among others, the armies of Israel, the USA, Canada, Great Britain, Hungary and Czech Republic. A woman in the army still causes a lot of controversies and objections and for example, despite complaints directed to the Court of Justice of the European Union, constitution of Germany still forbids women to serve with the deadly weapons in their hands. (Chart No. 1)

**Chart No. 1.** Rules of military service of women in chosen countries of the world

Military Service	Countries, members of NATO	Countries of the world
Common, obligatory		Libya, China, Israel
Common and obligatory for men, optional for women.	Belgium, Netherlands, Estonia, Czech Republic, Denmark. Spain, Greece, Norway, Poland, Portugal, Turkey, Italy, Hungary	Sweden, Finland, Switzerland
Optional both for men and women	Canada, the USA, Luxembourg, Great Britain, Canada,	
Not allowed with weapons in hands	Germany	

Most of the discussions in the USA and countries of the Western Europe concern a direct participation of women in fight and accomplishing dangerous battle tasks. And it is the most important element of a military service as no matter a man or a woman who is unable to fight loses his/her authority as a soldier. The argument against fulfilling by women some duties resulting from their military service are differences in a physical efficiency of men and women. The solution of the problem may be introducing equal rules of checking qualifications required in a specific function or position, for all candidates regardless of their gender. Emancipation of women had led to creating a negative image, that means more and more women participate in acts of violence and commit more

<sup>7</sup> A. Skrabacz, *Kobiety w obronie narodowej Polski u progu XXI wieku*, Warszawa 2001, p. 97.

and more crimes. More and more often they take part in stealing, burglary, banditry and commit murders. It has also happened in previous centuries, however now, it is getting stronger and stronger. Women participate in suicidal attacks and terrorist attacks which is particularly visible in Chechen and Palestin<sup>8</sup>. Explanations of terrorists after failed attacks are really interesting – when asked “why”, they indicated also a possibility of entering to men’s world by actions very far from what is understood as femininity. And example of a young Dutch woman, Tanja Nijmeijer, is an excellent example of a native attitude towards war. But of course naiveness should not be associated with women.

Commentators of events in a prison in Iraq – Abu Gharib, emphasize that women directly participated in torturing prisoners<sup>9</sup>. Cruelty of a war in actions of women in a public opinion is worse than cruelty of men as women are expected to calm the way of life. Do we want a woman in a uniform for example in a role of a commander of a platoon to be feminine or the other way – less feminine and more masculine? Certainly we expect them to be professionally prepared. It is important that the assessment of their skills was not interrupted by a stereotyped perception in plus as well as in minus.

War, fight are those fields of life which have always caused a lot of troubles for societies. The member countries are called to increase participation of women in missions and peace negotiations by the United Nations Security Council in a resolution of 2000 No. 1352<sup>10</sup>. The followers of the resolution emphasize strong features of women which can be used in a service in contingents of the army. Undoubtedly there belong: ability to make contacts easily – helpful in cooperation with locals, ability to ease conflicts thanks to a less confrontational way of conducting negotiations and causing less aggression. It is also taken into account that women are more sensitive to local religious, cultural and traditional problems and

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<sup>8</sup> H. Köchler, *Terrorism and the Quest for a Just World Order. Political and Philosophical Society & Foundation for Social Justice*, Quezon City (Manila) 2002, pp. 30–33.

<sup>9</sup> L. C. James, P. G. Zimbardo, *Fixing Hell: An Army Psychologist Confronts Abu Ghraib*, Washington 2008, pp. 120–122.

<sup>10</sup> J. Simonides, *ONZ – bilans i perspektywy*, Warszawa 2006, p. 17.

their role in conversations with local women from places where there are military conflicts is emphasized<sup>11</sup>.

There are also those who oppose to women's participation in missions and peacekeeping operations. Except of really prosaic arguments like a lack of proper social conditions that means no separate bathrooms, toilets or places to sleep which complicates organization of a contingent and rises costs, the opponents stress out that for example among Muslims women are not treated as an equal partner for conversations.

At this point it needs to be analyzed how women's professional military service is perceived in contemporary societies like for example Poland. Professional military service of women in Poland is a phenomenon development of which has been influenced by many elements. One of them were civilization and social transformations which are happening in contemporary world like emancipation of women and development of feminist movements. An increased interest of women in the army results also from a growth in their professional activity and better education. Presence of women in the army is also a consequence of a system transformation in Poland which began at the end of the 1980s and now guarantees every citizen, regardless of a gender, equality in law. Poland joining NATO and as a consequence a need for adjusting structures of the Polish army to requirements of NATO also influenced the increase of women's number in the Polish armed forces.

Recruitment of women to the armed forces of the Republic of Poland began at the end of 1988. Within a military health care, there was a recruitment among graduates of civil schools who have graduated faculties like: medicine, pharmacy and psychology. The recruitment was carried in a specific mode: women only had to take a short military course after which they became officers and were hired dependently on needs of the army.

The situation changed in 1999 when for the first time women's presence in the army was taken into account in military educational system. The year was a beginning of a new stage of a staff policy concerning women

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<sup>11</sup> M. van Creveld, *Zmienne oblicza wojny. Od Marne do Iraku*, Poznań 2008, pp. 318–329.

who could apply for military colleges, academies and officers' schools as candidates for professional soldiers. Also offer of professional positions for women was widened. It also caused an increased interest of women in a possibility of learning in military schools.

**Chart No. 2.** Opinion of the questioned on allowing women to professional military service

	XII 1999	I 2007
I definitely approve	37	32
I rather approve	37	36
I rather do not approve	13	13
I definitely do not approve	7	11
Hard to say	6	8

According to researches carried out by the Center for Public Opinion Research in Poland, women's professional service in the army is approved by 68% of the questioned and 32% of them definitely approves allowing women to the service in the army. 24% of the questioned are of different opinion and they think that allowing women to military service should not happen (Chart No. 2). A support for women serving in the army depends on supporter of which organizational system of the armed forces the questioned is. 63% of the questioned who are in favor of the army dependent on the common recruitment accepts a professional service of women, however 12 % more supporters of such a solution we may find among people who support a vision of a completely professional army.

Acceptance of a military service of women depends also considerably on age and education. Definitely more often the unlimited military service is supported by people with a higher degree who are under 35. A completely different attitude, that means a belief that there should not be women in the army is presented by people over 55 who are less educated.

There are also different opinions on a matter on what conditions and within which corps women should serve in the army. The most considerable number cause as many as 39% of responders in 1999 as well as in 2007 think that women should only serve in a medical and quartermaster

corpses. The option that their professional development should not be limited was supported in 1999 by 29% of the questioned and in 2007 the number was reduced to 25%. In comparison to 1999, in 2007 the number of those who believe that women should serve with all weapons and in all services (but with a reservation that they will be on posts that in case of war will not be in danger of a direct fight or battle contact with the enemy) was 4 percent smaller.

A new pragmatic bill opens better perspectives to women who are interested in a military service<sup>12</sup>. It gives them a chance to be called up for corpses of professional privates<sup>13</sup>. A law is just a law, what about life? Which factors can be a real obstacle in realization of the law? It should be assumed that those will be stereotypes on genders and roles assigned to men and women. Is a soldier's profession appropriate for a woman? In a public opinion it is. But life brings many surprises. If a soldier – woman is not given men's requirements, there appears an accusation of a men's circle of discrimination of men. How should women's functioning in the army look like? For some people the answer is simple – the same way as men's does. There is equality of rights. But does a woman in a uniform stop being a woman? Of course there are people who do not see any difference. Are there no differences? Differences are visible for women in uniforms. They think that they are treated more carefully, accomplishing their tasks is exacted more precisely and they are more carefully watched than men. Researches show that a scheme of a gender influences our perception of a person and causes that a person's particular behavior is understood differently in dependance on whether a person is a man or a woman.

We can imagine easily a man as a soldier but it is not so obvious if a woman should function in this role in the same way. In the USA, requirements in the service are equal for both genders. Some women find themselves in such a role perfectly but there are also women who taking the

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<sup>12</sup> Rozporządzenie Ministra Obrony Narodowej z dnia 19 grudnia 1996 roku w sprawie służby wojskowej żołnierzy zawodowych, Dz. U. 1997, Nr 7, poz. 38., por. Ustawa o zmianie ustawy o powszechnym obowiązku obrony Rzeczypospolitej Polskiej oraz o zmianie ustawy o służbie zastępczej z 29 lipca 2005 roku, Dz. U. 2005, Nr 180, poz. 1496.

<sup>13</sup> S. Jarmoszko, *Wojsko Polskie pierwszej dekady transformacji*, Toruń 2003, p. 65.

role start to act like men and cry in the pillow as they feel deprived of a substantial part of their identity as women. There is not a one truth about women in the army. The subject that comes nearly automatically to the foreground is of course a possibility of accusations of sexual harassment. It is exposed nearly every time while talking about women in the army. It is rather a man thing to be active and show initiative in seduction. Also in a military circle unintentionally we are entangled in a thinking scheme concerning customs. Sexuality of women itself does not threaten anyone as well as sexuality of men, lesbians and gays. If somebody feels threatened it may be because the one does not know his/her own boundaries. But it is not sexuality of the other gender to be blamed for it but personality of a person who is afraid.

In the West European culture, formal organizations like military, fire department and the police have always been connected with men and have been men's own field. The situation is caused by a generally accepted and functioning patriarchal model of the society. However in time, the model has slowly been transformed and has evolved like the whole changing world. Women have slowly started to require an access to many fields of life closed till then for them. They won a right to vote, a possibility to develop professional activity also in professions considered as typically men's ones. Many laws that now guarantee equal rights in access to all fields of a private and a public life to both genders, have been transformed and regulated.

All formal and legal obstacles stopping women from equality of rights have been liquidated. However, a problem appears in another sphere that means "in a sphere of thinking and perception of some regularities that rule the social world. Men as well as women have to – but very often do not want to – accept that the age of the patriarchy has been gone"<sup>14</sup>. Women "have been learning the military and the military has been gaining experience how to make a soldier out of a woman. Slowly, step by step, eliminating everything that has been defective"<sup>15</sup>. A picture of a woman serving in the army is now a casual thing, it does not rise any sensation.

<sup>14</sup> After: A. Dębska, *Kobieta w mundurze, czyli nowa jakość w systemie bezpieczeństwa państwa*, Toruń 2004, p. 47.

<sup>15</sup> After: R. Przeciszowski, *Piękniejsza część brygady*, „Polska Zbrojna”, 2006, No. 11, pp. 20–21.

However, it does not change a fact that a development of a professional military service of women still has many opponents, not only in Poland but also in the entire world. All differences between men and women are of a cultural character. If there is anything roots of which are in the nature, it has been hidden so deeply and far far behind the culture that we cannot be sure of its character. Here we need to ask one more question. Why we use exactly such and not different patterns that define a “real man” and a “real woman”. For example, we really like saying that a real man is a man who is ready to fight if somebody else challenges him. Somebody who in such a situation would try to gain supremacy. And people, independently on gender, like domination over others. So looking for an answer to what extent a soldier woman meets requirements dictated by men in uniforms, we need to be patient. A long-lasting process of changing a mentality is awaiting.

Has the so called women issue been finally solved in western modern societies also by making women soldiers? If we believe words of the followers of feminism, another bastion of men’s domination has been won. Opponents of feminism claim hard that the problem does not exist and matters like an equal professional status of men and women is a fake creation of those who want to draw attention of activists.

Both sides of the conflict, sooner or later, will meet in their thinking an important problem: should a state and to what extent, interfere in a woman’s situation – in their family and professional life? Is it possible to compromise between the individual’s freedom of shaping her/his own fate and requirements of equality? A state and state institutions should – in the name of saving equality of men and women – have a possibility to interfere in matters that cannot be solved without interference. However, it needs to have its limits: executing one’s rights must have boundaries of responsibility<sup>16</sup>. Resignation does not mean a lack of looking for a golden mean in social relations which cannot be dominated neither by men nor women radicalism.

However, it cannot be forgotten that some analysis of the armed forces focus only on men conditioning. In such cases it is usually emphasized

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<sup>16</sup> J. Baszkiewicz, *Władza*, Wrocław-Warszawa-Kraków 1999, p. 23.

how men get through the military service, men – the main heroes of most of war stories: participants in battles, prisoners of war, commanders, strategists, pilots of fighters, the marines, traitors etc. Women participate less directly in battles and thus it is assumed that the influence of war on them is indirect. To little degree variety of efforts of women, essential for the military, is emphasized. It needs to be stressed out that thousands of women were soldiers' wives, their cooks, providers, washerwomen and nurses. Sometimes they had all these roles. Not mentioning situations when they have been called prostitutes and even used that way, all those women from a civil circle of the military have had to do things without which no bigger military formation could exist<sup>17</sup>.

The fact that for women and men in the military and armed conflicts, there are roles of respectively – victims and warriors – has serious consequences for situations of both groups. Even though men and women are able to similarly fulfill the active roles in wars and military conflicts as those bringing violence and participants of a peacekeeping process, the social perception of roles of men and women in the armed forces and prejudices shape and limit considerably real playing of roles in positive as well as negative dimension.

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<sup>17</sup> J. Steans, *Gender and International Relations: Issues, Debates and Future Directions*, Cambridge 2006, pp. 25–42, compare. S. Whitworth, *Men, Militarism and UN Peacekeeping: A Gendered Analysis*, Boulder 2004, p. 27.



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## CHALLENGES AND PERSPECTIVES OF POLISH FOREIGN POLICY TOWARDS THE POST-YUGOSLAV REGION

**Keywords:** Polish foreign policy, Post-Yugoslav region, enlargement of European Union, post-Cold War period.

**ABSTRACT:** In the new, post-Cold War reality Polish foreign policy faced challenges stemming from the need to set targets that would reflect the interests of Poland, as well as take into account the changes in the international environment. Gradually, the assumptions and directions of foreign policy were rebuilt, with an aim to ensure the safety of the country in both internal and external dimension, to provide the territorial integrity, strengthen the sovereignty and create optimal conditions for the development of the state and society. After 1989, as a consequence of the concentration of efforts of Polish diplomacy on the implementation of strategic directions of foreign policy, others had a secondary meaning. Polish vital interests were located in the Euro-Atlantic area, in the immediate vicinity, as well as in Central and Eastern Europe, which is why in the first place all strengths and resources were engaged there in order to implement the strategic tasks of foreign policy; the Western Balkans remained on the sidelines, in the territory of former Yugoslavia. Nevertheless, this did not mean the total marginalization of the post-Yugoslav region, and the perception of the events associated with the disintegration of the Yugoslav federation as not directly, but only indirectly connected with Polish interests.

The purpose of this paper is to demonstrate the perspectives for development of Polish foreign policy towards the post-Yugoslav region. Taking into account the factors determining Polish policy towards the post-Yugoslav region since launching the process of disintegration of the Yugoslav federation, the author wishes to point out in a synthetic way the challenges and prospects of Polish policy towards this region. The task

seems to be particularly interesting due to the accession of Croatia to the European Union. At this point a question emerges – how will joining of Croatia to the EU activate Polish policy in this area and will Poland strengthen its efforts to support further EU development. Another research question related to the response to the question of present and future role of Poland wishes to play in the area and if it is still perceived in terms of competition for main areas and directions of interests of Polish foreign policy.

## I. INTRODUCTION

In the new, post-Cold War reality Polish foreign policy faced challenges stemming from the need to set targets that would reflect the interests of Poland, as well as take into account the changes in the international environment. Gradually, the assumptions and directions of foreign policy were rebuilt, with an aim to ensure the safety of the country in both internal and external dimension, to provide the territorial integrity, strengthen the sovereignty and create optimal conditions for the development of the state and society. After 1989, as a consequence of the concentration of efforts of Polish diplomacy on the implementation of strategic directions of foreign policy, others had a secondary meaning. Polish vital interests were located in the Euro-Atlantic area, in the immediate vicinity, as well as in Central and Eastern Europe, which is why in the first place all strengths and resources were engaged there in order to implement the strategic tasks of foreign policy; the Western Balkans remained on the sidelines, in the territory of former Yugoslavia<sup>1</sup>. Nevertheless, this did not mean the total marginalization of the post-Yugoslav<sup>2</sup> region, and the perception of the

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<sup>1</sup> The Western Balkans have been artificially separated for the purpose of the EU's policy towards the countries of South-Eastern Europe. All countries except Slovenia formed after the collapse of the former Yugoslavia and Albania.

<sup>2</sup> Used in Polish literature, the term "post-Yugoslav country" or "post-Yugoslav countries" refers to the components of the Socialist Federal Republic of Yugoslavia. The author for the purposes of this article has adopted the term – post-Yugoslav countries – including: Croatia, Slovenia, Macedonia (Former Yugoslav Republic of Macedonia – FYROM),

events associated with the disintegration of the Yugoslav federation as not directly, but only indirectly connected with Polish interests.

The purpose of this paper is to demonstrate the perspectives for development of Polish foreign policy towards the post-Yugoslav region. Taking into account the factors determining Polish policy towards the post-Yugoslav region since launching the process of disintegration of the Yugoslav federation, the author wishes to point out in a synthetic way the challenges and prospects of Polish policy towards this region. The task seems to be particularly interesting due to the accession of Croatia to the European Union. At this point a question emerges – how will joining of Croatia to the EU activate Polish policy in this area and will Poland strengthen its efforts to support further EU development. Another research question related to the response to the question of present and future role of Poland wishes to play in the area and if it is still perceived in terms of competition for main areas and directions of interests of Polish foreign policy.

## II. BALANCE OF POLISH FOREIGN POLICY TOWARDS THE POST-YUGOSLAV REGION

Polish activity in the post-Yugoslav region was determined by both foreign policy priorities, resources and opportunities adopted at the beginning of the nineties of the twentieth century that was available, as well as the events related to the successive stages of disintegration of the Socialist Federal Republic of Yugoslavia and the bloody events that accompanied this process<sup>3</sup>. The challenge of the socio-political transformation period

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Bosnia and Herzegovina, Montenegro, Serbia and Kosovo – and uses it seeing the former republics and the federation, now independent states, as compact geopolitical area, though different in terms of political, economic, social, ethnic, religious.

<sup>3</sup> More on this topic: E. Bujwid-Kurek, *Państwa południowo-wschodnie. Szkice politologiczne*, Kraków 2008; M. Kuczyński, M. Ray-Ciemiega, *Balkański syndrom 1991–1999*, Warszawa 2000; M. Waldenberg, *Rozbicie Jugosławii. Od separacji Słowenii do wojny kosowskiej*, Warszawa 2003; M. Waldenberg, *Rozbicie Jugosławii. Jugosłowiańskie lustro międzynarodowej polityki*, Warszawa 2005; S. Wojciechowski, *Integracji i dezintegracji*

in Poland was to develop a coherent foreign policy that would reflect the both own needs, as well as relate to the essence of the transformations taking place in Central and Eastern Europe. Given the scope and nature of the changes that were taking place in Poland and in the immediate vicinity, the engagement in the affairs of the former Yugoslavia came down mainly to political declarations and expressing will to co-participate in resolving the conflict in the federation and in the future, in the process of stabilization and consolidation of peace. The assumptions of foreign policy emphasized that – for the sake of security in Europe – Poland was going to be involved in the stabilization of the Balkans and ending of the Yugoslav crisis, support and participate in international initiatives aimed at ending the conflict and, in the future, in the process of stabilization and consolidation of security. However, given the existing staffing as well as organizational and financial opportunities, Polish diplomacy was focused on the implementation of key priorities, pushing South-Eastern part of the continent on the back burner of Polish foreign policy<sup>4</sup>. One should also remember the role and position of Poland in international relations, as at the time of initiation of socio-political transformation process, as well as at a later date, in the course of implementation of the objectives set at the beginning of the transformation.

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*Jugosławii na przełomie XX i XXI wieku*, Poznań 2002; I. Rycerska, *Rozpad Jugosławii. Przyczyny i przebieg*, Kielce 2003; M. Kuczyński, *Krwawiąca Europa. Konflikty zbrojne i punkty zapalane w latach 1990–2000. Tło historyczne i stan obecny*, Warszawa 2001; W. Szulik, *Konflikt w byłej Jugosławii*, „Sprawy Międzynarodowe” 1997, No. 1; M. Tanty, *Balkany XX wieku*, Warszawa 2003; J.J. Wiatr, *Europa pokomunistyczna. Przemiany państw i społeczeństw po 1989 roku*, Warszawa 2006, pp. 96–108; J. Wojnicki, *Przeobrażenia ustrojowe państw postjugosłowiańskich (1990–2003)*, Pułtusk 2003; M.J. Zacharias, *Komunizm, federacja, nacjonalizmy. System władzy w Jugosławii 1943–1991. Powstanie – przekształcenia – rozkład*, Warszawa 2004.

<sup>4</sup> See: R. Kupiecki, K. Szczepanik, *Polityka zagraniczna Polski 1918–1994*, Warszawa 1995; A. Żukowski (Ed.), *Polska polityka zagraniczna*, Olsztyn 1999; A.J. Madera, *Polska polityka zagraniczna. Europa Środkowo-Wschodnia 1989–2003*, Rzeszów 2003; R. Kuźniar, *Droga do wolności. Polityka zagraniczna III Rzeczypospolitej*, Warszawa 2008; R. Kuźniar, *Polityka zagraniczna III Rzeczypospolitej*, Warszawa 2012; R. Zięba, *Transformacja polskiej polityki zagranicznej*, „Rocznik Nauk Politycznych” 2004, No. 7; R. Zięba, *Główne kierunki polityki zagranicznej Polski po zimnej wojnie*, Warszawa 2010.

At the outbreak of the Yugoslav conflict, Poland was carrying out political and economic reform to overcome historical backwardness. It had no instruments that could effectively prevent the Yugoslav crisis. Hence, the lack of independent proposals to resolve the conflict and attachment only to the decisions taken by the international community, especially the EU and the USA. Focusing on the strategic priorities of the foreign policy and, not having sufficient funds, Poland only formed part of the initiatives launched by the international community. A few Polish diplomacy initiatives do not change the beliefs about the lack of independence of Polish policy in the context of the events in the South-Eastern part of Europe. Poland left priority to those entities that had the opportunity to take part in the decision-making process with regard to future developments. It then joined when the decisions had already been taken; in reality, it had no influence on their character. Each time, however, by engaging in a variety of international projects, it emphasized that it fully shares the position of international organizations and identifies with the proposed solutions. This does not mean, however, that the adjustment to actions was carried out without thinking, rating their relevance and impact on the course of events in the territory of the former Yugoslavia<sup>5</sup>.

Polish policy towards post-Yugoslav region was a support for key priorities and should be interpreted in terms of subsidiarity to the essential objectives of the foreign policy after 1989. Oscillating between particularism and solidarity, engaging in the activity of the international community, it attempted, on the one hand, to support the implementation of the key priorities in foreign policy and, on the other hand, to refer to the international responsibility, participate in solving problems that absorbed the international community. At the same time, Poland avoided taking decisions that could have negative political consequences, delaying or hindering the implementation of Polish Euro-Atlantic aspirations. Hence, the decision to adjust to international efforts aimed at ending the Yugoslav conflict, and in the future – to maintaining stability in the post-conflict region.

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<sup>5</sup> See: R. Podgórzeńska, *Polityka zagraniczna Polski wobec obszaru południowo-wschodniego*, Toruń 2013.

Despite the consolidation of Polish position on the international arena and the implementation of formulated priorities, the perception of the post-Yugoslav region in the view of Polish foreign policy has not changed fundamentally. Still, despite many political declarations, it remains at its margins.

At the same time, it should be noted that ,due to the presence of the Balkan problems in the EU policy, Poland declares intensification of activity in this area, which is not tantamount to raising its rank in the assumptions of Polish foreign policy. Poland focuses on key areas, in terms of defined objectives in foreign policy, which does not include the post-Yugoslav region. One of the most important tasks of Polish European policy is co-shaping EU policy towards its Eastern neighbors. Poland not only has the ambition to become a major creator of the EU's Eastern policy. Using the argument of geographic location, knowledge of the realities in Eastern Europe and own experiences of the socio-political transformation, for years it has been promoting the idea of strengthening the Eastern dimension and the necessity for support and assistance towards the EU's Eastern Neighborhood countries, which is confirmed by the Eastern Partnership project. Previous vectors in foreign policy meant that Poland did not attempt to strengthen political presence in the post-Yugoslav region and, thus, to intensify political contacts. There was indeed a will of this kind, but limited to political rhetoric.

Today, Polish policy towards the region of the former Yugoslavia, is mainly determined by Polish membership in Euro-Atlantic structures and the structures of Central European regional cooperation. The membership in the EU causes that Poland may seek to achieve its goals in foreign policy towards the countries of the former Yugoslavia, not only on the basis of bilateral relations, but also with the use of instruments of the EU policy. The scale of the impact of the EU on the area defined in the nomenclature of the EU as "the Western Balkans", causes only a temporary increase in interest of Poland, as evidenced by the period of Poland's chairmanship of the EU Council. In addition, forum of Polish activity is made of other international organizations involved in the region – the UN, NATO, OSCE and subregional cooperation institutions, especially the Visegrad Group and the Regional Partnership.

The effectiveness of Polish foreign policy towards the post-Yugoslav region was determined by the choice of instruments and methods of implementation. The choice of such instruments was dictated by organizational and financial resources, multiplicity and compatibility of formulated objectives in foreign policy, gradation of priorities, scale and nature of the risks that accompanied their implementation, public acceptance for its activities, the conviction of own strength and opportunities for international environmental impact<sup>6</sup>. Very important were also the resources and capacities of other entities, both the countries of the former Yugoslavia, as well as other involved in ending the conflict and subsequent stabilization in the region. In each phase of development of the situation in post-Yugoslav region, the instruments used by Polish diplomacy were modified, taking into account both the rate of changes in the region, as well as the degree of realization of the goals of Polish foreign policy. Polish policy and forms of engagement, as well as the instruments were the outcome of the policy of the countries of post-Yugoslav region, intent accompanying their activities, the ability to absorb the support and assistance from the outside. Equally, however, the choice of instruments was determined by the resources Poland had at its disposal at a certain time. Each step of implementation of foreign policy was accompanied by various circumstances, which determined its priorities and objectives and the instruments used. Another important factor was the financial and organizational capacity, which remained at the disposal of Polish diplomacy, or the belief in the effectiveness, or likelihood of achieving the intended results<sup>7</sup>.

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<sup>6</sup> On the effectiveness of foreign Policy, see: T. Łoś-Nowak, *Polityka zagraniczna*, in: T. Łoś-Nowak (Ed.), *Współczesne stosunki międzynarodowe*, Wrocław 2008, p. 88.

<sup>7</sup> R. Zięba, *Paradoksy polityki zagranicznej Polski w okresie transformacji*, in: M. Karwat (Ed.), *Paradoksy polityki*, Warszawa 2007, pp. 395–397.



### III. POLISH POLICY TOWARDS POST-YUGOSLAV REGION – CHALLENGES IN THE CONTEXT OF THE ACCESSION OF CROATIA TO THE EU

Almost a decade since Polish accession to the EU confirms the validity of the choices made upon the transformation in the context of the directions of Polish foreign policy, its priorities and principles supporting its implementation. The accession to Euro-Atlantic structures favorably determines the potential for development of the country, regardless of today or future interferences in the taking advantage of the benefits of the Euro-Atlantic political, military and economic area. The international position, which is the consequence of the determination and will of the political elite and the public in complying with the obligations of the membership, does not exempt from reflection on the challenges of Polish foreign policy. Both in terms of membership in these structures, as well as the Euro-Atlantic vectors of Polish involvement. Worth-mentioning is the role Poland may play on the international arena. The postulated role of a sovereign, self determining and programming its place on the international stage, the leader of democratic changes in Central and Eastern Europe, the initiator of democratic transformations in the Eastern neighborhood, a strong European state propagating and supporting the process of enlargement of Euro-Atlantic structures, remaining in close alliance with the United States, a country fulfilling its obligations resulting from its allies<sup>8</sup>. Apart from the degree of integration of international roles, expected from Poland by the external environment, with declared roles and played by Poland in the context of policy toward post-Yugoslav region, it should be noted that the declared roles strengthened the position of Poland as a model of successful democratic transition and economic transformation, and moreover, the country that has successfully finalized the process of accession to Euro-Atlantic structures and became strong in

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<sup>8</sup> An interesting proposal of international interpretation of Polish roles expected by the international community as well as those declared and played, presented Richard Zieba See: R. Zięba, *Poszukiwanie międzynarodowej roli dla Polski – konceptualizacja roli państwa „średniej rangi”*, in: S. Bieleń (Ed.), *Polityka zagraniczna Polski po wstąpieniu do NATO i do Unii Europejskiej*, Warszawa 2010, pp. 55–70.

the region – in Central and Eastern Europe. In the future, it is the perception of Poland – as a catalyst for change in Central and Eastern Europe, a country that successfully recreated its internal organization, implemented the requirements of accession to Euro-Atlantic structures – was one of the determinants of its policy towards post-Yugoslav region. Nevertheless, referencing to the successful transition pattern in the future may be insufficient. Today, the real value is the experience gained by Poland in the process of Euro-Atlantic integration. A success in the form of membership in NATO and the EU as well as strengthening the image of a partner of the European Community may also soon be exhausted. A role of the creator of EU policy, a collective and constructive member of the European community in an increasingly “disintegrated” European Union can be very helpful.

Similarly, the redefinition is required with regard to Polish policy towards post-Yugoslav region, specifically its place and role in foreign policy. Its secondary perception must be verified. Firstly, it is due to Polish membership in Euro-Atlantic structures, in particular the EU membership and the role Poland intends to play in it, which involves, according to the declarations, willingness to share the responsibility for the future of European integration and constructive participation in the EU decision-making process. Therefore, due to the location of the Western Balkans, including the post-Yugoslav region in EU policy, Poland has to revise its current policy. So far, the role of Poland in the process of Europeanization of the Western Balkans and the impact on the rate of these processes were quite limited. It boiled down mainly to political statements of willingness to cooperate, desire to share experiences, support measures undertaken at the EU forum and other international organizations, as well as regional cooperation structures. Both, Polish political role in the post-Yugoslav region and degree of involvement in the process of economic reconstruction, differ significantly from the scale of the involvement of other EU Member States. The analysis of the directions of foreign policy activity leads to the conclusion that Poland continues to pass over the area, favoring others. Although it declares a will to intensify bilateral relations and emphasizes its support for the Euro-Atlantic aspirations of the Western Balkan countries, including the post-Yugoslav region, and sees a real chance for a quick

adjustment process of these countries to the EU, its diplomatic activity in the framework of European policy in recent years has been concentrated on promotion of Polish-Swedish Eastern Partnership.

Prospects of Polish foreign policy towards post-Yugoslav region will largely depend on the outcome of several important issues. First, it is vital to consider the question whether, from the point of view of Polish interests, the revision of the principles of Polish foreign policy in the context of post-Yugoslav region is necessary and possible. Its current secondary location seemed to be a reasonable consequence of concentrating the activity in the Euro-Atlantic pole. The realism accompanying the assessment of the resources and possibility to use them determined the scope and nature of Polish presence in the post-Yugoslav region, its role in the conflict in the first half of the nineties of the twentieth century, and in the future – the actions of the international community to stabilize and maintain security. Today, having regard to the achievement of strategic priorities, it is appropriate, if not necessary, to extend the range of Polish foreign policy by other vectors. These involve South-Eastern dimension, in the case of this analysis limited to the post-Yugoslav region. At the same time, there is no justification for promoting a belief that they should occupy a strategic position in Polish foreign policy. For there are no grounds for making the post-Yugoslav region a foreground area from the point of view of Polish interests. The abovementioned can not be explained by means of political, economic, military measures. However, it must radically advance in the hierarchy of strategic priorities of Polish foreign policy<sup>9</sup>. The consolidation of the conviction that Poland sees the post-Yugoslav region as a secondary from the perspective of its national interests, will present Poland in a bad light – among the countries focused only on a part of the European reality, namely Eastern Europe and South Caucasus, not involved in the areas relevant to the functioning of the EU.

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<sup>9</sup> A. Balcer, G. Gromadzki, *Doceńmy wreszcie Bałkany*,

[http://www.demoseuropa.eu/index.php?option=com\\_content&view=article&id=520%3Adocemy-wreszcie-bakany&catid=128%3A2010kom&Itemid=153&lang=pl](http://www.demoseuropa.eu/index.php?option=com_content&view=article&id=520%3Adocemy-wreszcie-bakany&catid=128%3A2010kom&Itemid=153&lang=pl) (accessed: 24.01.2013).

Nevertheless, it should be emphasized that the change in the objectives of foreign policy towards the post-Yugoslav region should be accompanied by resignation from its declarative and wishful dimension for the sake of real support. So far, foreign policy has been marked by “desire to deepen cooperation”, “expectations to intensify relations”, “recognition of the importance of cooperation”, “need of support”, “solidarity of actions” and so on. Today, it is not enough to promote the values identified with the achievements of the process of political transformation in Poland, democratization and accession to Euro-Atlantic structures, but to support their realization.

Poland reliably performs its obligations of an active member of the international community. It is represented politically (by diplomatic missions) and plays an important role in the field of security<sup>10</sup>. What is more, it is important to bear in mind Polish involvement (official – governmental as well as through and with the participation of non-governmental organizations) in providing humanitarian assistance during the Yugoslav conflict or in connection with the events in Kosovo<sup>11</sup>. On the other hand, today economic commitment of Poland in the countries of post-Yugoslav region and a range of support in development aid are insufficient. In the first case, it is a derivative of many factors. A decisive role is played by defined directions of Polish economic activity and its basic partners. For a long time, a limited level of cooperation depended on situation in the post-Yugoslav region, sense of lack of stability as well as investment, capital, business and predictability. The latter, are still valid for some countries in the region, which translates into an unsatisfactory level of economic cooperation.

Beneficial for the whole Polish foreign policy towards the post – Yugoslav region would also be correlating all forms of Polish presence and

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<sup>10</sup> It is one of the EU countries not having any diplomatic relations with Kosovo. However, the experience of many countries shows diplomatic presence not only allows you to monitor more closely the political situation in the newly established state, but also improves the bilateral economic cooperation. See: T. Żornaczuk, *Północ Kosowa w stosunkach między Belgradem a Prisztiną*, „Biuletyn” 2012, PISM, No. 110.

<sup>11</sup> W. Stanisławski, *Polska na Bałkanach Zachodnich – życliwy, roztargniony kibic*, „Polski Przegląd Dyplomatyczny” 2008, No. 2, p. 15.

their mutual coupling. Treating Polish participation in peacekeeping and stabilization operations as a key pillar of its presence in the post – Yugoslav region should be strengthened by directing development assistance firstly where Polish contingents are located. Constant low level of support within the scope of development assistance does not confirm the promoted thesis of efforts to intensify political and economic presence of Poland in the area. The direction and scale of development assistance depend on formulated objectives and its priority areas, as well as financial capacity. Unfortunately, at least for now, there are no signs that the development assistance for post – Yugoslav region will be bigger than it used to be. This is confirmed by Polish development assistance priorities for the upcoming years. Poland declares willingness to engage in development cooperation and humanitarian assistance on a much larger scale than before, but the post – Yugoslav region is not seen as strategic in geographical terms<sup>12</sup>.

At this point, it is necessary to indicate the necessity to develop the concept of foreign policy towards the post – Yugoslav region. This could take a form of a wider concept including the region of the Western Balkans, a part of which would be the objectives of Polish policy towards the post – Yugoslav region. The abovementioned is vital in the context of the effectiveness of Polish actions undertaken in the entire region. Scattered and usually rudimentary ideas, devoid of a coherent conceptual skeleton, impair an objective assessment of the activities carried out, causing an impression of *ad hoc policy*, reacting to current events in the region, lacking perspective and vision of target shape of Polish relations with the countries of the post – Yugoslav region. *A casu ad casum* policy towards the post – Yugoslav region confirms the skeptics in believing that these actions are targeted only to simulate activity, rather than depict real commitment. It is therefore necessary to make efforts towards developing programmatic objectives in foreign policy towards the post – Yugoslav region, setting out short-, medium – and long – term objectives.

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<sup>12</sup> See: Long-term development cooperation program for 2012–2015. Solidarity, democracy, development, [http://www.polskapomoc.gov.pl/files/dokumenty\\_publickacje/PW\\_PL-po\\_reas.pdf](http://www.polskapomoc.gov.pl/files/dokumenty_publickacje/PW_PL-po_reas.pdf) (accessed: 22.07.2013).

The question of the need to redefine the objectives of Polish foreign policy towards post – Yugoslav region is connected to resolving the issue of how to conduct foreign policy and what instruments are possible to use. The advantage of Poland as a country that has achieved all goals of foreign policy set at the beginning of the transformation, related to the accession to the Euro-Atlantic structures, is the possibility to use dual instruments. Specific activities may be taken by Poland individually – as a part of the activities carried out autonomously towards third post – Yugoslav region, or as the EU Member State. Using the “capital “ from its position, it can use the mechanisms of EU policy and so that individually support formulated assumptions. In the first case, it is vital to consider how to effectively use the growing Polish position in Central area. Although Poland still stands out from the European leaders, beyond dispute is the fact that its position in the region is strengthened, gradually increasing its political, economic and social potential. The role of regional leader should be confirmed by taking measures aimed not only at the region where the direct interest are located, but also outside of it, where these interests need to be initiated and created. Taking into account the needs of the countries of Central and Eastern Europe, which – in contrast to Poland – have their interests in the area specifically defined, it seems to be reasonable to diversify Polish activities – beyond traditional realm.

The need to direct Polish foreign policy to post – Yugoslav region is mainly due to the role and the place occupied by the Western Balkans (including the part covering the territory of former Yugoslavia ) in the EU policy. Poland can not and should not, pursuing its most important goals in European policy, marginalize other fields of EU interests and the interests of other Member States. On the one hand, it should be guided by the need to act in solidarity to solve the problems relevant to other members of the EU, on the other hand – by pragmatism. By supporting and engaging in actions taken at the EU level for the post – Yugoslav region, it can count on the help and support in the implementation of its plans. Not giving up the important directions and promoting the involvement in the projects that are vital in terms of Polish interests, even in the form of the Eastern Partnership, the success of these plans requires participation in EU initiatives directed towards other – prior for the EU – areas. Taking

into account the conditions of the EU and the willingness of Eastern neighborhood to assume the obligations of membership, it must be noted that only the process of expanding EU towards the Western Balkans will facilitate the intensification of the EU's cooperation with its Eastern neighborhood.

It seems that in the recent years, as evidenced by the increase of Polish diplomatic activity in connection with the takeover of the EU presidency, a gradual reorientation of the directions of the activity of Polish foreign policy has been initiated. However, there is a concern that the increased Polish political presence on post – Yugoslav region was temporary in nature and subordinated to the demands of the presidency. It would be detrimental for the long-term interests of Poland. The only effective instrument to preserve the ability to operate in the EU and the pursuit of important goals is to build alliances among like-minded countries. Contacts within the EU may be strengthened basing on various criteria including those related to geography, common history, cultural heritage, historical experience, existing compounds and the extent and nature of the cooperation. The problematic criterion seems to be very important, so as the existence of matters perceived as common to all or (more often) some Member States. The challenge is therefore to skillfully identify the interests of other Member States and, on these basis, search for partners to enter into strategic alliances<sup>13</sup>.

Building an alliance around Polish vision of functioning of the EU in each of the dimensions of community requires searching for the countries that will have a similar way of thinking, sharing Polish position in the context of matters that are important both from the point of view of Poland as well as for the EU community<sup>14</sup>. It is therefore justified not only

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<sup>13</sup> A. Konarzewska, *Budowanie średnio – i długoterminowych sojuszy w Unii Europejskiej*, „Bezpieczeństwo Narodowe” 2006, No. 1, p. 189; H. Konarzewska, *Członkostwo w Unii Europejskiej – korzyści dla Polski*, „Bezpieczeństwo Narodowe” 2008, No. 7–8, pp. 44–45.

<sup>14</sup> There are opinions expressing the need for reorientation of Polish foreign policy towards the North-South See: Zob. A. Balcer, *Linia Północ-Południe i orientacje polskiej polityki zagranicznej*, [http://www.demoseuropa.eu/index.php?option=com\\_content&view=article&id=624%3Alinia-ponoc-poudnie-i-orientacje-polskiej-polityki-zagraniczn](http://www.demoseuropa.eu/index.php?option=com_content&view=article&id=624%3Alinia-ponoc-poudnie-i-orientacje-polskiej-polityki-zagraniczn)



to promote the idea of EU enlargement by the countries of the former Yugoslavia, but truly support their accession. The success of these operations and shaping the image of Poland as a country actively working for the accession of these countries into the EU framework may in the future help to raise the potential allies in the EU battle. Although it seems that the natural facilities for Poland are states located in close proximity (Germany, the Baltic countries, especially Sweden), as well as the countries of Central and Eastern Europe, in particular the Member States of the Visegrad Group, the experience shows the existence of differences in many issues that are of key importance for Poland. It would therefore be advantageous to expand the number of potential partners, even with the proviso that they do not always share Polish standpoint

For Poland it is fundamental – as a part of the wider European policy – to continue the process of EU enlargement. However, its success is the result of many factors, which include the determination and will to implement formulated conditions for accession regardless of level of difficulty, which it accompanies. The prerequisite is the political will of the Member States of the EU, which, apart from their own interests and temporary problems, will be inclined to give up exposing their own expectations for the sake of enlargement process. Poland could show that it does not perceive its presence in the EU in terms of self-interest. Focusing only on the issues that are relevant to its – defined in the international environment – needs, consolidates the conviction of new EU members' selfishness. In a difficult time for the EU associated with the economic crisis, growing dissatisfaction among EU societies increasingly reluctant towards further development, Member States should have a greater ability to combine their own needs with the needs of the wider community.

In a short time, however, it will be necessary to answer the question whether the EU is ready to continue to expand and when. The countries of the Balkan region, or at least part of them, sooner or later, will meet the requirements. It is hard to imagine that the EU formulates more stringent

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ej&catid=133%3A2011media&Itemid=157&lang=pl (accessed: 21.01.2013); K. Wóycicki, A. Balcer, *Orientacja polskiej polityki zagranicznej. Punkty regionalnego odniesienia*, in: *Debata*, materiały Społecznego Zespołu Ekspertów przy przewodniczącym Sejmowej Komisji Spraw Zagranicznych, No. 3, Wydawnictwo Sejmowe, Warszawa, lipiec 2010.



criteria, without giving in return realistic prospect of membership. EU politicians are aware of the dangers that could arise in the event of escalating demands on the Balkans and disregard their progress in implementing the recommendations of the European Union. Enthusiasm for modernization and accession, which now accompanies the countries in the region, could soon be replaced by doubt in the sense of compliance with stringent requirements if they do not result in a clear declaration from the EU about the prospect of another – after Croatia – accession by the countries of this region. At the same time, some EU Members remain skeptical as to the point of further accession of the countries, which in the future will only burden the UE.

Also pragmatism argue for the idea of promoting and supporting the EU's enlargement by including the countries of the post-Yugoslav region. The proposed enlargement of the EU by Poland in Eastern direction can not be carried out earlier than the completion of expansion plans of other Balkan states. Aware of the existence of this dependence, as well as many other factors that determine this process (the will to continue to expand, the ability to extend the existence of vested interests), Poland has been consistently expressing its pro-enlargement standpoint, expecting that the accession of the countries in the post-Yugoslav region does not mean the end of European integration. In the public debate appear the thesis of the need to increase activity in the south-east, as well as quite radical voices postulating even the need to abandon the illusions about Eastern policy for the benefit of stronger commitment to the process of accession to the EU towards the Balkan countries<sup>15</sup>.

Advantageous from the point of view of the development of the post – Yugoslav region, would be increase of the involvement of the Poland in supporting Euro-Atlantic aspirations of these countries. A factor conditioning these activities is the presence of Polish troops in peacekeeping operations undertaken periodically or military cooperation with the post – Yugoslav countries (for example, in the form of training, counseling). The process of integration of the Balkan countries with the Euro-Atlantic

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<sup>15</sup> See: A. Kaczorowski, *Balkany zamiast Ukrainy*, „Europa”, dodatek do „Newsweek” 2010, No. 8.

political and military space is an important element of stability in the region, a specific condition of “de – Balkanization”. Poland, as is has declared, “works hard” to support the accession to NATO of the countries of the former Yugoslavia, however, where there are obstacles on the road to Euro-Atlantic structures, it is not enough to refer to the arguments about the lack of ability to influence, for example, Greece is blocking Macedonian membership or anti-NATO position of Serbian society or insufficient support for the idea of membership of Montenegrins. The policy of “open doors” of NATO promoted by Poland at a larger than usually scale should be directed at the post – Yugoslav region, in particular at the countries accession prospects of which are very probable.

Another argument in favor of strengthening the political activity towards post – Yugoslav region is the issue of security, stability and creating conditions for the development of the area. The essential element that will guarantee the *status quo* in the post – Yugoslav region is to continue the activity of the international community. Poland as a Member State, aspiring to the rank of the countries with a significant presence in Europe, has to strengthen its activity. The fact that today the area of the former Yugoslavia is no longer seen as a threat to European security is mainly due to its international presence. This area is still unpredictable. Despite efforts, it ultimately failed to resolve all potential sources of tension, which is proven by unstable situation in Bosnia and Herzegovina, aimed *inter alia* at the divergence of interests of individual nations that create it. The situation in Kosovo – although now relatively stable – does not inspire optimism since the country is not in a position to exist on its own and largely depends on international financial assistance (for example, a problem in the North of Kosovo, more frequent questioning multi-ethnic Kosovo by the Kosovar society and the elite).

The implementation of the presuppositions requires redefining the existing approach. First of all, given the available resources, the effectiveness of their use ought to be analyzed. Given the limited instrumentation, it would be wise to use the elements of soft power to a greater extent than before, in order to influence the post Yugoslav with their help. It is vital to move away from Polish policy of rhetoric for the benefit of specific initiatives that would confirm the desire for revision of the position of the

post – Yugoslav region in Polish foreign policy. To do this, Poland should take the opportunities that are associated with the presence of Poland on international arena, its position within the Euro-Atlantic and Central European cooperation mechanisms, as well as the presence in projects of the international community carried out at the post – Yugoslav region. It will also be an opportunity to increase the interest in cooperation between Poland and post – Yugoslav countries, which, although appreciate Polish support for their European and Euro-Atlantic aspirations, perceive other countries as a priority.

#### IV. CONCLUSION

To conclude, over the years, Polish policy towards the post – Yugoslav region has been characterized by the absence of direct political and economic interests, indirect, in turn, have been related to security in a broader sense. There have been discussions about the necessity to restore and maintain stability in the Balkans in terms of a warranty of governance in the whole Europe, and therefore – indirectly – also Polish security. The activity undertaken by Poland in the post – Yugoslav region has been primarily a result of the reorientation of Polish pro-Western foreign policy, including accession to the North Atlantic Treaty Organization and the European Union. In other words, in Polish policy towards the former Yugoslavia the dimension of security, efforts to build stability and European security have become more dominating, which is confirmed by the activities carried out by Poland, both at the multilateral and bilateral levels.

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## **CIVIL LEGAL REGULATION FEATURES IN THE STATES WHO INHABITED THE ANCIENT TERRITORY OF KAZAKHSTAN**

**Keywords:** ancient Kazakhstan, ancient legal systems, customary laws, nomads, Islam.

**ABSTRACT:** This article discusses the features of the regulation of civil legal in the states, who inhabited the ancient territory of Kazakhstan. The authors also noted the development of a legal framework for regulation of civil relations in these countries. The nomads who inhabited the territory of present-day Kazakhstan, anciently engage in economic, cultural and political relations with other nations, and in accordance with the provisions of the laws protecting the rights of individuals, and sometimes even the whole country, when there was a threat to its interests, thereby protecting the political system, the legal system of nomadic state. Ancient legal system, to regulate relations in the tribal society, giving rise to the modern civil law.

The ancient law for thousands years regulated society, inhabited the territory of Kazakhstan. V.V. Grigoriev, in his work “About the Scythian people Sakas” proves the existence of civil legal Saks with other nations: “The nomads of Central Asia, who were closer to the South, being in contact and intercourse with the people closer towards the industry, of course borrowed from the latter that they could borrow: weapons, clothing, utensils. These borrowings from southern nomads moving gradually to the northern neighbors, and thus establish plain similarity of weapons, clothing, jewelry, among all the nomads”<sup>1</sup> i.e. neighboring

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<sup>1</sup> V. Grigoriev, *On the Scythian people*, Almaty 1998, p. 57.

nations engage in trade, exchange relations, thereby developing the laws governing this area.

Economic and political relations between the neighboring tribes had an influence on their social life. This influence was so great that even when the peoples who inhabited a certain territory, moved, left the political arena or even disappeared from history in the lives of their neighbors had a lot to do with their lives. According to V. Grigoriev, so “when southern nomads go anywhere with those lands, which occupied, and these lands went to their northern neighbors, the latter were, and by armament, and the suit and shoes, and other items quite similar to their predecessors. The similarity of the customs between southern and northern ones were established, as has been said, the same conditions of steppe nature, the same needs and nomadic lifestyle. That is why between nomads belonging by birth to an entirely different tribes may be granted in their daily life, customs, and the device is much more common than among tribesmen...”<sup>2</sup> which confirms the existence of civil matters among nomadic peoples such as trade and exchange even in the distant past.

Forming ordinary laws nomads passed gradually in the long process of social development, passed down from generation to generation, being improved in line with the realities of the time. As a nomadic society, inhabited the endless steppe, lived separately, there was a need to protect the rights and interests of clans and tribes and their members in relations with other societies that gave rise to the current rules to regulate all aspects of the relationship. These standards were supplemented and as a result have become common laws regulating social relations. The vital need for the development of society and deepen the content of customary laws, increased its role, changing, complement and perfecting. Steppe laws with their nature, characteristics, originality contributed to the general regulation of public relations in the states of the Huns, Usuns, and then the Turks who lived Before Christ on the territory of Asia. Penalties for making default of commercial, contractual obligations, various tax payments indicated the development and improvement, amendment of ordinary laws, and testified that they were actual governing power.

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<sup>2</sup> Ibidem.

According to legal requirements, formed on the basis of the ordinary laws of the nomads, Hun rulers had been entitled to have ownership. The Huns had emphasized ownership, assessing it as an interest, wealth, honor and power. Fields and pastures, cultivated land, water sources territories is fully handed down to the next generation, from father to son, hence the Huns was developed by the institution of property. One way of increasing the property was considered a war whose winner returned as the owner of the new possessions, property, cattle. In addition, the emergence of slavery, to use cheap labor of the captured men also contributed to the augmentation of their wealth. There were two categories of slaves, if one were yesterday's war prisoners, i.e. deprived of their land, property, livestock and freedom, the second category consisted of people trapped in slavery because of debt bondage. There were also slaves who came in the bride's dowry, which consisted of orphans and widows. Slaves tended cattle, for sowing season, for working in the migrations.

In the regulation of civil legal relations it was allowed to transfer slaves as a loan, payment, and pledge, to participate in the war. Usuns also considered ownership to be of perpetual interest. The property was considered a reflection, the basis of nomadic life.

At usuny a pasture belonged to all tribes, but the cattle was considered as property of individuals. The need for increasing cattle, change in society had impact on views of people on property, led to expansion of property concept.

Now you had to draw the line between the property of the ruler, tribe and a certain family, to give a stable character to wars. Usuns' ruler Kunbi purposefully expanded its power on the main production tools of the state – pastures and water sources. This undoubtedly created a risk of dissatisfaction on the part of the heads at various levels and the entire nation that posed a threat to the country's stability, the stability of the state power. Therefore, it was necessary to secure the interests and property of the ruler Kunbi and his dynasty, the heads of tribes at the legislative level, based on the ordinary laws of the Usun, so Usuns owned land as property. For regulation and legalization of the phenomenon ruler Usun took unprecedented measures related to the competence of the state, as the researchers write, "Get a life new legal rule standing above the level of ordinary



laws, the performance of which was provided by state ruler. The head of state Usun Kunbi – Venerable Kunbi ordained a new law: “In the field there should not appear even a thimble to the herd should not join any animal.” Its peculiarity lied in the fact that among the common law it was the law of the state, is notable for its originality, strength, normatively”<sup>3</sup>.

By means of this law there was legalized any spring, summer, autumn pastures, over wintering, water, tillable land, once considered the possessions of the nomadic people, that is, now no one could somehow manage to own these goods. Pasture land and livestock were considered pillar of the state and under the protection of the state.

Thus, the Huns and Usuns property of rulers and heads consisted of land, property, livestock and slaves. The right to property is protected by state laws that were created on the basis of the common law. Over time, the nomadic states improved the laws regulating civil matters based on the ordinary laws. In the state Kangüy who lived in Central Asia, V–VI century BC, the punishment for stealing other people’s property, livestock was in the form of compensation for the harm. This indicates a change in life, the growth of consciousness, the level of culture, adapting to the new realities of the laws.

If the nomads’ ownership designated boundaries, their cattle had a label. In the V century Kangüy put labels (in the form of a slit in the ears), their cattle, and this tradition had been preserved among the Turks. Turks in each race had its own label, plus livestock each family celebrated their tamgas. Tags help to distinguish their own livestock on someone else’s, and most importantly, follow a sign of ownership. Thus, the cattle in the old days belonged to the property, which can be sent by debt, used as payment, as a percentage, i.e. it was a chattel.

In a nomadic society existed the institution of property, which includes land, cattle, slaves, and they had produced goods that had been firmly entrenched phenomenon, supported by a law enacted by the state. It can be assumed that Kangüy was developed written trade agreements, marital unions. So Kangüy’s marriages concluded in special conciliatory institu-

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<sup>3</sup> G.S. Sapargaliyev, G. *Sources Fabbasuly law*, “Log. State and law” 2001, No. 1, p. 21.

tions, thus precisely defined responsibility of spouses to each other, divorce conditions, responsibility of everyone before the law. In ancient tribes like the Huns, Usuns, Kangüy which has been widely circulated and preserved for centuries common law – amengerstvo. Amengerstvo considered a derivative of the nomadic life and was seen in several aspects. The widow was considered the “property” of a particular dynasty, which paid for the bride-price, so allow distraction from her husband, but the care of the kind was impossible. In addition, amenger (the man who marries a widow) came from the same family, that her former husband, he was endowed with rights amengerstva because it was considered a guarantor of welfare of children of the deceased. Amengerstvo considered a form of care, protection of widows and orphans, and the failure is a shame for the whole family. In the event that the case of the widow’s “amengerstvo” did not find the solution, the dispute “zhesir dauy” flared up between the clans, which often led to intrapartum or intergeneric conflicts. This has led to the need to form a basis of laws amengerstvo in a nomadic society. The most common type of amengerstvo was the form in which when a man dies, the younger brother should take his widow as his wife. That is, he is not just getting a husband to the widow of his elder brother and father to his children, the heir to his property, but he was assigned the mission to preserve elder brother’s family, to protect the orphans. This was a feature of the ordinary laws inherent in nomadic society, and was a model of providing kinship, humanity, kindness, saving seed and continuity of the dynasty. This law was very popular and operated until the early 20<sup>th</sup> century. In the Kazakh society disputes relating to the right of inheritance, property, amengerstvo, land disputes, the dispute is about a widow that occurred within a single family, were considered in the interests of this kind, and regulate the activities of ordinary laws. With the spread of Islam in the Kazakh steppe in the regulation of legal relations in civil society, particularly on the issue of inheritance have been significant changes. Provisions on the right of inheritance have been reflected in the verses of the Quran, the Hadith and sayings of the Prophet Muhammad<sup>4</sup>.

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<sup>4</sup> A.S. Smagulova, *Nasledstvo and inheritance in the national common law, and its role in society*. Thesis for the degree of Ph.D., Almaty 2004, pp. 84–85.

The old customs and traditions have found a Muslim character. As a result of the spread of Islam is observed enrichment of the political, religious and civil law, respected as individuals and society as a whole. Possession of the property, the disposal of property received as an inheritance from his father, governed by Islamic canons, maintaining a fair, honest and humane division of the inheritance. This was in 123 hadith of the Prophet Muhammad stated: “1) the division of property does not allow bad faith. 2) Be humble. 3) In war do not let cowardice. 4) Do not commit evil in relation to the spoils of war and other people’s property. 5) Protect the poor from the villain. 6) Never lie to the orphan”<sup>5</sup>. In the regulation of civil legal old customary laws have been expanded and enriched by the principles calling for fairness in trade balance, fairness in trade, justice in cases of refusal of bribes, promises of fidelity to high humane qualities, but their basic content in general has remained unchanged.

After the Mongol invasion in the Kazakh steppe established laws Yasi issued by Genghis Khan absorbed the customs, beliefs and traditions of the ancient Turks, and they cover all areas of public life. The laws have provisions for the military discipline of defining conditions of the ruler of the contract, sending ambassadors to another country to prohibit espionage and treason.<sup>6</sup>

The laws governing the internal relations within the state, to ensure the strength of the marriage, indicated: “whatever is going to get married adulterer or not, he was sentenced to death.” That is, the rape of a woman, a decline of cohabitation of married women, the entry of married women in a loving relationship with another man, any adultery, regardless of who committed it, man or woman, severely punished. Noteworthy article of the law, pointing to the need for a responsible attitude and enterprising in trade: “Who takes goods and fails, and then again takes goods and again he failed, that after the third time should be sentenced to death”<sup>7</sup>.

Regarding the theft of the law state: “The one who will have found a stolen horse should return it to its owner, and to give the same bargain

<sup>5</sup> Z. Meirmanov, *Hadith*, Arkalyk 1991, p.19.

<sup>6</sup> H. Koknaldi, *Iasi Genghis Khan*, Shymkent 2003.

<sup>7</sup> A. Levshin, *Description Kirghiz Cossacks, or Kirghiz hordes Kaisak and steppes*, Almaty: Sanat 1996, p. 36.

nine horses, if he is unable to pay the fine, instead of horses need to pick up his children, and if there are no children, should slay him like a sheep<sup>8</sup>.

Similar in its cruelty to the laws of the ancient East, these laws contradicted the Kazakh customary laws. For this reason, they did not find support in the Kazakh society. As you know, the Kazakhs, if the offender is unable to pay a fine, be required to pay all his race. Division of property is based on the following assumptions: "Senior gets more younger, youngest son inherits (gets over) his father's farm"<sup>9</sup>.

When deciding on *amengerstvo* to a young wife (a current – the youngest wife) went off to another man, the son of the deceased head of the family, born of the senior wife (*baybishe*) married the youngest wife of his father, or his decision to give her a blood relative of his wife father. Genghis Khan legitimized this order with its laws *Yasi*. However, the Kazakh customary law *amengerstvo* dared question differently. Younger wife's father was considered the mother of his children, regardless of age, and they were obliged to provide it with the same honors as his own mother. It is clear that at the heart of the Kazakh ordinary laws are the principles of humanity and spirituality. The laws of the *Yasa* of Genghis Khan did not find distribution in the Kazakh steppe, had no impact on the consciousness of the people, not being able to change it. However, "in this sense it can be seen that the nomadic Turkic-Mongol peoples united under the banner of the Nine-Khanate, created by Genghis Khan, used the same legal practices in the field of state power" – indicate studies<sup>10</sup>.

In Khan's period of adjustment in all spheres of civil relations was carried out by a set of laws Kasim Khan, which were well established: "1) Property Act (the rules for resolving disputes over cattle, property, land). 2) Criminal law (punishment for murder, assault on the village, cattle rustling, theft). 3) Military Law (formation of troops, military service, coon for the murder of a man, a racehorse). 4) Ambassadorial tradition (awareness, public speaking skills, civility, ethics in international relations). 5) Public Law (free distribution of food and things, the rules at

<sup>8</sup> S.S. Sartaeva (Ed.), *History of State and Law of the Kazakh SSR. Part 1*, Alma-Ata 1982, p. 39.

<sup>9</sup> Z.Zh. Kenzhaliev, *The customary law of the Kazakhs*, Almaty 1997, p. 41.

<sup>10</sup> A. Sadri Maksudi, *Turkic history and law*, Kazan: "Feng" 2002, p. 96.

the time of commemoration, toy, holiday, duty of zhasaulov, bekeulov, tutkaulov (performer assignments at the Defense Ministry)”<sup>11</sup>.

Including property laws fully covered civil matters, determining the order of possession, use and disposal of property. Mechanisms for resolving land disputes, the widow of disputes and questions of inheritance, earmarking a percentage of married older son, amengerstvo, issuing married daughter with a dowry clearly indicate the position which he held the head of the family in a traditional Kazakh society. Code of Laws of Khan Esim brought innovation to the system of law, securing the next “so be Khan and laws worthy of Khan; let it be mandatory election sage, let it be Bii, and let it be a home for beating”, through the provision was indicated the need for a just law that would regulate the internal and external order Khanate, secured authority sages who guard the spiritual wealth of the people, and biys arbiters of justice. As regards civil matters, they are governed by property laws issued under Kasim Khan. Kasim Khan’s code of laws, based on the old traditional laws applicable to regulate civil matters in Khan’s period (taking into account changes in society, political and social status) was added in five chapters. Each article, all the provisions of the laws and regulatory functions correspond to the realities of the time. Law promoted unity and national cohesion of the people. Code of Laws “Jeti zhargy” basically solved the most pressing issues of civil matters such as land disputes, the widow of disputes, cases on payment of Kuna, questions about parenting and marriage and family relations and issues of criminal responsibility, intergeneric relations, national security<sup>12</sup>. Laws “Jeti zhargy” were fixed generic tamga (arms), which strengthened the relations of property. This is a well-known lawyer S. Uzbekuly writes: “One of the issues of national importance by emphasizing tamga of every sort. Tamga approved Qurultay was recognized symbol of nature. And in the course of ownership, use and disposition of property, each family had its own label, which is affixed to the ears of cattle belonging to her. If tamga used in tribal, tribal scale, label served as personal sign of the family”<sup>13</sup>.

<sup>11</sup> N. Myhzhhan, *Laws Kazakh hanstva*, Almaty 1995, p. 19.

<sup>12</sup> N. Useruly, *Jeti – zhargy*, Almaty 1995, p. 34.

<sup>13</sup> C. Uzbekuly, *The right of nomadic civilization Kazakhs*, Almaty 2002, p. 50.

That is, in the regulation of property relations tamga and labels were used to denote not only collectively but also private property, strictly protecting the ownership and control of it. The rules of law, to decide important for society widows disputes arising due to incorrect address the issue amengerstvo that regulated marriage and family relationships, parenting issues, issues of ownership and use pastures to ensure internal harmony, unity of the people, for centuries served to all the people, and their last appearance was destroyed by decrees and laws adopted in the Soviet time.

Summing up our thoughts, it should be noted that the traditional right as old as the history of the peoples of the world, holds a special place in the history of each of these people and is broad scope of issues and solutions. Ordinary laws cope with the heavy task of regulation of government to meet the rights of all members of society. The current legislation of all countries of the world originates in the traditional law.

Historical documents, research scientists to confirm that the Kazakh government has been long among the countries that had their own laws. According to the research, in the Kazakh lands before our era had a system of common law, which like the laws of Babylon, Rome, Egypt, Greece regulate social, civil relations, namely, ownership, inheritance, marriage and family relationships, etc. In accordance with the characteristics of government<sup>14</sup>. Legal norms in force in the territory of present-day Kazakhstan, based on common law, have had their differences to the laws of Babylon, Rome, Greece, China, and even some of the benefits. If the laws of the eastern man who committed the theft, ill – punished by cutting off arms, legs, etc., in the Kazakh traditional law punishment in the form of self-harm is absent, instead, applied public reprimand, whipping fine, that carried with it a great educational function. In addition, it places a responsibility on the guilty parents, members of his family. The people highly esteemed honesty, fidelity to the word, commitment, responsibility, respect of which largely depended on the authority of all kinds. Rules governing civil relationships in the state, were in the process of continuous improvement to meet the realities of time and remain relevant. The nomads who inhabited the territory of present-day Kazakhstan, anciently engage in

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<sup>14</sup> K. Omarhanov, *Hanskie Labels*, Almaty 1999.

economic, cultural and political relations with other nations, and in accordance with the provisions of the laws protecting the rights of individuals, and sometimes even the whole country, when there was a threat to its interests, thereby protecting the political system, the legal system of nomadic state.

Ancient legal system, to regulate relations in the tribal society, giving rise to the modern civil law. Similarly, the system of Kazakh customary law, designed to ensure the rights and interests of all members of society in civil matters, in all areas, whether it's property rights. inheritance, marriage and family relations, trade or barter, originally conceived as regulatory standards, was a centuries-old experience of the and become a source of civic standards of future generations.

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## **POSITION OF EUROPEAN PARLIAMENT IN RELATION TO THE ASSOCIATION PROCESS OF THE SOUTH CAUCASUS COUNTRIES WITH THE EU**

**Keywords:** European Parliament, European Union foreign policy, South Caucasus region, association agreements.

**ABSTRACT:** This article analyses the position of European Parliament (EP) in the question of the lasting from 2010 association process of the South Caucasus countries with the EU. The process is aimed at the establishment of close, extensive political and economic cooperation of the countries with the EU. The author stresses the importance attached by EP to the association negotiations, which according to the Parliament should have a crucial impact on the democratization process in Azerbaijan, Armenia and Georgia. It should be underlined that the development of democracy in those EU's partner countries is of special interest to EP, which in recognition of their geopolitical importance with its numerous resolutions requires making closer relations with them and even providing the countries with a potential European perspective (Georgia). However the more extensive cooperation of the EU with the countries is made dependent by EP on the incorporation by Azerbaijan, Georgia and Armenia of the values defined as European (democracy, rule of law, protection of human rights etc.). That is why so important for EP are the questions of human rights observance, observance of the rules of democracy and law, including transparency and fairness of the processes in the countries. In case of violating rules constituting foundations for democratic and lawful country's functioning, EP responds in a determined way and usually takes an unambiguous stand quite often contrasting with more "weighted" opinions of other Union institutions.

European Parliament (EP) is the only Union institution with democratic legitimacy, that a priori represents European societies. In its operation the organ may refer to the will of European public opinion and at the same time form it with its wide scope of interaction instruments (parliamentary debates, resolutions, reports).



A special attention is paid by EP to eastern neighbours of the EU which are included in European Neighbourhood Policy (ENP)<sup>1</sup> and Eastern Partnership<sup>2</sup>. This has its treaty basis, since pursuant to Art. 8 of the Treaty on EU, *the Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterized by close and peaceful relations based on co-operation*<sup>3</sup>. This policy is implemented

<sup>1</sup> Presented on 12 May 2004 in the communiqué of the European Commission titled *Strategia Europejskiej Polityki Sąsiedztwa (EPS)*. This document presented main goal of ENP as the assurance of stability, security and prosperity in the neighbourhood of the expanded EU. The Strategy considered the respect of the rule of law, rules of good governance, human rights, including the minority rights, implementation of the rules of market economy and sustainable development as the basis for the EU's relations with its neighbours. Additionally the Strategy of ENP assumes the intensification of the political dialogue, support of social and economic reforms in neighbouring countries, the possibility of trade liberalization and obtaining access to the common market, expert aid from the EU. It should be stressed that as a rule the Strategy of ENP did not assume the possibility of the membership in the EU for the countries included in the Strategy. Finally, among the EU's neighbouring countries Ukraine, Belarus (not a rightful entity due to the internal situation in the country), Moldova and the South Caucasus countries (Armenia, Azerbaijan and Georgia) have been included in the ENP. Among the African and Middle Eastern Mediterranean countries the ENP have included Morocco, Algeria, Tunisia, Libya, Egypt, Israel, Jordan, Lebanon, Syria and Palestinian Authority. See A. Eberhardt, M. Krzysztofowicz, *Europejska Polityka Sąsiedztwa (ENP) – propozycje Komisji Europejskiej*, „Biuletyn PISM”, [http://www.pism.pl/biuletyn\\_content/id/1](http://www.pism.pl/biuletyn_content/id/1), (accessed: 14.05.2004).

<sup>2</sup> It is the first comprehensive initiative introduced to the system of the EU's external relations, addressed to the eastern neighbours of the EU included in the ENP: Armenia, Azerbaijan, Georgia, Belarus, Moldova and Ukraine. The aim of the initiative, initiated in Prague in May 2009, is to bring the partner countries closer to the EU, however it shall not plan their formal membership. The main goals of the EP include: 1. establishment of a political association and formation of extensive, comprehensive free trade zones of the partner countries with the EU, 2. liberalization of visa discipline, until complete lifting the visas for the citizens of EP countries, 3. formation of the multilateral cooperation structure with the partner countries in the form of four thematic platforms (for democracy, good management and stability, for economic integrity and convergence with the EU politicians, for energetic security, for interpersonal relations). See *Partnerstwo Wschodnie*, <http://polskawue.gov.pl/Partnerstwo,Wschodnie,5393.html>, (accessed: 12.10.2012).

<sup>3</sup> *Traktat o Unii Europejskiej (wersja skonsolidowana)*, Dz.U. C 326, 26.10.2012.

among others with Eastern Partnership project which is aimed at including the post-Soviet states into the influence orbit of the West, their "Europeanization" by signing association agreements with them.

It should be stressed that the association negotiations include many areas, among others political dialogue, free trade area, area of freedom, safety and justice, as well as the cooperation in scope of sector policies. They result in accepting by the states aspiring to the association with the EU its regulations, which means the acceptance of the wide range of the Union's legal order without formal membership in the organization. The agreements on association shall supersede existing partnership and cooperation agreements and shall certainly tighten and intensify the cooperation between Brussels and eastern partner states<sup>4</sup>.

The role of EP in creating relations Union – eastern neighbours, especially in the context of the association process is important since this organ supports prompt finishing the process, although it is not its participant at any stage, PE has the right to be informed on its progress and in accordance with Art. 218 of the Treaty on Functioning of the European Union a decision on signing an agreement is made by the Council, but in case of agreements on association a prior consent of the Parliament for signing thereof is required<sup>5</sup>.

Additionally, it needs to be stressed that EP has considerable legislative, budget and control powers, enabling influencing the shape of relations with the Eastern Partnership states. This is proven with the Regulation on the establishment of European Neighbourhood and Partnership Instrument (ENPI)<sup>6</sup>

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<sup>4</sup> *Negocjacje umów stowarzyszeniowych pomiędzy UE i państwami Kaukazu rozpoczęte*, „Tydzień na Wschodzie” 2010, no 25, <http://www.osw.waw.pl>, (accessed: 21.07.2010).

<sup>5</sup> *Wersja skonsolidowana Traktatu o Funkcjonowaniu Unii Europejskiej*, Dz.U. C 83/145, 30.03. 2010.

<sup>6</sup> European Neighbourhood and Partnership Instrument – ENPI has been established to provide the community aid for the UE's neighbouring countries. The EU planned to allocate 11.2 milliard EUR for the implementation of the above regulation within the years 2007–2013. This instrument has superseded TACIS program for the countries of the former Soviet Union and MEDA program beneficiaries of which were the south Mediterranean countries. See *Rozporządzenie Parlamentu Europejskiego i Rady z dnia 24 października 2006 r. określające przepisy ogólne w sprawie ustanowie-*

and Instrument for Stability (IfS)<sup>7</sup>, adopted by the Council and EP in a co-decision procedure in autumn 2006.

The Parliament also determines appropriate budget items and assigns amounts in the EU's annual budget, and is authorized to control documents related to the implementation of ENPI and IfS prior to their adoption (procedure of "democratic control"). For the Eastern Partnership countries, except for Belarus, commissions of parliamentary cooperation have also been established, which meet two times a year. In case of the South Caucasus countries the EP delegation to the commissions is defined as the EP delegation for the South Caucasus and meets on a regular basis in order to discuss issues considering the countries.

The EP's activity in forming eastern foreign policy of the EU also includes the appointment of the Euronest Parliamentary Assembly<sup>8</sup> which includes members of EP as well as deputies of the parliaments of the eastern partner states, the opening session of which took place in May 2011.

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nia Europejskiego Instrumentu Sąsiedztwa i Partnerstwa, Dz.U L 310, 9. 11. 2006, pp. 1–13.

<sup>7</sup> This instrument shall finance projects considering reactions in crisis situations. Actions within the instrument are to restore stability in case of crisis situations or the beginning of a crisis, strengthen countries' readiness to respond in scope of counter-acting such situations as well as global and international threats. They are focused on such issues as: support of mass media, building confidence, temporary administration, rule of law and the judiciary, development of democracy and civic society, equal access to natural resources. See *Rozporządzenie Parlamentu Europejskiego i Rady z dnia 15 listopada 2006 r. ustanawiające Instrument na rzecz Stabilności*, Dz.U. L 327, 24.11.2006.

<sup>8</sup> Euronest Parliamentary Assembly for the Relations with Eastern Partnership Countries was established in Brussels on 3 May 2011. It consists of 50 EP representatives and 10 representatives from each of the partner countries, with the exception of Belarus. Euronest above all constitutes the forum for a dialogue between EP and the parliaments of the partner countries and supports the implementation of the Eastern Partnership in areas of democratization, economic cooperation and interpersonal relations. Euronest's resolutions and opinions are of advisory nature, since Euronest does not have decisive competences in the area of forming Eastern Partnership. See *Inauguracja zgromadzenia parlamentarnego Partnerstwa Wschodniego Euronest*, „Tydzień na Wschodzie” 2011, No.16, [www.osw.waw.pl](http://www.osw.waw.pl), (accessed: 11.05.2011).

Additionally, EP regularly participates in the observation of elections taking place in the partner states<sup>9</sup>.

The UE have recognized the importance of the South Caucasus together with the process of expansion to the East, which has made the Union decision-makers aware of the necessity to stabilize peripheral areas without their formal accession into the structures of the organization<sup>10</sup>. The expansion of the EU resulted in its being geographically nearer to the South Caucasus, and moreover the EU has admitted countries for which the region, unlike to “old EU states”, is of greater importance. The EU’s interest in the region has also been increased with the increase of oil and gas production in the Caspian Sea basin and the construction of pipelines from Azerbaijan via the territory of Georgia to Turkey and to the coast of the Black Sea. This new geopolitical situation was also reflected in the positions taken by EP in relation to the South Caucasus. In the resolution adopted in May 2010, EP *notes the strategic geopolitical location of the South Caucasus and its increasing importance as an energy, transport and communications corridor connecting the Caspian region and Central Asia with Europe; considers it of the utmost importance therefore that EU cooperation with the South Caucasus be given high priority, not least in matters relating to energy; emphasizes the role of the three countries as essential for the transit of energy sources, as well as for the diversification of the EU’s energy supply and routes; in light of this, recalls once again that the Union should take concrete steps to ensure the political stability of the region; [...] recognizes the significance of the region for the EU’s energy cooperation and energy security, especially in the context of the development of the South Corridor (Nabucco and White Stream)*<sup>11</sup>.

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<sup>9</sup> D. Sourander, *Europejska Polityka Sąsiedztwa (EPS) oraz Partnerstwo Wschodnie*, [http://www.europa.eu/ftu/pdf/pl/FTU\\_6.3.3.pdf](http://www.europa.eu/ftu/pdf/pl/FTU_6.3.3.pdf), (accessed: 26.01.2012). See also: Id. *Zakaukazie (Armenia, Azerbejdżan, Gruzja)*, [http://www.europa.eu/ftu/pdf/pl/FTU\\_6.4.3.pdf](http://www.europa.eu/ftu/pdf/pl/FTU_6.4.3.pdf), (accessed: 28.02.2012).

<sup>10</sup> See also: B. Piskorska, *Polityka Unii Europejskiej wobec krajów Kaukazu Południowego*, in: A. Staszczuk (Ed.), *Europa Wschodnia i Kaukaz Południowy w polityce Unii Europejskiej*, Szczecin 2011, pp. 141–183.

<sup>11</sup> See *Rezolucja Parlamentu Europejskiego z dnia 20 maja 2010 r. dotycząca strategii UE dla Kaukazu Południowego*, Dz.U. C 161 E, 31.05.2011.

It should be noted here that the engagement of the EU in the South Caucasus area is determined by the increasing interest in the area revealed not only by Russia (traditional influence area) but also by Iran, Turkey and such powers as the United States and China. This area makes a challenge for the EU also from the safety policy's point of view, since the unsolved post-Soviet conflicts (Armenian-Azerbaijan conflict in Nagorno-Karabakh and maintained and fueled by Russia problem of the separatism of Abkhazia and South Ossetia on the territory of Georgia) may result in the escalation of tensions and the reopening of the military actions, which undoubtedly shall impede the process of bringing the countries closer to the EU. Among others, this is the reason why EP recommends the creation of the Stability Pact for the South Caucasus, supports stopping the foreign policy aiming at the creation of exclusive influence areas and appeals to Russia not to object the active engagement of the EU in solving conflicts in the area<sup>12</sup>.

A special attention is paid by EP to the question of obeying human rights and the development of democracy in the countries of the South Caucasus. It defines itself as the organ of key importance in strengthening freedom and democracy among neighbouring partner countries. Thus many EP's documents reflect the position that the process of bringing the countries closer to the EU should depend on their progress in the process of democratization. The European perspective for the countries, including the possibility of the accession to the EU provided for in the Art. 49 of the Treaty on European Union, should be a driving force for introducing reforms and further strengthening of devotion to common values and principles, such as democracy, rule of law, observance of human rights and good governance<sup>13</sup>.

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<sup>12</sup> See *Rezolucja Parlamentu Europejskiego z dnia 17 stycznia 2008 r. w sprawie skuteczniejszej polityki UE wobec Południowego Kaukazu: od obietnic do działań*, Dz.U. C 41 E, 19.02.2009.

<sup>13</sup> See: *Rezolucja Parlamentu Europejskiego z dnia 7 kwietnia 2011 r. w sprawie przeglądu europejskiej polityki sąsiedztwa – wymiaru wschodniego*,

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0153+0+DOC+XML+V0//PL> (accessed: 06.11.2012).

Among the countries of the South Caucasus Georgia is the most advanced country in scope of the relations with the EU. It should be highlighted that Georgia is the most pro-European and pro-Atlantic country of the South Caucasus, where the process of political, economic, and social reforms is one of the most advanced in the whole post-Soviet region. It should be stressed that the engagement of the EU in Georgia has been increased since the military conflict with Russia, which took place in August 2018. The successful intervention of the EU concluded with an agreement considering a truce between the parties of the conflict has made Brussels an important guarantor of safety in the region until the present day.

Even though, the Eastern Partnership does not assume the membership of Georgia in the EU, especially in the context of the association agreement negotiated since July 2010, it takes the position that this country should be considered an European country and the relations with the country should be based on the European perspective, including Art. 49 of the Treaty on EU, which shall enable a better incorporation of democratic values to the country. Next to Armenia, Georgia is the country of the South Caucasus that in July 2013 finished negotiations with the EU considering the formation of a free trade zone constituting a part of the association agreement, which is to be sealed by the country with the EU as soon as during the November summit of the Eastern Partnership in Vilnius. According to EP it is important to increase the EU's support for the sovereignty and territorial integrity of Georgia and to make sure that the future association agreement signed with the country is binding on the whole territory of Georgia, including Abkhazia and South Ossetia, which are considered by the EP occupied territories. It also opts for including in the association agreement provisions considering the protection of and fostering human rights, democracy and rule of law<sup>14</sup>.

The importance attached by EP to the development of democracy in the country is reflected by the passed on 26 October 2012 resolution on

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<sup>14</sup> See: *Rezolucja Parlamentu Europejskiego z dnia 17 listopada 2011 r. zawierająca zalecenia Parlamentu Europejskiego dla Rady, Komisji oraz Europejskiej Służby Działań Zewnętrznych w sprawie negocjacji dotyczących układu o stowarzyszeniu między UE a Gruzją*, Dz.U. C 153 E 31.05.2013.

the elections in Georgia<sup>15</sup>, which reflects several important tendencies in EP's attitude to the development of the Union's policy in the South Caucasus.

European Parliament takes the position that the further development of the relations between the EU and Georgia, including above all implementation of negotiations considering the association agreement, shall depend on Georgia's abiding the rules of democracy, law and order, good governance and the observance of human rights.

In the context of elections in Georgia, EP expects finishing the negotiations of a new association agreement between the EU and Georgia, calls on Council of the European Union and European Commission (EC) to intensify actions aiming at finishing negotiations considering no-visa traffic between Georgia and the EU.

In the context of conflicts in Abkhazia and South Ossetia, EP calls on Georgia and Russia to intensify efforts aiming at their solution. It needs to be stressed that EP explicitly calls on Russia to withdraw its military forces from the separatist regions of Georgia and to provide access for the EU observation mission to the regions. It requires from the Senior EU Representative for Foreign Affairs and Security to continue actions prevailing upon Russia to fulfill the six-point Sarkozy plan for the stability and the solution of the conflict in Georgia.

The analysis of this position shows that the unsolved Georgia-Russia conflict has a negative impact on the implementation of European aspirations of Georgia, supported by EP, since the EU membership is beyond the reach of a country where ethnic conflicts, often externally inspired, with a military aid of a power such as Russia resulted in the secession of some of its territories. There is no doubt that the EU would not agree for the accession of a country with territorial disintegration supported by a world power, since this might have disastrous results for its functioning, as well as its international authority.

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<sup>15</sup> See: *Rezolucja Parlamentu Europejskiego z dnia 26 października 2012 r. w sprawie wyborów w Gruzji*, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0411+0+DOC+XML+V0//PL> (accessed: 06.11.2012).



The relations of Armenia and Azerbaijan with the EU are even more complicated than in case of Georgia. The past bloody conflict between the countries considering Nagorno-Karabakh (Armenian enclave on the territory of Azerbaijan) affects their mutual relations and impedes bringing the countries closer to the EU. Paradoxically, it is the traditionally pro-Russian Armenia that has implemented the association negotiation with the EU and has chosen a direction to the European integration. Whereas Azerbaijan – as stated by a MEP Marek Siwiec – *prefers to speak about a strategic partnership with the EU and does not reveal much interest in the further works on the association agreement. Increasing income on the sale of oil and the increasing strategic role of Azerbaijan enable the country to present some assertiveness*<sup>16</sup>.

A similar opinion is expressed by a MEP Jacek Protasiewicz, who among others says that *Azerbaijan [...] does not expect making the relations with the EU closer. Above all it wants economic cooperation, and mainly wants to sell energy resources to the Union. It expects neither an association agreement, nor a free trade zone*<sup>17</sup>.

Referring to the association process of the EU with Armenia and Azerbaijan, EP takes a position that the negotiations considering the program have to be accompanied by the progress of the countries in the question of peaceful solution of the conflict in Nagorno-Karabakh basing on the regulations of the international law, consisting among others in demilitarization of the disputable area. According to EP, European aspirations of Armenia should be recognized and treated as a point of pressure and an accelerator of reform implementation making Armenia a country obeying European values, such as democracy, rule of law, observance of human rights and good governance rules, development of civil society. In this context EP highlights how important role for the Armenia's European aspiration is played by the preservation of clear election process, which should be based on free, fair and competitive elections. Within the process the authorities must guarantee pluralism, freedom of political debate,

<sup>16</sup> *Europosłowie o umowach UE z Armenią i Azerbejdżanem*, [www.euractiv.pl](http://www.euractiv.pl) (accessed: 19.04.2012).

<sup>17</sup> As cited in: A. Łojewska, *Partnerstwo za uwolnienie więźniów politycznych*, [www.rp.pl](http://www.rp.pl) (accessed: 25.07.2013).



freedom of speech, equal access by all political forces to main mass media. Thus EP demands including to the association agreement provisions which guarantee protection and promotion of human rights and the preservation of democratic standards, protected by Council of Europe and Organization for Safety and Co-operation in Europe. According to EP, in order to guarantee complete implementation of the association agreement on the territory of Armenia, it is important to provide the country with a directed financial, technical, expert support, including enabling the country to participate in the Union programs and increasing the Union aid for non-governmental organization, making foundations for civil society<sup>18</sup>.

The process of bringing Armenia and Azerbaijan closer to the EU is exceptionally difficult, not only because of the conflict between the countries about Nagorno-Karabakh, but also because of the authoritarian tendencies existing in the countries. In the past EP used to express its concern with the development of the situation in Armenia, especially in the context of the observance of democratic standards and human rights in the country. Supporting closer cooperation of the EU with Armenia and other countries of the South Caucasus, EP has always stressed that the closer cooperation with the EU must be based on real reforms and the full commitment of the countries for the construction of democracy and rule of law<sup>19</sup>.

Among the countries of the South Caucasus however it is not Armenia, but Azerbaijan that appears to be the greatest challenge for the EU. It is the most populous and territorially the region's largest country with colossal raw material resources giving the country crucial geostrategic importance. At the same time the relations EU – Azerbaijan are one of the most difficult among the countries of the South Caucasus. The relations are

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<sup>18</sup> See: *Rezolucja Parlamentu Europejskiego z dnia 18 kwietnia 2012 r. zawierająca zalecenia Parlamentu Europejskiego dla Rady, Komisji oraz Europejskiej Służby Działań Zewnętrznych w sprawie negocjacji dotyczących układu o stowarzyszeniu między UE a Armenią*, [www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012 0128+0+DOC+XML+VO//PL](http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012 0128+0+DOC+XML+VO//PL) (accessed: 20.06.2012).

<sup>19</sup> See: *Rezolucja Parlamentu Europejskiego z dnia 13 marca 2008 r. w sprawie Armenii*, Dz.U. C 66 E, 20.03.2009.

affected by the country's political regime revealing authoritarian character and being far from democratic standards. On the one hand Azerbaijan is an important energy supplier to the EU, that is its main outlet, and at the same time it is an important transit country for the resources from Central Asia. Thus the EU supporting diversification of energy resources cannot turn away from the country, since Azerbaijan supports the construction of the south gas corridor playing a key role from the point of view of the EU's energetic safety. On the other hand Azerbaijan as a partner state of the EU is an entity of ENP, where the EU pays special attention to such values as democracy, human rights, rule of law, making the cooperation's development with a given country dependent on the advancement of the country's reforms making the values real. Thus in case of Azerbaijan we observe the EU's necessity to balance between the geopolitical requirements (realistic attitude) and fostering democratic values as the essence of the foreign policy (idealistic attitude).

It is beyond doubt that in the context of the association process, EP stresses the importance to ensure that the citizens of Azerbaijan have basic rights and freedoms, requires including the protection of the rights in the agreement under negotiations as well making Azerbaijan obliged to fully comply with the decisions of the European Court of Human Rights and releasing political prisoners<sup>20</sup>.

Since the authorities of Azerbaijan break human rights and fail to observe democratic standards, the regime in Baku is unambiguously condemned by EP. It is often recalled by EP that participating in the initiatives of the EU (ENP, EP) Azerbaijan has made itself obliged to obey democracy, human rights and rule of law, which constitute basic values of the both above initiatives. EP notices that the general condition of human rights in Azerbaijan is continuously deteriorating which indicates failing to comply with the obligations made by the country in relation to the EU and also resulting from its membership in the Council of Europe and the

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<sup>20</sup> See: *Rezolucja Parlamentu Europejskiego z dnia 18 kwietnia 2012 r. zawierająca zalecenia Parlamentu Europejskiego dla rady, Komisji oraz Europejskiej Służby Działań Zewnętrznych w sprawie negocjacji dotyczących układu o stowarzyszeniu między UE a Azerbejdżanem*, [www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0127+0+DOC+XML+VO//PL](http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0127+0+DOC+XML+VO//PL) (accessed: 20.05.2013).

Organization for Security and Co-operation in Europe (OSCE). EP calls on the Azerbaijan authorities to immediately cease all actions aiming at the suppression of the freedom of gathering and speech, appeals to the authorities for permitting peaceful protests, condemns harassment, intimidation and violence against journalists and other persons peacefully expressing their views, it calls on the authorities of Azerbaijan to adjust their election law, the law on the freedom of gathering, association and on the freedom of mass media to international standards and to ensure full implementation of the acts. EP also insists on the authorities of Azerbaijan increasing their efforts in relation to the reform of all the elements of their judiciary system<sup>21</sup>.

EP's demanding to connect the association negotiations with the progress made by the authorities of Azerbaijan in the question of obeying human rights and standards of a democratic and lawful country shall undoubtedly influence the length and course of the negotiations. The necessity of EP's consent for signing an association agreement determines also the position of the European Commission and the Council of the EU in relation to the association process. It is a fact that Azerbaijan, unlike Georgia and Armenia, has not finished its association negotiations and their implementation even in a longer perspective is in doubt due to the dysfunctionality of political systems of the EU states and Azerbaijan as well as different understanding of mutual cooperation by the parties.

The crisis of mutual relations is reflected in the letter submitted by the Azerbaijan parliament in response to the EP resolution of May 2012 condemning the cases of breaking human rights in Azerbaijan. The letter stated that the position of EP was at variance with the idea of constructive cooperation between the EU and Azerbaijan and made further membership of Azerbaijan in the Euronest Parliamentary Assembly useless, which called into question the process of making mutual relations closer<sup>22</sup>.

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<sup>21</sup> See: *Rezolucja Parlamentu Europejskiego z dnia 24 maja 2012 r. w sprawie sytuacji w zakresie praw człowieka w Azerbejdżanie*, [www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0228+0+DOC+XML+VO//PL](http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0228+0+DOC+XML+VO//PL) (accessed: 20.05.2013).

<sup>22</sup> See: *Azerbaijani Parliament adopts Letter of protest against European Parliament's resolution*, [en.trend.az/news/politics/2031474.html](http://en.trend.az/news/politics/2031474.html) (accessed: 29.05.2012).

The position of EP in relation to the association process of the South Caucasus countries with the EU reveals that this organ, describing itself as “democracy guard” pays special attention to the incorporation of democratic values by the EU’s neighbour states, especially those with European aspirations. For EP the fairness of the election process and the obedience of democratic standards determine intensified cooperation with its eastern partner countries. In case of Georgia the interest of EP is special due the fact that the country is defined by the organ as an European country and the relations with it should be based on Art. 49 of the Treaty on EU. Thus EP is a great admirer of signing association agreements with the Eastern Partnership countries and giving to the process the nature similar to the accession process (EP’s stress on including a potential membership perspective, but exclusively for the countries successfully implementing the neighbourhood policy). It should also be stressed that the positions of EP, which usually have the form of non-legislative resolutions constitute a specific form of influencing remaining organs of the EU, especially the European Commission and Council, for the values such as: democracy, human rights, rule of law, especially appreciated by the Parliament, to be reflected in the negotiated association agreements and to be also taken into consideration in the Union and national strategies and decisions determining the nature of foreign policy of the Union and its individual members.

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9. Rezolucja Parlamentu Europejskiego z dnia 13 marca 2008 r. w sprawie Armenii, Dz.U. C 66 E z 20.03.2009.
10. Rezolucja Parlamentu Europejskiego z dnia 18 kwietnia 2012 r. zawierająca zalecenia Parlamentu Europejskiego dla rady, Komisji oraz Europejskiej Służby Działań Zewnętrznych w sprawie negocjacji dotyczących układu o stowarzyszeniu między UE a Azerbejdżanem,
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## AMERICAN, CHINESE AND RUSSIAN VOICES ON THE CURRENT SITUATION AND THE FUTURE OF THE ASIA-PACIFIC REGION

**Keywords:** Asia-Pacific Region, Asian-Pacific Roundtable, foreign policy, international relations.

**ABSTRACT:** On 3rd-5th June, 2013 the 27th Asian-Pacific Roundtable was organized in Kuala Lumpur. The conference held traditionally in the Malaysian capital provided invited speakers with an occasion for presentations of their views on current problem countries situated in Asia and around the Pacific Ocean, as well as the future of relations between them. This time, the theme of the Asian-Pacific Roundtable was Strategising Change in Asia. USA Ambassador Hill said that reports about the decline of the West seemed to be premature. He proposed not to overestimate successes of Asian countries scored mainly in the field of economy and reminded once again that Europe as well as North America possessed experience in overcoming problems of different nature. Minister Morgulov from Russia tried to convince that Russian politicians are aware that their state possessed too little potential to compete successfully with the United States or China for the regional or global leadership. It seems that Russia has begun to implement some kind of containment strategy aimed at the containment of Russia's diminishing significance in the world.

On 3<sup>rd</sup>-5<sup>th</sup> June, 2013 the 27<sup>th</sup> Asian-Pacific Roundtable was organized in Kuala Lumpur. The conference held traditionally in the Malaysian capital provided invited speakers with an occasion for presentations of their views on current problem countries situated in Asia and around the Pacific Ocean, as well as the future of relations between them.

This time, the theme of the Asian-Pacific Roundtable was *Strategising Change in Asia*. During the opening ceremony, Prime Minister of Malaysia The Hon. Dato' Sri Mohammad Najib Tun Abdul Razak, while address-

ing invited guests, pointed out that the whole region of Asia and Pacific is in a transitional period and the result of current changes would decide on its future. In this context, he drew the attention of listeners gathered in the ballroom of Hilton Kuala Lumpur Hotel to the necessity of doing whatever possible to maintain the pace of development of Asian economies in spite of the financial crisis devastating the world's economy, solve all regional conflicts and disputes peacefully, and also diminish consequences of the dangerous global warming effect dangerous especially in the countries of South-East Asia.

Three presentations prepared by invited speakers from the United States, China and Russia, concentrated mainly on current changes which take place in Asia in the field of politics and economic co-operation as seen from the perspective of main actors of international relations, deserved special attention. It is especially interesting and significant that two of the aforementioned countries which have often been hitherto perceived as mainly 'Western' (USA) or 'European' (Russia) both by Asian and non-Asian observers, was also noticeable during the recent conference held in Kuala Lumpur. During the first plenary session entitled *Continuity and Change in US Engagement with Asia*, one could be convinced that such a point of view is totally groundless in the contemporary world. This plenary session was reserved for a speech by Ambassador Christopher R. Hill, Dean of the Josef Korbel School of International Studies of the University of Denver. He served as the US Ambassador to the Republic of Korea, Poland and the Republic of Macedonia (1996–1999) as well as in Iraq (2009–2010). He was also Special Envoy to Kosovo (1998–1999). In 1999–2000, Amb. Hill served as a Special Assistant to the President and was Senior Director on the staff of the National Security Council. While serving as Assistant Secretary of State for East Asian and Pacific Affairs (2005–2009), he headed the US delegation to the Six Party Talks on the North Korean nuclear issue.

Hill began his speech with re-collecting his experience gained during his first diplomatic work as a US Ambassador in Europe, in Poland. In his view, Europe should successfully cope with consequences of the current financial crisis, because during the several decades after WWII, it learnt how to overcome critical situations in various fields including serious

crisis like wars in the territory of former Yugoslavia. However, in his opinion, if Europe, as in the European Union, wants to play any positive part in global politics, it must accept more responsibility for the world. Hill accused European partners of the United States of having a lack of active commitment to resolving political problems of the world and called for the abandonment of this harmful passivity. Though such views are not new, in the context of considerations concerning the attitude of USA towards Asia, they explain the conviction of American leaders that the United States is somehow isolated, and therefore, must be active in various regions of the world without looking at the Europeans who do not want to participate in resolving global problems.

With reference to Europe's experience in overcoming variety of problems, Hill pointed out of a successful integration of post-Communist countries with structures of the European Union. It is significant that former Soviet controlled countries Amb. Hill called 'Central European' rather than 'Eastern European', as American politicians and diplomats used to do it not too long ago. It seems that it is a symptom of some positive change regarding the perception of this part of Europe in the USA.

Going back to Asian affairs, the speaker concentrated on three main issues: relations between China and the United States, trouble for the international security caused by North Korea and nuclear ambitions of its leaders, and finally, the general current situation as well as future perspectives of Asia. According to Amb. Hill, some conflict in Chinese-American relations would be unavoidable. However, as he said, he did not think about the military confrontation, but rather about conflicts of interests which could appear in different fields. He even warned against considering US-Chinese relations according to the Cold War pattern of the containment policy, because it could result in the casual thinking about contacts between these two great powers in terms of confrontation. In Hill's opinion, a remedy should be sort of practice of explanations of all problems appearing in bilateral relations and their solutions based on the direct enhanced dialogue. If such a troubleshooting procedure is worked out, even the most complicated questions will not have to end up with a conflict. On the contrary, their detailed discussion and precise co-ordination of attitudes concerning even the most controversial questions should



result in the strengthening of mutual trust and sense of security of both partners.

In this context, Amb. Hill maintained that such enhanced dialogue between countries vitally interested in political and security problems of Asia and Pacific remained underdeveloped. He pointed out that respective institutions providing a framework for necessary bilateral and multilateral contacts existed, but discussions led on these fora were too superficial or idle.

The speaker recognized the question of tension in the Korean Peninsula as the most serious international problem in Asia. He said that, from the American point of view, the only chance for the survival of the North Korean regime in the longer perspective relates directly to the acceptance by its leaders the responsible participation of their country in the system of collective regional security. He also stressed that it is necessary to do everything possible to convince them that they should share this opinion. In this context, Amb. Hill mentioned the Chinese-American co-operation in the frames of the Six Party Talks on the North Korean nuclear issue as a factor which can contribute to some positive changes of the attitude of North Korea towards the question of peaceful settlement in international disputes. He also added that the United States would never accept nuclear ambitions of the North Korean leadership. It would also be impossible to expect that the USA, in dealing with the North Korean problem, adopted the strategy of containment. If it happened, it would mean an indirect recognition of the nuclear status of North Korea which would be a serious failure of the United States. In such a case the US diplomacy could concentrate exclusively on defensive activities aimed at the protection of neighbours of North Korea (South Korea and Japan) and other states including the USA. Therefore, the American administration should strive to change the position of North Korean leaders regarding the continuation of their military nuclear program.

In finishing his speech, Amb. Hill said that reports about the decline of the West seemed to be premature. He proposed to the audience not to overestimate successes of Asian countries scored mainly in the field of economy. He reminded once again that Europe as well as North America possessed experience in overcoming problems of different nature, and it

is possible that they would manage the current financial crisis better than it could be expected. And in other fields, such as resolving international conflicts, the West is incomparably more advanced than Asia.

A kind of complement and development of Amb. Hill's speech was the talk by the American VII Fleet commander, Admiral Samuel J. Locklear III, related to the planning of the activities of the US Navy in the waters of the Pacific in the vicinity of Asia. It was presented during the sixth plenary session entitled *The Balance of Forces in Asia: Recent Trends and Implications for Foreign Stability*. Adm. Locklear, in a similar note as Amb. Hill, drew audience's attention to the need of improvement of channels of communication between military commanders responsible for security of particular countries. In other words, he called for the development of the enhanced dialogue not only between politicians, but also between people who wear uniforms. According to him it is the only way for sufficiently early recognition and eliminating reasons of military conflicts, i.e. for preventing them from emerging and subsequent escalation, not only in Asia, but all over the world. On the other hand, he also talked about the US re-balancing strategy in Asia and Pacific aimed at the restoration of the balance of power disturbed by political and economic changes which occurred as a result of the collapse of Soviet Union and rapid development of China. It implies, *inter alia*, the increase of the US military presence in the waters of Pacific surrounding Asia.

During the discussion after Amb. Hill's speech, a characteristic reaction of one of the Chinese expert participating in a meeting was noticeable. Commenting the speaker's statement on the need of the development of the Chinese-American enhanced dialogue on security affairs, he said briefly that the co-operation between China and the USA is, of course, possible and desirable, but prior to that the Americans must convince Chinese partners on peaceful intentions of their policy towards China and the sincerity of their intentions with respect to the PRC.

The second plenary session entitled *Deciphering the 'Chinese dream' and its implications for Asia* participants of the conference could listen to a speech from the Chairwoman of Foreign Affairs Committee of the National People's Congress of China, Fu Ying. In 1992, she became the first Chinese civilian UN Peacekeeper in Cambodia. In 2000, she served as the

head of the Foreign Ministry's Asian Department, working on China's strategic partnership with ASEAN and the launch of Six Party Talks on the North Korean nuclear program. In 2003–2009, she was China's Ambassador in Australia, and later, in the United Kingdom. In 2009–2013, she served as the Vice Minister of Foreign Affairs. Amb. Fu Ying began her speech with a reminder of historic-psychological pre-conditions of internal and foreign policies of the Chinese People's Republic. She mentioned enormous enormous efforts of Chinese intellectuals and political leaders who wanted to implement reforms in changing China and provide its population at least relative prosperity in the 19<sup>th</sup> and 20<sup>th</sup> century. The major goal was to protect the nation against constant returns of the scourge of famine. However, only the Communist Party of China (CPC) was able to fulfill this task successfully. As Amb. Fu Ying noticed, it should be appreciated that the recent generation of Chinamen who just came into adulthood is the first Chinese generation who does not know hunger. In this regard, she even re-collected her own painful memories from her young years. Due to the steady economical development in several recent decades, the Chinese nation is currently able to produce sufficient quantity of food to feed all inhabitants of the PRC. Besides that, compulsory education was provided to all children and, despite many difficulties, the situation of the rural population was significantly improved.

In addition to that, Amb. Fu Ying also spoke also about serious problems which China could not solve. The most important of them is the question of the integration of millions so called migrant workers who come from rural areas to big cities. Currently the second and even the third generation of these people were born in cities, but despite that, they are deprived of basic rights. They have also been victims of social exclusion for several decades. However, the gigantic scale of this problem is not the only cause that the leaders of the CPC try to solve it as soon as possible. Without some comprehensive solution of this pressing problem, the creation of the harmonious Socialist state, which main pillar is to be the properly functioning free market, will be impossible. A crucial element of this concept is to be the successful integration of 600 million people from rural areas with the city inhabitants. This should transform them into consumers participating in a free market exchange of goods and services

and ensure sustainable development of the Chinese economy. The potential success depends on activities by the authorities to provide conditions for honest competition.

Amb. Fu Ying presented an opinion that this challenge can be matched only by a new generation of Chinese leaders, who would be properly educated and understand economic as well as political realities of the contemporary world. The speaker stressed that they would be able to use, for the benefits of China, current tendencies prevailing in the world trade, Chinese economy and international passenger traffic (only recently, about 80 million Chinese tourists travel abroad yearly and about 90% of them visit other Asian countries). She also noticed that, because of the rapid growth of its economy, China is interested in the maintenance of peace in Asia and Pacific. Therefore, the PRC desired that the USA would play a constructive role in Asia. The same reason caused the Chinese Government to broadly co-operate with China's neighbours from South East Asia and from the region of the South China Sea and prevent any escalation of tension in mutual relations with these countries, despite of disputes (mainly territorial) existing in bilateral contacts. The most important, said Fu Ying, is that all countries situated in the aforementioned areas would concentrate on their internal problems, above all on ensuring of stable economic growth.

She also admitted that many problems in Asia could be solved a long time ago or better than it was done in reality. As an example, she mentioned, the crisis caused by the North Korean leaders who strived for the construction of their nuclear weapon and periodically led to the increase of tension in East Asia. According to her view, only the far going co-operation of all countries directly interested in the developments taking place on the Korean Peninsula and its vicinity (in other words, the participants of the Six Party Talks on the North Korean nuclear program) could lead to some *détente*. The Chinese authorities are convinced that the basic way to relieve tension is to increase the North Korean leaders' sense of security which can be achieved only through patient persuasion and clear demonstration that the co-operation and co-ordination positions are normal, everyday practice applied by all countries situated in the region of East Asia as well as the USA. If they understand that applying

this practice also advantageous for North Korea, they will be more willing to involve themselves in the international co-operation.

Regardless of any good will shown by the PRC, its Government will never accept North Korea as a nuclear power. It would be contradictory to the Chinese policy aimed at stimulation of China's economic growth in a secure international environment. Fu Ying said also that China would react against whatever threats to peace in the Korean Peninsula as well as in all East Asia and South East Asia. Unfortunately, she mentioned nothing about the mechanisms of defining potential threats which could appear in the future and methods of defusing such critical situations.

Nevertheless, listeners of Amb. Fu Ying's speech obtained partial, at least, answers to the aforementioned questions during a subsequent discussion. When one of its participants put forward a question about the attitude of the PRC towards the political initiatives and political co-operation with the ASEAN countries in the future, she stated openly that China would not support any activities recognized in Beijing as contradictory to Chinese interests. Many guests gathered at the ballroom in Hilton Kuala Lumpur Hotel had the impression that this opinion not only provided a specific supplement of Amb. Fu Ying's solemn assurances concerning peaceful intention of the Chinese authorities allegedly concentrated exclusively on stimulating possibly the most robust economic growth of China, but also provided some insight into the true nature and hierarchy of aims which the PRC wants to achieve in Asia. They are: the economic domination, and as a result, political hegemony in particular regions of the continent. If China realizes them successfully, then it will be able to define unilaterally, according to its own short term and long term interests, threat the international security in Asia as well as unilaterally impose on medium Asian states, convenient to itself, solutions of these problems. The aforementioned words of Amb. Fu Ying had to impress, especially guests who came to Kuala Lumpur from such countries like Philippines, Indonesia (which also wants to play the role of, at least a regional great power; Indonesian Minister of Foreign Affairs, Dr Raden Muhhamad Marty Muliana Natalegawa touched on this issue during his speech delivered during the gala dinner at the end of the second day of the conference), South Korea, Malaysia, Singapore, Thailand or Vietnam.

The meeting with Amb. Fu Ying was closed with her interesting remark concerning the fact that an overwhelming majority of the Chinese do not perceive their own country as a great number two power in the world. It is hard to say if behind this remark it was hidden, for instance, some suggestions that the Chinese authorities are trying to change this situation (and if the answer to this question is affirmative, it would be necessary to put forward the next question: how are they going to do it?) or that all countries should respect the increasing might of China which probably has already happened. It is also difficult to conclude whether the final words from Fu Ying could be treated as some kind of echo of still obvious sense of uncertainty characterizing the PRC in international relations which is, probably, the result of relatively short time when it enjoys the status of a great power. Therefore, it is better, for now, to only mention Amb. Fu Ying's remark and any possible interpretations to be left marked with question marks. To remove them, it is necessary to develop proper a targeted research in such fields like culture, economy, history, political science and sociology.

During the 7<sup>th</sup> plenary session (it took place on the last day of the conference) of the 27<sup>th</sup> Asia-Pacific Roundtable, the floor was given to the Deputy Minister of Foreign Affairs of the Russian Federation Igor V. Morgulov. It is noteworthy that this Russian diplomat, who graduated from the Institute of African and Asian Studies of the University of Moscow, speaks not only fluent English, but also Chinese. At the beginning of his speech Min. Morgulov protested somehow against the title of the 7<sup>th</sup> plenary session given to it by the organizers of the conference: *Russia Reconnecting with East Asia*, saying that Russia has always been present in this region and it is not possible to discuss the reconnection of his country with the Asian continent. Therefore, he recognized this title as misleading and proposed another one: *Recognition of Russia's Role in Asia* which, in his opinion, described a much better the nature of the Russian involvement and its interest in East Asian affairs.

Min. Morgulov stated, in the context of a constant presence of Russia in East Asia, that Asia and Pacific are crucial directions of the Russian foreign policy. He also added that people responsible for the foreign policy of Russia are fully aware that several players are present in the far eastern arena of international relations including those from beyond this

region like the United States and the European Union. All of them strive for the realization of their own aims, and therefore, it is necessary to develop strong mutual trust in order to avoid potential conflicts.

In the later part of his speech, the Russian diplomat spoke about the current state of relations between China and Russia. He defined them not only as extremely important for Russia, but also exemplary regarding resolving of disputes and conflicts. Min. Morgulov maintained that it was the main reason of the rapid development and the constant increase of Chinese-Russian trade exchange in recent years. He noticed that the leaders of the PRC thought in the similar way and were convinced that the question of the further development of peaceful relations with Russia is one of the top priorities of Chinese foreign policy. As a proof of such approach of the Chinese leadership towards relations with Russia, the speaker recognized a fact that the new President of the PRC, Xi Jinping's, first official visit was to Moscow. Miergulov also briefly mentioned relations between Russia and India and also called them exemplary and providing advantages to both countries concerned.

Speaking about Russia's relations with other Asian and Pacific countries (Vietnam, Japan and New Zealand were mentioned amongst others in this context), Min. Morgulov expressed satisfaction that Russia has also developed mutually advantageous relations with them. The main pillar of these contacts is trade. He added that Russia engaged itself in the exchange of views and co-ordination positions with Asian countries in frames provided by international regional organizations such as the Shanghai Cooperation Organization. It is concerned about not only political or economic affairs, but also many practical matters (the common fight against effects of natural disasters, the co-operation in the field of education, etc.). Min. Morgulov similarly perceived the co-operation between Russia and member states of the ASEAN. In his opinion they should be dominated also by important practical matters, both for the countries of South East Asia and the Russian Federation (the creation of possibly the best conditions for business and the development and integration of transportation infrastructure as well as electric network).

Regarding existing threats, the most serious for Russia's interests in Asia are: the increase of tension on the Korean Peninsula, the proliferation of



the Islamic radicalism and drug trafficking from Afghanistan, and problems connected to territorial conflicts in the South China Sea. Discussing the Korean crisis, the Russian guest suggested that everything possible has to be done to keep it under control in order to avoid its transformation into a problem living its own life with the dynamics of a snowball. And speaking about the situation in the region of the South China Sea, Min. Morgulov maintained that though Russia's territory did not stretch to its coasts, the fact that Russia is connected with countries situated in this region by many common interests, the Russian diplomacy desired that all disputes between them be solved peacefully as soon as possible. He noticed that whatever the other scenario is, it would influence negatively on the political situation in the whole of Asia.

In concluding his speech, Min. Morgulov stated that Russia is not an idealistic country and its leaders understood all discouraging complexity of political and economic problems of Asia. In spite of that, they try to do everything possible to develop co-operation between Russia and Asian countries as well as strengthen security. He stressed that from the Russian point of view there is no alternative for development but the co-operation in Asia, and also in particular regions of this continent. In this context, he also reminded the words of Foreign Minister of Russia, Sergey V. Lavrov that all problems and conflicts that exist in international relations should be solved on the basis of dialogue. At the same time, their representatives should work out a model for a peaceful way of resolving conflicts, renounce violence in international relations, and strengthen security of their own countries without the violation of interests of other states. Morgulov recognized this opinion of Min. Lavrov as the best recipe for the creation of some functional system of collective security in Asia. He also mentioned that Russia, acting in this spirit, put forward many proposals aimed at the strengthening of international security in this continent.

Answers given by Mr. Morgulov given to questions put forward by listeners of his speech were especially interesting and significant. Expressing his opinion on several matters concerning North Korea raised by one of them, he stated that – the same as the United States and China – Russia would never accept the nuclear status of the country. The possession of nuclear weapon by the North Korean armed forces would result in a dan-



gerous increase of tension in East Asia and this would impose a direct threat for Russian economic interests. In connection to this, he mentioned several projects realized by Russian companies together with partners from South Korea (a gas pipeline, a railway line and a branch of the electrical network; they should connect the southern part of Korean Peninsula with Russia through the territory of North Korea) and North Korea (the construction of a railway line from Russia to one of North Korean sea harbours). All of them could be seriously threatened by the increase of international tension caused by North Korean nuclear ambitions. The Russian diplomacy sees the resolution of the problem is in a complete denuclearization of both Korean states. It should be carried out as a result of negotiations led in the frame provided by the Six Party Talks on the North Korean nuclear program.

Min. Morgulov also replied to the whole set of questions concerning the Russian-Japanese relations. He maintained that Russia is satisfied that its political and economic contacts with Japan are activated. Regarding territorial disputes, he said that it would be unreasonable to speak about such sensitive affairs in public because it could provoke some unnecessary resentment. However, he explained that, according to its official attitude, Russia is involved in territorial disputes with Japan. The Kuril Islands, directly mentioned in one of the questions, as a result of WWII, had become an integral part of the Russian territory said Morgulov. Therefore, any discussions about their future are redundant. Of course, the Russian Government is aware that the Japanese point of view is totally different, but it will not lead to the change of Russian opinion about this matter and the Russian diplomacy will not seek a solution to a problem which does not exist. On the other hand, Min. Morgulov reminded that Russia is interested in the conclusion of a peace treaty with Japan.

The next series of questions concerned the significance of Asia for Russia and the Asian-Pacific identity of this country. Addressing them, Min Morgulov stated that Asia and Pacific have always been areas of special concern for Russia. Russia is always present in East Asia and, therefore, it could not be said that it should learn political or economic realities of this region, as suggested by one of the participants of the meeting with Min. Morgulov, or undergo some process of socialization with

regard to the rules of the regional East Asian multilateralism. In the opinion of the Russian diplomat, Russia had been one of the Asian states since 'immemorial times' and it would be good if everybody accepted this fact without any further comments. On the other hand, because not all countries understood the important role played by Russia in the Far East, the Russian Government decided to organize the summit of the Asia-Pacific Economic Co-operation (APEC) in Vladivostok, an eastern gate to Russia instead of Moscow or Sankt Petersburg. This way, the Russian authorities wanted to show all guests participating in the APEC summit that they too possessed an important economic, political and military center at the Pacific Ocean situated astonishingly close to Seoul or Tokyo. They also demonstrated that, besides the United States, Russia is the only country in the world with a double identity. While the identity of the USA could be defined as Atlantic-Pacific, the identity of Russia should be perceived as Euro-Asian.

Min. Morgulov was also asked for his opinion on American re-balancing strategy discussed broadly earlier by Adm. Locklear. He was also asked the question on whether Russia possesses its own re-balancing strategy applicable to East Asia. Despite the fact that the Russian diplomat expressed his views on both these matters only in couple sentences, his answers could be recognized as a brief description of priorities of Russia in its foreign policy directed not only towards the Far East. Participants of the 27<sup>th</sup> Asian-Pacific Roundtable could hear that Russia would always oppose whatever enlargements of military potentials of other states in the vicinity of its borders regardless of in Europe or in Asia, and would treat them as a source of possible tension. Regarding the Russian re-balancing strategy in East Asia and in the region of Pacific, Min. Morgulov said that it is based on the creation of economic connections with other states as well as diplomatic activities. It was obvious that these words should be connected with an earlier statement of Min. Morgulov that the number one aim of Russia's foreign policy is the creation of Eurasian Union in the territory of the former Soviet Union (its members should be Belarus, Kazakhstan and Central Asian republics). Besides that, Russia is interested in the creation of a similar international organization encompassing the whole of Asia.

Speeches by representatives of the United States, China and Russia during the 27<sup>th</sup> Asian-Pacific Roundtable organized in Kuala Lumpur allowed for drawing conclusions on the part which these countries want to play in international relations not only in Asia but also in the whole world. Definitely, the theme of the conference, *Strategising Change in Asia*, describes accurately the current situation of these three great powers as well as the situation of Asian middle states. The USA, as presented in Amb. Hill's speech and supplemented by the presentation of Adm. Locklear, tries to define threats to the American interests in Asia through the active involvement in affairs of this continent. It should allow for sufficiently early influencing attitudes of other countries which could result in their modification according to American wishes. Besides that, due to the increase of its military presence in Asia and Pacific, the United States sends a clear message to the Government of China that the involvement in any race of armaments would be unwise because the technological and quantitative advantage of the USA makes the military competition with this great power senseless and impossible. The strategic goal is to confirm the US domination in the Pacific Ocean which is an element of the general American policy aimed at the preservation for the United States the position of the only superpower for, at least, the several next decades.

At the moment, China seems to be satisfied with occupying the position of number two in the world ranking of great powers. Listeners of Amb. Fu Ying's speech could come to the conclusion that China, in the predictable future, will not be able to compete with the United States for the global leadership. Firstly, the Chinese authorities must resolve several serious and complicated internal problems. However, they do a lot to create, in frames of the politico-social of the PRC, solid fundamentals of the economy which in the longer perspective should allow for the undertaking of successful attempts of the realization of more ambitious goals in the foreign policy. Regarding the position of China in Asia, especially in the region of the South China Sea, Amb. Fu Ying left no illusions that the PRC is interested in the hegemony and resolving all disputes with other countries according to its own wishes using its demographic, economic and military advantage.

At the same time, it seems that Russia, at least temporarily, came to terms with the fact that it occupies, in Asia, and also in the world, the position of number three amongst the most influential countries. Such a conclusion could be drawn from the contents of Min. Morgulov's speech, who, in fact, tried to convince the audience that Russian politicians are aware that their state possessed too little potential to compete successfully with the United States or China for the regional or global leadership. It seems that Russia has begun to implement some kind of containment strategy aimed at the containment of Russia's diminishing significance in the world. If, currently, there is no chance for the place number one or two in the hierarchy of great powers, everything possible should be done to maintain the position number three. This goal can be achieved through avoiding any conflicts with the two stronger partners and countries which are able to take Russia's place (therefore, Min. Morgulov stressed the exemplary state of the Russian-Chinese and Russian-Indian relations) as well as the development of the Russian economy and the net of international connections based on advantageous geographical location and possession of deposits of natural resources. This attitude proves the extreme pragmatism of Russian diplomacy concentrated exclusively on goals which Russia is able to achieve with the involvement of its relatively limited resources. Therefore, Min. Morgulov was clearly irritated when he spoke about North Korea's nuclear ambitions that pose a threat to Russia's economic interests in East Asia and in the Pacific region. It is hard to estimate the results Russia's efforts aimed at the maintenance of its international position. However, by remembering the efficiency of the Russian diplomacy in the international arena from the times of Peter the Great, it is possible to suppose that (if no unexpected events occur in the Far East worsening the position of Russia, such as some local or regional conflicts) the Russian leaders will be able to reach their strategic goals.

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## **SOME PRAXIOLOGICAL REFLECTIONS ON THE SO-CALLED 'OVERTON WINDOW OF POLITICAL POSSIBILITIES', 'FRAMING' AND RELATED PROBLEMS**

**Keywords:** praxiology, political manipulation, framing, window of political possibility.

**ABSTRACT:** The so-called 'Overton Window of Political Possibilities' originates from a concept named after Joseph P. Overton and is based on the assumption that any collection of public policies within a policy area can be arranged in order from more free to less free. At any one time, some group of adjacent policies along the freedom spectrum fall into a 'window of political possibility'. Policies inside the window are politically acceptable, meaning officeholders believe they can support the policies and survive the next election.

Numerous authors emphasize the problem of effectiveness of manipulation. Another interesting problem is connected with the 'threshold of effectiveness'. J.N. Druckman applies the expression: 'competing frames' in connection with 'political programs' (programs of political parties). All this means that any manipulations are subject to unpredictable, unforeseen factors, events etc. On the other hand, there are researchers, such as B. Bueno de Mesquita or G. Friedman, who present political forecasts and prognoses.

From the viewpoint of common sense and praxiology, there is an obvious discrepancy between such ways of manipulation as 'windows', 'frames' (applied in numerous sectors and countries, on different levels of political, social, financial etc. structures) and the 'political forecasts' of this kind. Perhaps, it would be useful to focus the research on the predictability of

the results of short and long-term shifting of windows / frames of political possibilities / opportunities.

### THE 'OVERTON WINDOW', 'FRAMING' AND RELATED PROBLEMS – DEFINITIONS, OPINIONS, SUGGESTIONS

The so-called 'Overton Window of Political Possibilities' originates from a concept named after Joseph P. Overton (vice president of the MackinacCenter for Public Policy (a think tank / 'research and educational institute' in Midland, Michigan, USA), died in 2003 in a plane crash).

I would like to present some praxiological remarks on this concept in a broader context<sup>1</sup>. As J.G. Lehman (president of the MackinacCenter) recalled in 2010: 'He (J.P. Overton – B.Zb. Sz.) observed that any collection of public policies within a policy area (...) can be arranged in order from more free to less free (or alternatively, from less government intervention to more)...At any one time, some group of adjacent policies along the freedom spectrum fall into a 'window of political possibility'. Policies inside the window are politically acceptable, meaning officeholders believe they can support the policies and survive the next election. Policies outside the window, either higher or lower, are politically unacceptable at the moment. If you shift the position or size of the window, you change what is politically possible'<sup>2</sup>.

The Overton's concept is presented in some variants. For example, four years earlier, in 2006, N.J. Russell described the Overton's theory in the following way: 'Imagine (...) a yardstick standing on end. On either end are the extreme policy actions for any political issue. Between the ends lie all gradations of policy frame one extreme to the other. The yardstick represents the full political spectrum for a particular issue. The essence of

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<sup>1</sup> CfB.Zb. Szalek, *Studium metodologiczno-prakseologiczne w zakresie wybranych struktur manipulacji politycznej*, Working paper, University of Szczecin, Faculty of Arts, Institute of Political Science and European Studies, Chair of Praxiology, Heuristics and Political Marketing, 2012.

<sup>2</sup> J.G. Lehman, *An Introduction to the Overton Window of Political Possibility*, 2010, p. 1, <http://www.mackinac.org/12481> (accessed: 2011.03.24).

the Overton window is that only a portion of this policy spectrum is within the realm of the politically possible at any time. Regardless of how vigorously a think tank or other group may campaign, only policy initiatives within this window of the politically possible will meet with success<sup>3</sup>.

J.G. Lehman and N.J. Russell differ in their opinions with regard to the concept of ‘moving (or: shifting) the window’.

According to N.J. Russell: ‘...if a think tank’s research and the principles of sound policy suggest a particular idea that lies outside the Overton window, what is to be done? ‘Shift the window’. Since commonly held ideas, attitudes and presumptions frame what is politically possible and create the ‘window’, a change in the opinions held by politicians and the people in general will shift it. Move the window of what is politically possible and these policies previously impractical can become the next great popular and legislative rage... When the window of political possibilities is moved along the political spectrum, the impossible becomes desirable and the simply desirable becomes imperative’<sup>4</sup>.

However, J.G. Lehman does not share this optimistic opinion about ‘moving the window’: ‘Many believe that politicians move the window, but that’s actually rare. In our understanding, politicians typically don’t determine what is politically acceptable; more often they react to it and validate it. Generally speaking, policy change follows political change, which itself follows social change. The most durable policy changes are those that are undergirded by strong social movements’<sup>5</sup>.

In my opinion, the linear sequence: policy change < political change < social change (or: social change > political change > policy change) is not satisfactory and should be replaced by a circular or spiral (screw-like) sequence of changes. The latter approach (continuity + different levels of changes) seems to correspond with reality.

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<sup>3</sup> N.J. Russell, *An Introduction to the Overton Window of Political Possibilities*, 2006, p.1., <http://www.mackinac.org/7504> (accessed: 2011.05.19).

<sup>4</sup> Ibidem, p. 2.

<sup>5</sup> J.G. Lehman op.cit., p. 1.

The Overton's concept ('window of political possibilities') belongs to the realm of 'influencing'<sup>6</sup>. In the following part I would like to present some reflections on related issues. First of all, let us recall the opinion of N.J. Russell: 'Politicians are constrained by ideas, even if they have no interest in them personally. What they can accomplish (...) is framed by the set of ideas held by their constituents – the way people think (...). A politicians success or failure stems from how well they understand and amplify the ideas and ideals held by those who elected them'<sup>7</sup>.

Therefore, let us pay some attention to the problem of 'framing'. *Webster's Dictionary of the English Language* defines a 'frame-up' as: an act or series of actions in which someone is framed'<sup>8</sup>. A.M. Colman, in his *Dictionary of Psychology*, explains a 'frame' as: 'an underlying assumption or set of assumptions that suggests an interpretation or a concept and that functions as an interpretative frame of reference for thinking about the concept'<sup>9</sup>. As for the 'framing effects', A.M. Colman points at A. Tversky and D. Kahneman. According to these researchers: 'Prospect theory distinguishes two phases in the choice process: a phase of framing and editing, followed by a phase of evaluation... The first phase consists of a preliminary analysis of the decision problem, which frames the effective acts, contingencies, and outcomes. Framing is controlled by the manner in which the choice problem is presented as well as by norms, habits, and expectancies of the decision maker... Variations in the framing of option yield systematically different preferences'<sup>10</sup>.

A.M. Colman defines the 'framing effect' as: 'an effect of the description, labelling, or presentation of a problem on responses to it... A framing effect on a decision is called a 'decision frame' (...)'<sup>11</sup>.

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<sup>6</sup> cf R. Cialdini, *Influence: Science and Practice*, Boston 2001; R. Cialdini, *The Psychology of Influence*, New York 2006.

<sup>7</sup> N.J. Russell, op.cit., p. 1.

<sup>8</sup> *Webster's Third New International Dictionary of the English Language*, Cologne 1993.

<sup>9</sup> A.M. Colman, *A Dictionary of Psychology*, Oxford 2003, p. 286.

<sup>10</sup> A. Tversky, D. Kahneman, *Rational Choice and the Framing of Decisions*, "The Journal of Business" 1986, No. 59, 4, p. 257.

<sup>11</sup> A.M. Colman, op.cit., p. 287.



The problem of ‘framing’ and ‘framing effects’ appears in a series of works by J.N. Druckman<sup>12</sup>. According to this researcher: ‘politicians, activists, and the media constantly frame issues in one way or another... Citizens appear to consciously weigh the considerations suggested by elite frames, compare these considerations to their predispositions and information, and contemplate about the source of the frame. This all suggests that citizens deal with elite frames in a relatively competent and well-reasoned manner’<sup>13</sup>. J.N. Druckman distinguishes two kinds of frames: ‘frames in communication’ (‘words, images, phrases, and presentation styles that a speaker uses when relaying information to another (...)’) and ‘frames in thought’ (these frames describe: ‘an individual’s perception of a situation; the frame reveals what an individual sees as relevant to understanding a situation. For example, an individual who evaluates candidates based on their economic issue positions is said to be in an economic frame of mind (...)’<sup>14</sup>. According to J.N. Druckman: ‘(...) public opinion often depends on which frames elites choose to use’<sup>15</sup>.

Of course, his understanding of ‘elites’ is hazy (in fact, ‘elites’ originate from ‘élire’ = ‘to elect, choose’ in French). Nevertheless, J.N. Druckman associates the so-called ‘elites’ with the first kind of frames (‘frames in communication’): ‘frames in communication often play an important role in shaping frames in thought. This process – which is the focus of this

<sup>12</sup> J.N. Druckman, *The Implications of Framing Effects for Citizen Competence*, “Political Behaviour”, 2001, vol. 23, no 3; J.N. Druckman, *On the Limits of Framing Effects: Who Can Frame?*, “The Journal of Politics”, 2001, vol. 63, no 4; J.N. Druckman, K. Nelson, *Framing and deliberation: How citizens’ conversations limit elite influence*, “American Journal of Political Science”, 2003, vol. 47; J.N. Druckman, *Political preference formation: competition, deliberation, and the (ir)relevance of framing effects*, “American Political Science Review”, 2004, vol. 98; J.N. Druckman, D. Chong, *Framing public opinion in competitive democracies*, “American Political Science Review”, 2007, vol. 101; J.N. Druckman, R. McDermott, *Emotion and the framing of risky choice*, “Political Behaviour”, 2008, vol. 30; J.N. Druckman, C.L. Hennessy, K. St-Sharles, J. Weber, *Competing rhetoric overtime: Frames versus cues*, “The Journal of Politics” 2010, Vol. 72.

<sup>13</sup> J.N. Druckman, *The Implications...*, op.cit., p. 246.

<sup>14</sup> Ibidem, p. 227–228.

<sup>15</sup> J.N. Druckman, *On the Limits...*, op.cit., p. 1041.

article – is typically called a framing effect'<sup>16</sup>. His opinion with regard to the effectiveness of 'framing' is not too optimistic: 'Many view work on framing effects as evidence of citizen incompetence (...) evidence that citizens base their preferences on arbitrary information and / or are subject to extensive elite manipulation'<sup>17</sup>. But he adds: '(...) framing effects are remarkably complex. Sometimes they work and other times they do not, and, despite common practice, it is just as important to document cases of failed framing effects as successful framing effects... Sometimes framing effects serve as evidence of incompetence and other times they do not'<sup>18</sup>.

It may be heuristically useful to add to the above definitions, opinions and suggestions an amazing quotation from E.L. Bernays' *Propaganda* (published in 1928 in the USA): 'The conscious and intelligent manipulation of the organized habits and opinions of the masses is an important element in democratic society. Those who manipulate this unseen mechanism of society constitute an invisible government which is the true ruling power of our country (E.L. Bernays (a relative of S. Freud) was born in Austria in 1891 – B.Zb. Szalek) ... We are governed, our minds are molded, our tastes formed, our ideas suggested, largely by men we have never heard of. This is a logical result of the way in which our democratic society is organized. Vast numbers of human beings must cooperate in this manner if they are to live together as a smoothly functioning society...' <sup>19</sup>. This communist-like opinion was published in 1928, in a 'healthy' (or: in 'the healthiest' ?) democracy – in the United States of America.

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<sup>16</sup> J.N. Druckman, *The Implications...*, op.cit., p. 228.

<sup>17</sup> Ibidem, p. 225.

<sup>18</sup> Ibidem, p. 245–247; cf R.M. Entman, *Projections of Power: Framing News, Public Opinion, and US Foreign Policy*, Chicago 2004.

<sup>19</sup> E.L. Bernays, *Propaganda*, New York 1928 (>2005), p. 10.

## SOME PRAXIOLOGICAL REFLECTIONS

Of course, the above concepts ('the Overton window of political possibilities', 'framing' and 'propaganda / manipulation'<sup>20</sup>) belong to the same realm and are interrelated<sup>21</sup>. Let us deal with the problem of 'success' in this field.

It is tempting to follow the path of reasoning of E.L. Bernays, J.G. Lehman, N.J. Russell, A. Tversky, D. Kahneman, J.N. Druckman:

- 1) in the case of the 'Overton window of political possibilities': act within the window or shift it
- 2) in the case of 'framing': choose and use the right (suitable, appropriate) 'frames in communication' in order to achieve the right 'frames in thought'
- 3) in the case of propaganda / manipulation: understand the mental processes and social patterns and mold the minds, form the tastes of the masses<sup>22</sup>.

However, is this path the correct one? I will present my remarks on the above opinions and concepts following the '7 golden questions' (who, why, where, when, what, how, by means of what?).

## WHO?

According to the above-mentioned researchers, the masses (citizens, constituents, recipients) are manipulated by 'elites', politicians, officeholders, activists, think tanks and other groups – and the media. E.L. Bernays mentions an 'invisible government' (in a 'democratic' society!).

<sup>20</sup> cf A. Winkler, *The Politics of Propaganda*, New Haven 1978; A. Zwoliński, *Propaganda*, in: *Encyklopedia Białych Plam*, Radom 2005, p.73–79; J. Ellul, *Propaganda: The Formation of Men's Attitudes*, New York 1979.

<sup>21</sup> cf the book of M. Karwat, *Sztukamanipulacji politycznej*, Toruń 2001; M. Karwat distinguishes (open) persuasion from (hidden) manipulation.

<sup>22</sup> J.G. Lehman, op.cit., N.J. Russell, op.cit., J.N. Druckman, op.cit.; E.L. Bernays, op.cit..

Let us focus on the so-called 'elites'. According to J.N. Druckman: 'Manipulation occurs when an elite influences a citizens preference in a deleterious way, meaning, for example, that the influence induces preferences that either are based on incorrect or biased information..., differ from what preferences would be if they were based on the best available information..., or cause the person to act against his or her interests...' <sup>23</sup>. According to Webster's Dictionary, 'elite' is: 'a minority group or stratum that exerts influence, authority, or decisive power...' <sup>24</sup>.

In fact, 'elite' can be interpreted in several ways. Let us mention here two of them:

- 1) democratically elected groups,
- 2) selected (in this or another way) groups (cf the Bilderberg Club, the European Commission, the Trilateral Commission, the Council on Foreign Relations).

One could add here such cases as the pseudocommunist dynasty of North Korea (Korean People's Democratic Republic). This matter is not so simple (eg A. Hitler came to power in 1933 as the winner in democratic elections). Some of these 'elected' or 'selected' 'elites' can be described as psychopathic (eg the 'elites' headed by Stalin in the Soviet Union ( > famine / mass starvation, purges, genocide) and Pol Pot in Cambodia (1975–1979; genocide).

It seems to be obvious to distinguish the main manipulators from their human and organizational 'tools' (eg experts (such as J. Sachs, J. Stiglitz, F. Fukuyama<sup>25</sup>), think tanks (eg The Tavistock Institute, The RAND Corporation), institutions (eg International Monetary Fund, International Bank for Reconstruction and Development), the media (owners), etc.). However,

<sup>23</sup> J.N. Druckman, *The Implications...*, op.cit., p. 233.

<sup>24</sup> Webster's..., op.cit., p. 736.

<sup>25</sup> J. Sachs, *The End of Poverty. How We Can Make It Happen In Our Lifetime*, 2005 (Polish ed.: Warsaw 2006); J.E. Stiglitz, *Globalization and Its Discontents*, W.W. Norton & Company, 2002 (Polish ed.: Warsaw 2004); F. Fukuyama, *State Building: Governance and World Order in the 21st Century*, Cornell University Press, 2004; F. Fukuyama, *The Origins of Political Order*, Profile Books, 2011; F. Fukuyama (the Monitor Group, Cambridge, MA; previously a member of the RAND Corporation's Political Science Department) advised Muammar Gaddafi (2006–2008).

some researchers (eg N.J. Russell, J.G. Lehman) practically raise such organizations as 'think tanks' to the level of main manipulators.

## WHAT?

The above-mentioned concepts are connected with 'attitude change'.

According to A.M. Colman, 'attitude change' is: 'the process whereby an attitude (...) towards a person, object, or issue becomes more or less favourable, usually as a consequence of persuasion'<sup>26</sup>. In particular, 'attitude change' may lead to 'less freedom', 'less democracy', 'less money for more work' etc.

However, it seems to be useful to mention here 'temporary attitude stabilization' (sometimes it is better to hide the real intentions – for example, in the course of an electoral campaign)<sup>27</sup>.

According to E.L. Bernays: '... we are dominated by the relatively small number of persons... who understand the mental processes and social patterns of the masses. It is they who pull the wires which control the public mind'<sup>28</sup>. L. Beinhart calls it: 'wag(ing) the dog'<sup>29</sup>.

## WHY?

The question 'why?' is associated with knowledge (eg with regard to such issues as: frames, real (visible and invisible) mechanisms, pacing (manipulator – recipients of manipulation), foreknowledge<sup>30</sup>, illusions and mental health / state of mind (cf the cases of J.B. Bokassa, Idi Amin, Pol

<sup>26</sup> A.M. Colman, op.cit., p. 63.

<sup>27</sup> cf M. and R. Friedman, *The Tyranny of Status Quo*, New York 1983; Polish ed.: Sosnowiec 1997.

<sup>28</sup> E.L. Bernays, *Propaganda*, op.cit., p.10.

<sup>29</sup> B. Levinson, *Wag the dog*, New Line Productions 1997; L. Beinhart, *Fog facts*, Nation Books, 2006; D. Lakhani, *Subliminal Persuasion: Influence & Marketing Secrets They Don't Want You To Know*, 2008, Polish ed.: Gliwice 2010.

<sup>30</sup> cf Sun Tzu, *The Art of War*, Oxford 1963, p. 144; C. Coker, *What Would Sun Tzu Say about the War on Terrorism?*, "Royal United Services Institute Journal" 2002, Vol. 1.

Pot etc.). In fact, we live within numerous, more or less fuzzy, frames (eg political and geopolitical, religious / pseudoreligious, social, scientific, economic, ethnic frames). Some of them are artificial (cf such terms as: 'frame building', 'frame setting' > 'frame shifting')<sup>31</sup>, some semiartificial, and still other are natural.

In certain cases particular frames are more or less 'contradictory'<sup>32</sup>. Some researchers tend to regard them as 'living organisms'<sup>33</sup>. For example, J.N. Druckman uses the term: 'competing frames'<sup>34</sup>. In certain cases one could speak of 'hostile frames' (eg hostile ideologies, religions / cults, etc.).

## WHEN?

My impression is that the US researchers pay little attention to 'time'. E.L. Bernays speaks of continuous manipulation (in a democratic society!)<sup>35</sup>. M. and R. Friedman suggest the importance of the first 6–9 months for introducing significant and unpopular reforms<sup>36</sup>.

However, it may be useful to mention such terms as: 'short / long-lived frames', 'fast / slow shifting of the Overton window of political possibilities', 'fast / slow (gradual) manipulation with regard to political, social, religious frames', etc<sup>37</sup>.

<sup>31</sup> cf D.A. Scheufele, *Framing as a theory of media effects*, "Journal of Communication", 1999, Vol. 49, pp.103–122.

<sup>32</sup> cf the 'dual requirements' in the European Union (eg: less emissions and more competitiveness); cf. B.Zb. Szalek, *Some praxiological remarks on the problems of the European Union*, "Reality of Politics" 2011, Vol. 2, pp.181–201; B.Zb. Szalek, *Kilka prakseologicznych uwag na temat Wspólnej Polityki Rolnej w Unii Europejskiej*, in: B.H. Toszek, A. Wojtaszak (Eds.), *Perspektywy rozwoju Wspólnej Polityki Rolnej po 2013r.*, Warszawa 2012, pp. 29–54; B.Zb. Szalek, *Kwestia wyzwań przed Unią Europejską w świetle prakseologii*, in: *Prezydencja jako wyzwanie dla Polski oraz szansa promocji jej interesów w Unii Europejskiej*, Szczecin 2011.

<sup>33</sup> cf the concept of 'memes': R. Dawkins, *The Selfish Gene*, Oxford 1989.

<sup>34</sup> J.N. Druckman, *The Implications...*, op.cit., p. 244.

<sup>35</sup> E.L. Bernays, op.cit., p. 10.

<sup>36</sup> M. and R. Friedman, op.cit.

<sup>37</sup> cf the slow 'self-evolution' of 'religious frames' – eg: the Christianity in the 1st century and now.

Another important aspect is: 'the best moment / time' (cf the remark of Jo Moore (a UK government press officer) on the 11<sup>th</sup> of September 2001: 'It's now a very good day to get at anything we want to bury')<sup>38</sup>. The question: 'when?' is associated with 'situation' (peace, crisis (financial, terrorist attacks, war, natural cataclysms, epidemics etc.).

## WHERE?

The case of *Crystallizing Public Opinion*, a work by E.L. Bernays published in the USA and studied (as well as applied in practice) by J. Goebbels in Hitler's Germany, illustrates that there are some 'universal principles' of manipulation, propaganda etc<sup>39</sup>.

However, my impression is that the above-mentioned researchers focus their attention on local problems – in a 'healthy democracy' (i.e. in the USA). This problem can be illustrated by means of 'political opportunity structures'<sup>40</sup>.

It is obvious that different political systems offer different political opportunities. In 1986, H. Kitschelt understood these 'structures' as 'filters' between the mobilization (and choice of strategy) and its effects<sup>41</sup>. In 1994, S. Tarrow explained this concept as follows: 'By political opportunity structure, I mean consistent – but not necessarily formal or permanent – dimensions of the political environment that provide incentives for people to undertake collective action affecting their expectations for success or failure'<sup>42</sup>. In 1999, C.A. Rootes indicated that: 'More recent work

<sup>38</sup> A. Sparrow, 'Sept 11: 'a good day to bury bad news'', "Telegraph", 10.10. 2001.

<sup>39</sup> E.L. Bernays, *Crystallizing Public Opinion*, OCLC 1923; E.L. Bernays, *Biography of an Idea: Memoirs of Public Relations Counsel*, New York 1965.

<sup>40</sup> cf P. Berger, T. Luckmann, *The Social Construction of Reality: a Treatise on the Sociology of Knowledge*, New York 1967.

<sup>41</sup> H. Kitschelt, *Political opportunity structures and political protest: anti-nuclear movements in four democracies*, "British Journal of Political Science", 1986, 16, p. 59; cf C.A. Rootes, *Political Opportunity Structures: promise, problems and prospects*, "La Lettre de la Maison Française d'Oxford" 1999, Vol. 10, p. 2.

<sup>42</sup> S. Tarrow, *Power in Movement: social movements and contentious politics*, Cambridge University Press, 1994 (> 1998), p.85; cf C.A. Rootes, op.cit., p. 6.

(...) has gone a long way toward clarifying the discussion of 'political opportunity structures' by clearly distinguishing between the formal institutional structure of the state, the informal procedures and prevailing strategies used to deal with challengers, and the configuration of power and alliances in the party system'<sup>43</sup>. According to this researcher: 'political actors make history, but they do not so in circumstances of their own making. Instead, they encounter constraints and are presented with opportunities configured by the institutional arrangements and the prevailing patterns of political power which are the inescapable contexts of political action'<sup>44</sup>. However, C.A. Rootes, discussing the work by H. Kitschelt, indicated that he: 'confounded structure and contingency'<sup>45</sup>.

Of course, the above opinions must be brought back to reality (cf the 'democracy' in the pseudocommunist North Korea).

Another problem is connected with different (political, social etc.) levels of manipulation ('global manipulations', 'international manipulations', 'internal / local manipulations').

### BY MEANS OF WHAT?

There are a variety of more or less interrelated (network-like structures<sup>46</sup>) means. I do not think that it is necessary to deal here with obvious details. This question is connected with various 'tools', such as the media, organizations of 'experts' (eg think tanks (such as the Brookings Institution, the Institute of Political Studies), spin organizations, the International Monetary Fund, the International Bank for Reconstruction and Development, Central Intelligence Agency, sects and other religious structures) and more or less independent, clever individuals (gurus, priests, spindoc-

<sup>43</sup> C.A. Rootes, op.cit., p. 5.

<sup>44</sup> Ibidem, p. 1.

<sup>45</sup> Ibidem, p. 4.

<sup>46</sup> It may be useful to point at two opposite approaches to this problem, presented by D. Pipes (*Conspiracy. How the Paranoid Style Flourishes and Where it Comes From*, The Free Press, 1997 (Polish ed.: Warsaw 1998)) and D. Estulin (*The True Story of the Bilderberg Group*, Dadio Head, S.L., 2005 (Polish ed.: Katowice 2009)).



tors (eg E.L. Bernays: 'the father of spin'), authorities<sup>47</sup>, money, equipment, information etc.

## HOW?

There are a variety of ways and tricks for 'attitude change' (shifting the Overton window, framing, reframing etc.)<sup>48</sup> I do not intend to present and discuss all of them in this short paper. Instead, let us have a look at some of them:

- 1) introducing the only right / correct / true / appropriate political / economic / social / ideology, cult etc. (cf: political correctness, god's will, etc.)<sup>49</sup>;
- 2) education.<sup>50</sup> For example, according to N.J. Russell, a think tank: 'should not focus on direct policy advocacy, but instead should focus on educating lawmakers and the public in an attempt to change the political climate... This is the true influence of a think tank – shaping the political climate of future legislative and legal debates by researching, educating, involving and inspiring'.<sup>51</sup> For example, the European Commission (< Russia < Gazprom) tries to educate Polish citizens that exploitation of shale gas in Poland is bad for the environment: the best solution to this problem is importing Russian gas (this gas is very expensive (c. 500 USD / 1, 000 cubic m; in the USA the exploitation of shale gas resources results in a considerable (c. 50%) reduction of gas price)<sup>52</sup>;

<sup>47</sup> Such as J. Sachs in Bolivia and Poland ('mentor' of L. Balcerowicz).

<sup>48</sup> cf V. Volkoff, *La désinformation*, Paris 1986; D. Lakhani, op. cit.; R. Cialdini, *Influence: Science and Practice*, Boston 2001; R. Potocki, *Dezinformacja*, in: *Encyklopedia Białych Plam*, Radom 2001, pp. 43–45.

<sup>49</sup> cf the annihilation of Polish shipyards on the grounds of the EU regulations.

<sup>50</sup> cf B.K. Eakman, *Educating For the New World Order*, Halcyon House, 1991.

<sup>51</sup> N.J. Russell, op. cit., pp. 1–2.

<sup>52</sup> cf: T. Wójcik, *Gaz z łupków – międzybiznesem a polityką*, "Gazeta Polska", 30.11.2011, p. 23; P. Skuteli, *Shale Gas Poland 2012: The Energy Independence Conference* (a relation), 10.5.2012, <http://www.sgp2012/?file=home>, (accessed: 03.09.2012); V. Paniuszkin, M. Zygar, *Gazprom. Russkoyeoruzhie*, 2008 (Polish ed.: Warsaw 2008).

- 3) brainwashing (one could mention here the Tavistock Institute of Human Relations (London) and his 'brainwashing techniques')<sup>53</sup>;
- 4) relativization (eg: apparent / illusory and real virtues, apparent / illusory and real faults<sup>54</sup>, permissiveness, demoralization<sup>55</sup>);
- 5) 'creative presentation of facts' (eg: 'political imperatives' of Pol Pot, A. Hitler, V. Lenin, J. Stalin, Mao Tse-tung; cf 'spin' and 'spin tactics'<sup>56</sup>);
- 6) 'prognoses', 'forecasts' (eg global warming, overpopulation, energy)<sup>57</sup>;
- 7) 'halo effect'<sup>58</sup> (eg 'reconciliation in other matters' (cf the meeting in 2012 of Polish and Russian priests ('reconciliation') and the plane crash (attempt ?)<sup>59</sup> in Smolensk / Russia in 2010 (96 victims: among them – Lech Kaczyński, President of Poland, and top military commanders)<sup>60</sup>);
- 8) 'contrast' (choosing the lesser of two evils, comparisons, benchmarking, ranking, rating, polls). According to A.M. Colman, 'contrast' is: 'A distinction between things being compared, or an emphasis on the

<sup>53</sup> cf Ph.G. Zimbardo, *Mind Control: Psychological Reality or Mindless Rhetoric?*, "Monitor of Psychology" 2012, No. 11, <http://www.icsahome.com/inforerv-articles/zimbardo-philip-mindcontrol.htm>; (accessed: 03.09.2012); N. Begich, *Controlling the Human Mind*, Anchorage 2006; K. Taylor, *Brainwashing: The Science of Thought Control*, Oxford 2006; R.J. Lifton, *Thought Reform and the Psychology of Totalism: a Study of / Brainwashing' in China*, Chapel Hill 1989; B.T. Weeks, *Tavistock. The Best Kept Secret in America*, 31.07. 2001, <http://educate-yourself.Org/nwo/nwotavistockbestkeptsecret.Shtml>, (accessed: 03.09.2012).

<sup>54</sup> cf N. Machiavelli, *Il Principe*; Polish ed., Warsaw 1993.

<sup>55</sup> cf Sun Tzu, op.cit.; Sun Pin, *Military Methods of the Art. of War*, New York 1998, p. 243; J. Darski, *Wojnapsychologiczna*, "Gazeta Polska", 23.2.2011, p. 15; V. Volkoff, op. cit..

<sup>56</sup> L. Tye, *The Father of Spin: Edward L. Bernays & the Birth of PR*, "PR Watch", 1999, 6, 2; A.S. Roberts, *Spin Control and Freedom of Information: Lessons for the United Kingdom from Canada*, "Public Administration", 2005, Vol. 83, No. 1; V. Volkoff, op. cit.

<sup>57</sup> Cf D. Yergin, *The Quest. The Global Race for Energy, Security and Power*, Penguin Books, 2011.

<sup>58</sup> cf A.M. Colman, op.cit., p.322.

<sup>59</sup> cf Oficjalny raport sejmowy potwierdza: Tupolewa rozerwały dwie duże eksplozje, Im, wg, "Gazeta Polska", 12.09.2012, pp. 17–19.

<sup>60</sup> cf A. Ścios, *Kombinacja operacyjna 'pojednanie'*, "Gazeta Polska", 5.09.2012, p. 18.

distinction between things that are juxtaposed'<sup>61</sup>. For example: the situation in other countries is much worse than in Poland (Poland is a 'Green Island' of Donald Tusk). A 'contrast just in case' or a 'handy contrast' can be illustrated by means of North Korea (earlier Cambodia of Pol Pot) and continental pseudocomunist China;

- 9) 'false alternative' (eg: should we join the 'Euro-zone' in 2013 or in 2014 ?; cf the 'independent third party' of E.L. Bernays: experts express their opinions on the grounds of false alternatives<sup>62</sup>;
- 10) 'repetition' (cf the case of Norway and Denmark: Norway rejected membership of the European Economic Community / European Union in two referendums: in 1973 and 1994; in 1992 Denmark rejected in a referendum the ratification of Maastricht Treaty, however, the next referendum (in 1993) was in favour)<sup>63</sup>;
- 11) 'agenda setting' (according to J.N. Druckman: 'Agenda setting (cf 'frame setting' – B.Zb. Szałek), media priming, and persuasion are distinct but related concepts of framing'<sup>64</sup>);
- 12) 'attacking the heart' (Sun Pin: 'You must turn their hearts (...) with (the prospect of) substantial profits'<sup>65</sup>);
- 13) 'entanglement / involvement' (cf the technique of 'tie-in'). For example: Russia could accept new American military installations in Europe – within a common (North American – European – Russian) system<sup>66</sup>;
- 14) 'staging' (eg the Trust Operation led by F. Dzierżyński against B. Savinkov (captured in 1924 by the OGPU, sentenced and murdered)<sup>67</sup>; a good illustration of staging presents the radio program (extraterrestrial invasion) by Orson Welles on 30<sup>th</sup> Oct. 1938);

<sup>61</sup> A.M. Colman, *op.cit.*, p.165.

<sup>62</sup> cf D. Lakhani, *op.cit.*, p.55.

<sup>63</sup> cf A. Butler, *Collins Dictionary of Dates*, Glasgow 1996.

<sup>64</sup> J.N. Druckman, *The Implications...*, *op.cit.*, p. 247.

<sup>65</sup> Sun Pin, *op.cit.*, p. 243.

<sup>66</sup> cf G. Pawłowski, *Rosja nie zamierza rozpoczynać zimnej wojny z Zachodem*, "Dziennik", 5.07.2007, p. 20.

<sup>67</sup> cf R.B. Spence, *Boris Savinkov: Renegade on the Left*, Columbia University Press, 1991.

- 15) 'insolent lies' (eg : CIA and the mass destruction weapons in Iraq);
- 16) 'fear' as 'tool' ('fear facilitates manipulation' > less freedom in political, military, religious, economic, ethnic, social, scientific structures (cf danger from outside, external enemy, internal enemy (> ethnic purges'); extermination of entire town populations in order to make other communities surrender (Genghiz Khan, in the 13<sup>th</sup> century). According to P.D. Collins: terrorism is in the USA a method of generating 'changes'<sup>68</sup>;
- 17) 'creation of facts'. For example:
  - a) the fire of the Reichstag building (27.2.1933) said to be caused by communist agents of the Comintern and the following events;
  - b) the assassination (air crash) of President of Rwanda in 1994 and the following civil war (practically genocide).

According to E.L. Bernays, 'modern propaganda' means 'provocation, 'shaping / creation of events'<sup>69</sup>. Some provocations are so clever that it is difficult to assess their true nature.

This problem can be illustrated with the case of the attack on the WTC towers in New York in 2001. Some researchers (eg Prof. L. Margulis, Prof. S. Wiackowski, Prof. A. Parzymies, D. Avery) do not accept the official interpretation of the attack<sup>70</sup>. They suggest a conspiracy in order to introduce a 'police state' (cf the 'Patriot Act') in the USA and to present a 'casus belli' for the war on Iraq (huge oil resources)<sup>71</sup>.

Some researchers interpret the explosions in Russia (Moscow, Volgondonsk) and Dagestan in 1994–1999 (subway, living quarters, trade centre; hundreds of victims) as cryptoterrorist provocations arranged by Russian

<sup>68</sup> P.D. Collins, *Ukryte oblicze terroryzmu*, Nexus, 2003, 7–8, p. 10–17; cf B.Zb. Szalek, *Kilka prakseologicznych uwag na temat walki z terroryzmem*, in: K. Kowalczyk, W. Wróblewski (Eds.), *Oblicza współczesnego terroryzmu*, Toruń 2006, p. 14.

<sup>69</sup> cf E.L. Bernays, *Propaganda*, op.cit.; D. Lakhani, op. cit., p. 56.

<sup>70</sup> S. Wiackowski, *Tragedia z 11 września 2001 roku i jej tajemnice*, "Nexus" 2012, No. 7–8, p. 31; *Islam a terroryzm*, ed. A. Parzymies, Warszawa 2003, p. 32; D. Avery, *Loose Change* (film), <http://www.loosechange9.11.com> (accessed: 20.09.2013), Polish version: *11 September. Niewygodne fakty*, Mercury Media, 2006.

<sup>71</sup> cf A. Berinsky, J. Druckman, *Public Opinion research and support for the Iraq war*, "Public Opinion Quarterly" 2007, No. 71, pp. 126–141.

secret services, in order to introduce in the Russian Federation a 'police state' and to give a 'casus belli' for the war on Chechnya<sup>72</sup>. M. Sixsmith associates the Russian invasion on Chechnya (4.10.1999) with the presidential elections in Russia (26.3.2000)<sup>73</sup>. By a strange turn of fate, the Muslim (?) attack on the WTC towers in New York in 2001 made look the Russian – Chechen war like a war on the terrorism of islamic fundamentalists<sup>74</sup>.

- 18) 'diversion' (by means of 'attractors', created 'facts' etc.). It is symptomatic that 'serious' US researchers in this field prefer to deal with doubtful simulation models than with such structures as the Council on Foreign Affairs.

Of course, the above methods, tricks, techniques and issues are, more or less, interrelated.

## FINAL REMARKS AND QUESTIONS

It may be useful to present some remarks and questions by means of the following sequence:

- 1) the 'original' window / frame (unthinkable > policy, impossible > possible, etc.);
- 2) shifting the window / frame (attitude change);
- 3) the shifted window / frame.

Of course, the adjective: 'original' (window, frame) should be understood properly (in fact, the 'windows', 'frames' evolve – and – are shifted)<sup>75</sup>. In each case politicians have at their disposal some traditional 'tools',

<sup>72</sup> cf M. Sixsmith, *The Litvinienko File*, 2007 (Polish ed.: Poznań 2007); A. Litvinienko, *Łubianskaya priestupnaya gruppirovka* (Polish ed.: Warsaw 2007); A. Litvinienko, J. Felsztinski, *Blowing up Russia: The Secret Plot to Bring Back KGB Terror*, London 2007 (Polish ed.: Poznań 2007); M. Gessen, *The Man Without a Face. The Unlikely Rise of Vladimir Putin*, 2012 (Polish ed.: Warsaw 2012).

<sup>73</sup> M. Sixsmith, op.cit. (Polish ed.), pp. 154–155.

<sup>74</sup> see M. Gessen, op.cit.

<sup>75</sup> cf the evolution of religions, cults, political ideologies etc.

such as , for example, the golden rule '20 : 80' (ranking of importance, priorities), various levers / leverages, gears etc<sup>76</sup>.

In 1928 E. L. Bernays expressed the following opinion: 'If we understand the mechanism and motives of the group mind, is it not possible to control and regiment the masses according to our (i.e.: whose ?) will without their knowing about it? The recent practice of propaganda has proved that it is possible, at least up to a certain point and within certain limits'<sup>77</sup>.

The whole process must be assessed / evaluated by means of: 'utility', 'usefulness', 'efficiency', 'effectiveness' (one thing is: 'usefulness of the aim / target / purpose of manipulation', and another thing is: 'effectiveness of manipulation'). In certain cases the purpose of manipulation can be sound in itself (cf 'healthy democratic polity'), but 'absurd political aims' cannot be excluded (imagine: 'efficient manipulation in order to attain erroneous / illusory aims')<sup>78</sup>.

Another problem is: 'necessity / reasonability of manipulation' (> : 'shifting the window'). This issue can be illustrated by means of Russia: this huge country has a Gross Domestic Product smaller (1, 480 bn USD) than Italy in crisis (2, 051 bn USD; no gold, no diamonds, no oil, no gas)<sup>79</sup>. It seems that Russian top politicians are more interested in manipulations than in improving their own economy.

The obvious fact that 'politicians are only human' directs our attention to the problem: 'private interests – public welfare' (in other words: efficient governing versus efficient enslaving).

Numerous authors emphasize the problem of effectiveness of manipulation. According to J.N. Druckman: 'Some work along these lines suggests that frames vary in the pervasiveness depending on who sponsors the frame (e.g., which politicians promote the frame), media practices (e.g.,

<sup>76</sup> cf: spend 1, 000 USD in order to save 1 billion USD.

<sup>77</sup> E.L. Bernays, *Propaganda*, op.cit., p.71.

<sup>78</sup> cf B.Zb. Szalek, *Some praxiological remarks on the problems of the European Union*, "Reality of Politics", 2011, 2, p. 183–201; V. Volkoff, op.cit. (cf "Le Monde" and the atrocities of Pol Pot).

<sup>79</sup> J. Darski, *Nowa geopolityka*, "NowePaństwo" 2011, 2; cf *Statistical Yearbook of the Republic of Poland*, Warsaw 2011, p. 877.

how do journalists choose frames), and cultural resonances (e.g. does the frame resonate with larger cultural themes)...<sup>80</sup>. Researchers admit that there is a problem with 'effectiveness' of such activities (J.N. Druckman: 'sometimes they work and other times they don't')<sup>81</sup>. There can be no doubt that 'effectiveness of manipulations' (such as 'shifting the Overton window', 'framing' and 'reframing') depends on numerous factors such as: source credibility, pacing, time (the right moment, etc.), speed, continuity, make up / camouflage ('flexibility'), ethics (especially 'zero ethics').

Another interesting problem is connected with the 'threshold of effectiveness'. One could illustrate it with the case of four enigmatic explosions in Dniepropetrovsk in Russia (27.4.2012; nobody knew what they were about)<sup>82</sup>. In the case of terrorist activities in such countries as Sri Lanka (LTTE; c. 100, 000 victims), Spain (ETA; c. 800 victims), Algeria (Muslim fundamentalists; c. 100, 000 victims) their effectiveness is 'zero'<sup>83</sup>.

Another question is: how efficient are the activities within the shifted Overton window / frame of political possibilities<sup>84</sup>? A good illustration presents the Iraq conflict<sup>85</sup>.

And what about 'predictability' of such manipulations as 'frame building', 'reframing', 'shifting the Overton window', etc. ?

J.N. Druckman applies the expression: 'competing frames' in connection with 'political programs' (programs of political parties)<sup>86</sup>. However, in reality, globally thinking, there are numerous more or less interrelated, more or less competing, or even hostile / inimical 'windows', 'frames' subject to further manipulations (such as shifting etc.; these manipulations may result from interactions between them)<sup>87</sup>. This complex of windows

<sup>80</sup> J.N. Druckman, *The Implication...*, op.cit., p. 244.

<sup>81</sup> J.N. Druckman, *On the Limits...*, op.cit., p. 1041.

<sup>82</sup> cf A. Rybczyński, *Dniepropietrowska prowokacja*, "Gazeta Polska", 9.05.2012, p. 25.

<sup>83</sup> cf B.Zb. Szałek, *Kilka prakseologicznych uwag na temat walki z terroryzmem*, op.cit.

<sup>84</sup> cf the situation in Russia>Soviet Union after the 'Great Revolution'.

<sup>85</sup> cf J.E. Stiglitz, L. Bilmes, *The Three Trillion Dollar War: the true cost of the long conflict*, W.W. Norton & Company, 2008.

<sup>86</sup> However, it cannot be excluded that in some cases the same political player sponsors major / main 'competing frames'.

<sup>87</sup> cf the 'hullabaloo/row of ethics' in the works of F. Koneczny: *Rozwój moralności*, Antyk, 1997; *Prawa dziejowe*, Antyk, 1997.



/ frames exists in a very differentiated environment (natural, artificial (political, social / demographic, ethnic, religious, economic, military, etc.)). All this means that any manipulations are subject to unpredictable, unforeseen factors, events etc. Therefore, the results of manipulations of this kind cannot be described as 'entirely predictable'<sup>88</sup>.

On the other hand, there are researchers, such as B. Bueno de Mesquita or G. Friedman, who present political forecasts and prognoses. For example, B. Bueno de Mesquita is called by some of his admirers: 'the modern day Nostradamus', or 'the next Nostradamus' (90% of his political (rather short-term) forecasts are said to have come true)<sup>89</sup>. G. Friedman deals with long-term (100 years) forecasts<sup>90</sup>.

From the viewpoint of common sense and praxiology, there is an obvious discrepancy between such ways of manipulation as 'windows', 'frames' (applied in numerous sectors and countries, on different levels of political, social, financial etc. structures) and the 'political forecasts' of this kind.

Perhaps, it would be useful to focus the research on the predictability of the results of short and long-term shifting of windows / frames of political possibilities / opportunities.

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<sup>88</sup> Let us recall the situation in France: in 1793 the unthinkable 'kingdom' becomes 'republic', and in 1804 the desired 'republic' becomes 'empire' (a higher level of 'monarchy').

<sup>89</sup> cf B. Bueno de Mesquita, *The Dictator's Handbook: Why Bad Behaviour is Almost Always Good Politics*, Random House 2011; *The Predictioneer's Game: Using the Logic of Brazen Self-Interest to See and Shape the Future*, Random House, 2009; B. Bueno de Mesquita, A. Smith, R.M. Siverson, J.D. Morrow, *The Logic of Political Survival*, MIT Press, 2003.

<sup>90</sup> G. Friedman, *The Next 100 Years. A Forecast for the 21st Century*, 2009 (Polish ed.: Warsaw 2009).



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## **UNEMPLOYMENT AMONG THE YOUTH – THE MOST CRUCIAL CHALLENGE IN THE SOCIAL POLICY OF THE EUROPEAN UNION**

**Keywords:** European Union, youth unemployment, social policy, labour market.

**ABSTRACT:** Now, unemployment among young generation of the Europeans is one of the most crucial problems in the policy of European Union and of the Member States. The economic crisis caused social exclusion of the significant part of the youth who after graduation augments number of the unemployed. Young generation shows less interest in running own business. Fear of bankruptcy forcibly decreases economic activity. European Union for few years has been undertaking measures aiming at coordination of the systems combating unemployment in the Member States. In the same time, it has been developing programs supporting actions undertaken in various states in the field of creating jobs, vocational trainings and probations addressed to the youth. Lowering unemployment rate among the youth is one of the priorities of the strategy Europe 2020. European politicians think that unemployment may be decreased based on the active “knowledge triangles” in which education of various levels, employers and business institutions participate and act together. Economic analysts however underline that unemployment among the youth may be decreased only when global economic growth occurs.

European Union, wishing to face world competitiveness, must create favourable conditions for labour market development. It is of principal significance for the Member States, in which societies development is based on knowledge. According to the doctrine of European societies’ development adopted by the European administration, investments in education and science, as well as in employment policy are absolutely necessary. Such actions will make changes available and offer possibilities

for to decrease results of economic crisis<sup>1</sup>. Both European Union and the Member States are responsible for employment policy (wider understood as social policy). Main task of the EU institutions is legislature, coordination and monitoring of national policies, promotion and exchange of the most efficient practices in the following areas: employment, poverty, exclusion and social security. Crisis in the global economy contributed to the increase of unemployment on local European markets<sup>2</sup>. In such circumstances governments of the Member States need to combat unemployment and its results and to create conditions which will enable new jobs to appear. Researchers of the issue indicate necessity of the development of complimentary employment and labour market policies that possess much wider range of instruments. They enumerate measures that should favour creation of new jobs, i.a.: subsidizing employment by donating companies that increase employment; developing economic zones; supporting start-ups of the companies; public works; vocational training, courses allowing to acquire or upgrade qualifications; developing of job centres; influencing salary rates in order to achieve some balance<sup>3</sup>. It should be stressed that the a.m. instruments have been applied with various intensity by the Member States' governments and supported by the EU institutions in the frames of the binding European Employment

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<sup>1</sup> Some influential representatives of the international financial circles are very optimistic that most countries of the Euroland will combat crisis in the second half of 2013. During this period of time also unemployment may decrease. Such opinion has also been expressed lately by Mario Draghi, president of the European Central Bank. [www.uni-aeuropejska.org/rekord-bezrobocia-w-strefie-euro](http://www.uni-aeuropejska.org/rekord-bezrobocia-w-strefie-euro) (accessed 20.10.2013).

<sup>2</sup> Unemployment rate in the Euroland in October 2012 amounted to 11,2%, while in the EU – 10,7%. This was the highest rate since the introduction of euro. In the same time, unemployment rate in the USA amounted to 7,8%. Lower unemployment rate was noted in Japan (4,2% in September 2012). According to the Eurostat forecasts, in October 2012 number of unemployed in the EU amounted to 26 million, out of which – 19 million were registered in the Euroland. Among Member States the lowest unemployment rate during the a.m. period of time was noted in Austria (4,3%), Luxemburg (5,1%), Germany (5,4%) and the Netherlands (5,5%). The highest rate was noted in Spain (26,2%) and Greece (25,4). According to the Eurostat, unemployment rate in Poland in October 2012 amounted to 10,4%. Ibidem.

<sup>3</sup> S. Pastuszka, *Regional policy of the EU – aims, instruments, results*, Warsaw 2012, p. 110.

Strategy (EES). Between 1998 and 2008 unemployment in the “old” EU countries was not only inhibited, but decreased significantly. E.g. it was decreased among the youth by 12%.

Beginning of the EES goes back to 1997. Then the Member States started to form assumptions necessary to develop employment policy. They agreed upon procedure of annual monitoring of the actions. Employment policy implemented in the Member States is supported by the European Social Fund (ESF)<sup>4</sup>. Its main aims are: coordination of employment policies in the Member States, states associated with the European Economic Area (EEA – Island, Lichtenstein, Norway), Switzerland and candidate countries in order to improve functioning of the national labour markets; indication of directions in the area of preventing and combating unemployment; vocational education and professional development; creation of new jobs. Institutional cooperation (European Commission, European Parliament, Economic and Social Committee, Committee of the Regions) with the national governments and social partners is the key principle of the ESF. Important role during coordination of the priorities and aims of the employment policy is played by the Employment Committee (EMCO) in which Member States and European Commission are represented. The Member States achieve various results in coordinating and internal labour markets. They try to develop optimal models on national and regional levels. Cooperation of administration and institutions with the job agencies and other partners acting on labour market aims at constructing effective system of unemployed activation. Lately, also Poland has been undertaking actions aiming at creation of “Polish system”<sup>5</sup>.

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<sup>4</sup> Programming of the ESF during the financial perspective 2007–2013 has been conducted under the motto: “Investments in the human capital”. The Fund had during the passing financial perspective around 75 billion EUR (10% of the EU budget) to spend on projects aiming at increasing employment.

<sup>5</sup> Polish Ministry of Labour and Social Affairs implements in Lower Silesia, Mazovia and Subcarpathia regions pilot project “Partnership for work”. According to the information given by the ministry the project results will be the following:

1. Polish model of contracting activation service (meant as the set of actions locating unemployed on the labour market) will be tested. The model is inspired by solu-

Since the first decade of the present century employment issues form integral part of the economic policy guidelines. In 2006 two important European instruments were established. They were furnished with the financial resources from the EU budget. By the Decision of the European Parliament and the Council of 24<sup>th</sup> October 2006 (no 1672/2006/WE) the community programme for employment and social solidarity – Progress was established <sup>6</sup>. Among many aims of the programme listed in the article 2 one should pay attention to the promotion of network cooperation, mutual learning, identification and promotion of best practices and innovative approach on the EU level including labour market policy. Another worth mentioning programme is the European Globalisation Adjustment Fund (EGF) adopted by the regulation of the European Parliament and the Council of 20<sup>th</sup> December 2006 (no 1927/2006/WE), later changed by the regulation of the European Parliament and the Council of 18<sup>th</sup> June 2009 (no 546/2009.WE) <sup>7</sup>. The Fund was established to support persons who lost jobs due to serious structural changes that take place in the global world economy (mainly as a result of transferring production out of the EU). The scale of lay-offs influences very negatively regional and local economies in the Member States. EFG has annual budget of 500 billion EUR. It helps in finding new jobs, allows retraining of unemployed. Financial resources designated for this group of unemployed were to be spent by 31<sup>st</sup> December 2011 but European Commission proposed extension until 31<sup>st</sup> December 2013. Then the whole decision establishing EFG will be revised <sup>8</sup>. Since 2010 when the Europe 2020 strategy was adopted,

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tions developed in the area of cooperation between employment services with the non-public entities in other countries and the ones developed on national level.

2. Functionality and effectiveness of the proposed solutions in the area of contracting activation service will be assessed. Especially, detailed rules and solutions necessary for system implementation of this solution on Polish labour market will be developed. For more look: *Pilot project "Partnership for work"*, [www.mpips.gov.pl/praca/programy-i-projekty/projekt-pilotazowy-partnerstwo-dla-pracy](http://www.mpips.gov.pl/praca/programy-i-projekty/projekt-pilotazowy-partnerstwo-dla-pracy) (accessed 20.10.2013).

<sup>6</sup> Official Journal of the EU (further: O.J.EU) L 309 of 15<sup>th</sup> November 2006.

<sup>7</sup> Ibidem, L 48 of 22<sup>nd</sup> February 2008; L 167 of 29<sup>th</sup> June 2009.

<sup>8</sup> *European Globalisation Adjustment Fund (EGF)*, [ec.europa.eu/social/main](http://ec.europa.eu/social/main) (accessed 20.10.2013).

ten integrated guidelines are binding, out of which last four (guidelines 7–10) directly refer to the employment strategy:

Guideline 7: Increase of both women and men participation in the labour market, limitation of the structural unemployment and promotion of employment quality.

Guideline 8: Development of the resources of qualified labour force corresponding to the needs of the labour market and promotion of life-long learning.

Guideline 9: Improvement of quality and effectiveness of education and training systems on all levels and increase number of persons undertaking university studies or equal ones.

Guideline 10: Promotion of social inclusion and combating poverty <sup>9</sup>.

Basic assumption of EES until 2020 is increase of employment. Employment rate is to reach 75% of persons between 24 and 60 years old. According to the adopted evaluations number of persons in danger of poverty and social exclusion in the Member States should decrease by at least 20 million.

The most important problem of the employment is high rate of young people who do not have job <sup>10</sup>. Already in March 2006 the European Council adopted European Pact for the Youth. Its aim was to secure cohe-

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<sup>9</sup> *European Employment Strategy. To improve the situation in respect of employment in Europe*, Luxembourg 2011, p. 3.

<sup>10</sup> Since 2009 in the EU countries number of unemployed among young people raised significantly. In 2008 unemployment rate was 14,5%. At the beginning of 2011–22,1%. In 2012 number of young unemployed amounted to 6 million, which constituted around 23% of all unemployed. Unemployment level among young people differs among the EU Member States. The highest unemployment rate among young people was at the end of 2012 in Greece (57,6%), Spain (51,1%), Portugal (36,1%), Italy (35,9%), Lithuania (34,3%), Slovakia (33,9%), Bulgaria (32,8%), Ireland (30,3%), Cyprus (28,8%), Hungary and Poland (28,4%), Latvia (27,3%). *Combating unemployment among young people. Use of the EU structural funds to help young people*, ec.europa.eu. *Employment guarantees for young as good direction to combat unemployment in the EU*, biznes.onet.pl. According to the latest estimated data by the International Labour Organisation, in 2012 197 million of young people did not have job throughout the world which constitutes around 13%. A. Popiołek, *Billions for unemployed*, "Gazeta Wyborcza", 23<sup>rd</sup> January 2013, No. 19.

sion of initiatives improving education, trainings and increasing mobility and professional integration. EU politicians foresaw success of the programme in involving mainly youth organisations in different countries and European Youth Forum, self-governments and NGOs. Among basic tasks in the area of employment, integration and social promotion one should mention:

- exchange of information on employment among youth in the frames of integration policy on the labour market;
- introduction of incentives concerning employment of the youth;
- giving priority in the national social policies to actions aiming at improvement of the situation of young people living in poverty and to initiatives preventing failure of completing education.

Besides the a.m. actions, the European Youth Pact included several proposals for the Member States in the area of education, professional qualifications and encouraging young people to mobility by eliminating barriers for apprentices, volunteers, young workers and their families<sup>11</sup>. Directions included in the European Youth Pact were developed in the programme “Youth in action” 2007–2013 adopted by the European Parliament and Council on 15<sup>th</sup> November 2006 (decision no 1719/2006/WE). The programme assumed increasing activity among youth, mainly unprivileged and disabled persons in the public life and promoting initiatives in the field of entrepreneurship and creativity. In the frames of social cohesion policy, sustainable development and combating discrimination, the programme focused, apart from culture and sport development, on vocational training and employment. The programme “Youth in action” 2007–2013 was addressed to the youth between 15 and 28 years old (in some cases – to persons between 13 and 30 years old). Except the Members States, EEA countries, candidate countries and West Balkans countries, Switzerland and partner countries could participate in the programme. Also international organisations, like the Council of Europe could cooperate. The programme budget amounted to 885 million EUR<sup>12</sup>.

<sup>11</sup> *European Youth Pact*, [archiwum\\_ukie.polskawue.gov.pl](http://archiwum_ukie.polskawue.gov.pl) (accessed 20.10.2013).

<sup>12</sup> *Youth in Action (2007–2013)*, [europa.eu/legislation\\_summaries/education\\_training\\_youth](http://europa.eu/legislation_summaries/education_training_youth) (accessed 20.10.2013).

Beside European Cohesion Fund, also Operational programme Human Capital should be mentioned because it promotes self-employment and measures aiming at professional activation of people particularly exposed to social exclusion. This programme supported persons no older than 25 years.

Economic crisis, that already in 2009 caused significant increase of unemployment among the youth, forced EU politicians to look for further solutions aiming at limiting exclusion of young people from the labour market. Irrespective of optimistic forecasts concerning overcoming the crisis, negative tendencies on labour market are still present. Unemployment among young generation of Europeans increases. Young people have few chances to find jobs. In 2011 only 29,7% of persons between 15 and 24 years old, who were unemployed in 2012, found jobs. In 2012 this factor was even worse. There is no indication that the situation will change by 2016. European youth organisations alarm and indicate that EU politicians do little to limit unemployment among young people. On the other hand, EU politicians bodily stress publicly that activity of European institutions in the field of combating unemployment must be increased. Spanish Prime Minister, Mariano Rajoy, leader of Partido Popular (People's Party), stated that contemporary young generation in the EU will be for the first time since the II<sup>nd</sup> World War less prosperous than their parents. Also the International Labour Organisation recognised in the report "Global trends in employing young people 2012" that EU institutions have not undertaken effective actions to fight results of the crisis, mainly connected to unemployment among young people. It is doubtless that economically developed countries of the world, including EU, have very keenly felt global economic crisis and its results. Lack of integration of the youth into labour markets result in increased economic costs. European agency EUROFUND which is one of the main sources of information on life and work conditions, work relations and on management changes in the social security systems in the European countries, estimated that unemployment among young people in 2011 cost the Member States around 153 billion EUR yearly, out of which 7,5 billion EUR was reported in Poland (payment of benefits and losses in the economy) which constituted altogether 1,2% of the EU GDP. Some countries, like Bulgaria,



Greece, Ireland, Latvia, Cyprus, Hungary, Poland this is 2–3% GDP<sup>13</sup>. These are serious costs and that is why it seems necessary to undertake actions that will result in decrease of the number of unemployed young persons.

Except economic aspect, also social one is very important. Being unemployed for long time causes, especially among young people, negative effects. Social pessimism appears then. Marginalisation may affect many persons. This may have medium and long term results. Big damage in social cohesion for the whole generation of young persons may appear. Having in mind relations between personality and social features and felt dimension of alienation, young people face deepening state of hopelessness, self-isolation, growing level of fear. Lack of future perspectives, inability to execute plans and aspirations are connected to conviction that it is very difficult to find job. Lack of possibilities to play professional role, feeling of no sense causes durable frustration. On top of this one has to add subjective evaluation of financial situation done by young persons<sup>14</sup>. Conclusions derived from sociological research indicate precisely very serious problem that must be faced by EU institutions and governments of the Member States. Lately new challenge appeared – number of young persons with health problems and disabled is growing<sup>15</sup>. This is alarm

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<sup>13</sup> Respectively: Bulgaria (3,31%), Greece (3,28%), Ireland (2,77%), Latvia (2,67%), Cyprus (2,39%), Hungary (2,12%) and Poland (2,04%). *Expensive young unemployed*, [www.bankier.pl](http://www.bankier.pl) (accessed 20.10.2013).

<sup>14</sup> E. Czerwińska-Jakimiuk, *Feeling of alienation among young people and its personal and social correlations* in: J. Zamecka (Ed.), *Norms, deviations and social control*, v.XIII, Warsaw 2012, p. 366–367. Also of that, *Perception of the school and own future perspectives and feeling of isolation among high school students during social and system transformation in Poland*, in: A. Czajkowska, D. Rondlaska (Eds.), *Education without barriers – against barriers. Space of creation*, Poznań 2008. Very important issue is to increase financial resources dedicated for benefits for unemployed, particularly for the youth that enters labour market and do not receive any. Poland finds itself among those countries that supplies market of the unemployed on low level. In 2011 3,2 billion PLN was paid in Poland in the form of unemployment benefits. But only 16% of unemployed was entitled to receive money. In “old” EU countries number of persons entitled to such benefit reaches 80%.

<sup>15</sup> Dutch ministry of social affairs and employment during international conference in Hague organized from 16 to 17 January 2013 pointed out health problems and disability among young generation. Conference participants stressed necessity of undertaking

situation also because of demographic reasons. Eurostat research do not leave much space for illusions. Between 2005 and 2050 number of young persons between 15 and 24 years old will decrease by one fourth (from 12,6% to 9,7%) and number of persons over 65 years old will increase from over 16% to 30%<sup>16</sup>. That is why young persons must become important area of political activity of the EU. It must determine further community programs and amounts of financial resources dedicated to the.

On 20<sup>th</sup> December 2011 the European Commission adopted project “Youth Initiative Opportunities”. It called upon the Member States to actively prevent premature learning, to support development of skills needed by the labour market, to offer professional experience and support during seeking for job. The Commission called upon the Member States to better utilisation of the European Social Fund. At this time the Fund had 30 billion EUR left. “Youth Initiative Opportunity” programme financed the following actions approved by the European Commission:

- created by the Member States “guarantees for the youth”, so that young persons could during four months after finishing school start further education, training or work (co-financing reached 4 billion EUR);
- creation of new jobs in the frames of trainings for young persons; by the end of 2013 number of trainings should increase by 10%, i.e. 370 000 new jobs (co-financing reached 1,3 billion EUR);
- development of the support system focused on the youth entering business and on social entrepreneurs work (co-financing reached 3 billion EUR);
- creation of new jobs for interns in the companies and at least 130 000 new places for interns in the frames of Erasmus and Leonardo da Vinci programmes;

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social security reform in the area of active integration of young persons with health problems or disabled.

<sup>16</sup> Because of demographic changes in the EU European administration promotes longer activity of the elderly. Year 2012 was called the European Year of Activity of the Elderly and Inter-generation Solidarity. Except of active youth policy, European politicians are for creating bigger chances for the elderly, so that they could longer work, be healthy and socially active.

- financial support for 5 000 young persons in the years 2012–2013 looking for job in the other Member State using initiative “Your first EURES job”;
- bigger resources dedicated for European volunteering which was to increase number of places by 10 000 in 2012;
- increase of trainings in the EU institutions in 2012;
- securing at least 600 places in the frames of Erasmus for budding entrepreneurs in 2012<sup>17</sup>.

Proposed actions were to enable Member States development of further programmes combating unemployment among the youth during next financial perspective 2014–2020 and new edition of programmes under the European Social Fund. On 31<sup>st</sup> January 2012 president of the European Union, José Manuel Barroso sent letters to eight countries with the highest unemployment rate: Ireland, Greece, Spain, Italy, Lithuania, Latvia, Portugal and Slovenia. He proposed creation of task teams which were to develop plans to decrease unemployment among the youth in these countries. The teams to which EU delegated its experts were to cooperate with the representatives of the Member States’ administration in order to develop youth employment, education and vocational trainings’ programmes. 82 billion EUR were contributed by the European Social Fund and European Regional Development Fund. The programmes were expected to be ready by mid April 2012. Individual Member States undertook in 2012 additional actions aiming at decreasing unemployment among the youth based on own budgets. F.e.g. France, having unemployment rate lower by few percent than Poland, planned to spend 430 million EUR. Money, in the form of social benefits were to be paid to fired persons, to finance internships and trainings and for companies employing young persons. French government also decided to lower social security rates. Other countries, like Italy tried to amend labour law by liberating regulations in order to make it easier for entrepreneurs to hire and fire workers. Such trials met social resistance and caused protests and manifestations organised by trade unions<sup>18</sup>. Unfortu-

<sup>17</sup> Ec.europa.eu/social (accessed 20.10.2013).

<sup>18</sup> P. Maciejewicz, M. Bojanowski, *Young Europe on social benefit*, wyborcza.pl (accessed 20.10.2013).

nately, these actions undertaken in some Member States did not result in significant decrease of unemployment rate among the youth.

On request of the European Council, the European Parliament in spring 2012 adopted resolution on youth unemployment. It proposed development of the “European investment plan” based on which new jobs could be created, particularly for young persons. Euro-deputies proposed to re-locate money from the European funds to projects focusing on employment of the youth. In the resolution Euro-deputies point out necessity to introduce “European guarantee for the youth” which would guarantee young persons to get job after four months at the latest of being unemployed<sup>19</sup>. In July 2012 most Member States received recommendation of the European Council of Ministers, developed based on information and conclusions delivered by the European Commission. The recommendation indicated necessity of increased coordination of actions aiming at lower unemployment among the youth in the frames of economic policy, so that implementation of Europe 2020 strategy could be proper. Earlier, in May 2012 the European Commission launched implementation of the pilot programme “Your first EURES job” which task was to help young people to enter the labour market. The pilot programme assumes that institutions supporting unemployed in the Member States will help people find job in another Member State. The project was not well received by the youth. The European Youth Forum, organisation that gathers different youth NGOs and national youth councils recognised the proposal as insufficient. It also demanded wider actions<sup>20</sup>. The pilot programme was included in the package for employing the youth that was at the end of 2012 adopted by the European Commission, on the request of the European Council and the European Parliament. The package is to assist the Member States in combating high unemployment and social exclusion of young generation. *“High unemployment rate among young*

<sup>19</sup> [www.euractiv.pl](http://www.euractiv.pl) (accessed: 20.10.2013).

<sup>20</sup> President of the European Youth Forum, Peter Matjajčš said: *“Unprecedented high unemployment rates among the youth require policy that is not directed only on graduates or ones seeking for the first job, but on all persons gathered in NEET”* (Not in Education, Employment or Training. In the EU 7,5 million young persons between 15 and 24 years old belong to NEET). Ibidem.

persons has dramatic consequences for our economy, our societies and first of all for young people themselves. That is why we have to invest now in young Europeans – stressed Commissioner for Unemployment, social affairs and social exclusion, László Andor – *Proposed package will help Member States to secure young people easier transition to employment. No actions would have tragic consequences*<sup>21</sup>. European Commission has included in the package some recommendations for the Member States as far as the guarantees for young persons are concerned. The guarantees will be offered to young persons under 25 years old so that they could receive job offer, internship or training within four months after finishing formal education or loss of job<sup>22</sup>. Youth will also be offered better opportunities to continue education. Proposals included in the package and directed to the Member States focus on the development of cooperation between job services (state and self-government institutions) that implement social policy together with the NGOs and private sector operating in job brokerage. Actions enabling job integration will be supported by the European Social Fund and other structural funds. European Commission recommends quick implementation of guarantees for the youth and will offer financial support, monitor project implementation and promote effective initiatives. It undertakes consultations with the European social partners concerning internships, so that young persons may get professional experience. In the package for youth employment European Commission announces alliance for better accessibility to vocational trainings in all Member States and elimination of barriers hindering mobility of young persons<sup>23</sup>. Annual assessment of economic growth in the EU countries for 2013 contains further reminders concerning combating unemployment, increasing employment opportunities, returning of young generation to labour market.

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<sup>21</sup> *Employment among the Youth: Commission proposed package of actions*, [www.eurofundsnews.pl/content/view](http://www.eurofundsnews.pl/content/view) (accessed: 20.10.2013).

<sup>22</sup> Euro-deputies on 14<sup>th</sup> January 2013 supported European Commission initiative concerning introduction of job guarantee systems for the youth.

<sup>23</sup> *Youth employment: Commission proposes package of measures*, [ec.europa.eu/social/main](http://ec.europa.eu/social/main) (accessed: 20.10.2013).

The European Commission, in the frames of adopted strategy Europe 2020 intends to achieve several important goals in youth policy. Efficient fight against unemployment of young people according to the strategy will not be possible if member States do not create operating “knowledge triangles” consisting of education on different levels, employers and business support institutions. Detailed goals were defined in the European Employment Strategy. These actions continue measures developed during past years. Main goal of education is to achieve level of 40% of university graduates. In the same time – to decrease to the level of 10% number of persons prematurely finishing education. Higher level of young generation education will facilitate easier mobility on the labour market. That is why programmes focused on new skills and employment that will be important medication solving structural problems of the European labour market will be continued. So far, countries that actively worked for increasing number of internships and trainings, effectively using European Social Fund, supporting entrepreneurs enjoy lower unemployment rate among the youth. Good example can be here Germany and Austria, where level on youth unemployment was in 2012 8,1 and 9% respectively.

Active vocational education policy will offer opportunity to achieve life ambitions in the frames of project “Mobile and enterprising youth”. The project dedicated to young persons that wish to learn and work abroad will be continued in the Member States. Research conducted by Eurobarometer show that every tenth inhabitant of the UE intends to move to another member state. The initiative to “live and work abroad” is supported by the European Commission and some member states’ governments. . Cooperation will enable people to live in another country and start work there. Coordination of social security systems in the member states is to facilitate achievement of this goal. This enables employees to receive retirement and social benefits event when job or place of living is changed in the other country. Crucial for the achievement of the goals of strategy Europe 2020 is cooperation platform facilitating fight with poverty and social exclusion that also applies to the youth. Level of benefits in some member states, especially in the Eastern Europe is far from the ones binding in the countries of Western Europe. And some estimations show that unemployment rate among the youth will grow in 2013 not only in the

countries of the Southern Europe, but also in the countries of its Eastern part. Labour market analysts stress now that situation of the youth in Poland is urgent. In the end of December 2012 registered unemployment rate increased in all regions and reached 13,3%<sup>24</sup>. In 2013 unemployment rate among graduates is expected to reach over 30%. In some regions, i.a. in Małopolska, Lubelskie or Świętokrzyskie over half of unemployed are young persons. President of the Polish Human Resources Management Association, Piotr Palikowski, stressed in the beginning of January 2013 that in Poland *“we face unfavourable economic conditions: low increase of GDP and investments, global downturn and decreasing migration. Besides, graduates face difficulties in finding jobs because their skills do not meet labour market needs. This applies to all young people. This problem has been growing since last decade, however its visible effect was hidden by positive market situation and migrations”*<sup>25</sup>. It should be stressed that measures undertaken by the ministry of labour and social policy in the frames of programme “Youth on the labour market” that aims at decreasing unemployment rate among young Poles are far from sufficient. In 2012 innovative pilot programme “Your Carrier – Your Choice” was launched. It is addressed to people under 30 years old. It covered only 23 districts (poviats) (including cities with powiat rights, like Łódź, Białystok, Rzeszów). The programme is based on so called education bond. Job advisor is looking for an employer who, after necessary training, will employ unemployed young person. Employer, who will hire young unemployed will receive reimbursement in the amount of unemployment benefit. In the frames of the programme “Your Carrier – Your Choice” young unemployed who will find job located over 80 km from his residence will receive 5 000 PLN for settlement<sup>26</sup>.

Dramatic situation on the labour market is subject to wide European public debate. Some analysts, stressing difficult situation of the youth, indicate three key factors that could improve situation. These are: creativ-

<sup>24</sup> *Situation on labour market in December 2012*, [www.mpips.gov.pl/aktualnosci](http://www.mpips.gov.pl/aktualnosci) (accessed: 20.10.2013).

<sup>25</sup> *EU wants guarantees and work for young unemployed*, [forsal.pl/artykuly](http://forsal.pl/artykuly) (accessed: 20.10.2013).

<sup>26</sup> [www.mpips.gov.pl-praca-programz+i+projekty](http://www.mpips.gov.pl-praca-programz+i+projekty) (accessed: 20.10.2013).



ity, innovation and internet. However, serious barrier that formed economic crisis was culture and mentality. European research show this very clearly. According to the report by EU of 2012 on employment and social development, only 37% of the member states' inhabitants wish to run own companies. Most of them want to have permanent place of work which offers stabilisation. To compare, in 2009 45% of Europeans declared wish to run own companies. Now, main obstacle hindering start-up of own company is fear of bankruptcy (43%) and uncertainty of income (33%)<sup>27</sup>. Also, issue of university education does not prejudice active participation of the youth in economic undertakings. Research carried out in some European countries show that it is not always true that university education is a positive factor influencing development of entrepreneurship. On the contrary, they show that universities do not attract people willing to undertake financial risk and start own company. Polish owner of small and medium sized company mostly do not even have secondary school certificate, but has driving licence<sup>28</sup>. Still, level of risk undertaken in case of small and medium sized companies is limited and does not contribute to the significant increase of employment. Also, university graduates face more difficult situation because they do not have business experience and market sense which all the time evolves. For it is well known that implementation of even most interesting idea concerning production, services or trade requires experience. Another important issue causing unemployment among the youth is choice of faculties, not only humanistic, whose graduates face extreme difficulties in finding job compatible with their education. Therefore additional trainings or certificates are necessary and important to be competitive on the labour market. In Poland problems are also caused by corporate legal barriers that allow few graduates to practice. E.g., protection of some individual interests of legal corporations each year eliminates from the labour market thousands of young masters of law. And those, who passed legal counselling application exams, attor-

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<sup>27</sup> According to forecasts made by analysts unemployment among the youth may soon rise four times comparing to unemployment of adults, [wpolityce.pl/wydarzenia](http://wpolityce.pl/wydarzenia) (accessed: 20.10.2013).

<sup>28</sup> J. Solska, *Own company does not protect against unemployment*, [forsal.pl/artykuly](http://forsal.pl/artykuly) (accessed: 20.10.2013).



neys, solicitors or notaries offer very low salaries that do not allow young persons to live without family support. Such issues should be treated as labour market pathologies. Liberalisation of rules concerning accessibility to legal jobs and many others in Poland is an utmost necessity. Only then it will be possible to check education of the youth during free market competition and in the field of innovation.

Present public debate does not offer one prescription on how to overcome the crisis and increase employment of the youth. The analysts are for continuing reforms on the labour markets and welfare systems in the member states that now lost ability to protect the poor and most threatened by social exclusion. Also there is lack of clear political action plans. Politicians in the member states differ in their opinions, but in fact they do not offer substantial and feasible proposals. Also in Poland decision makers of ruling coalition responsible for the policy in the field of youth unemployment do not offer feasible programme to combat it<sup>29</sup>. In 2012, when unemployment was still growing, Polish government planned to spend 3,4 billion PLN to combat it. But this sum of money is only half of the sum spent in 2010. Additionally, government policy does not show coherent concept of measures aiming at improvement of situation on the labour market. Good example is introduction of higher pension contribution (from 6 to 8% gross) that additionally charged employers. All measures undertaken by the government that increase outside payroll labour costs decrease competitiveness of Polish companies and inhibit employment growth<sup>30</sup>. Positively could be treated declaration that Polish job centres will have to follow good, tested German pattern.

In early January 2013 European Commission presented proposal concerning activation of new enterprises that are to generate annually around four million new jobs; particularly in the area of internet technology. Young entrepreneurs will receive financial support to start-up their activity and to transfer projects. Another chance will be offered to the entrepreneurs who bankrupted during the crisis. They can count on financial

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<sup>29</sup> See: Minister Kosiniak-Kamysz: *Unemployment among the youth, a time bomb*, wyborcza.pl (accessed: 20.10.2013).

<sup>30</sup> P. Maciejewicz, M. Bojanowski, *Young Europe on benefit*, op.cit.

support offered by the European funds<sup>31</sup>. The project was welcomed by the analysts since it will introduce EU funding to the economic cycle. Authors of the project and analysts expect new jobs to be created. Opportunists stress that the EU has since the beginning of the global economic crisis been spending significant amounts of money that only to minimal extent mitigate worsening situation of the labour market. Some say that over twenty thousand Eurocrats are not able to change the situation. More serious changes on the labour market will take place only when situation in the global economy improves.

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6. Pastuszka S., *Regional policy of the EU – aims, instruments, results*, Warsaw 2012.
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<sup>31</sup> According to forecasts made by analysts unemployment among the youth may soon rise four times comparing to unemployment of adults, [wpolityce.pl/wydarzenia](http://wpolityce.pl/wydarzenia) (accessed 20.10.2013). Also in Poland ministry of labour and social policy returned at the beginning of 2013 to the idea of subsidizing companies and offer longer period of time of settling time of work. Such regulation were binding in the years 2009–2011. Funding offered to the entrepreneurs in the form of grants for subsidies to the salaries of the employees come from the Guaranteed Employee Benefits Fund. K. Pawłowska-Salińska, *Government wants to subsidize companies to prevent layoff*, “Gazeta Wyborcza”, 23<sup>rd</sup> January 2013, no 19.

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**RADICAL ISLAMIC PARTIES  
AND MOVEMENTS IN UZBEKISTAN  
1990–2012**

**Keywords:** modern Uzbekistan, political parties and movements, Islamist parties, radical Islam.

**ABSTRACT:** Uzbekistan, so as other Central Asian Republics, turned into turbulent times in the beginning of 1990's. After collapsing USSR, 5 Republics gained its independence. The whole region was very well-known from its religiosity. However, besides the fact that Islamist movements and parties were banned on any political activity and had no right to act as an opposition within the system of Uzbekistan, they have emerged subsequently especially in this country.

The modern history of Uzbekistan is full of radical Islamic political and social movements. From the very beginning of the Republic, Islam Karimov, its first and the only one till now president, rules though and solidly. He was the biggest opponent of any Islamic initiative which showed up and tried to damp it down immediately.

The aim of this study is to explore all the Islamist parties and movements which have been raised in Uzbekistan between 1990 and 2012. Which of them were and still remaining crucial and have the impact on Uzbek political and social life. The Author is trying to investigate the reasons and circumstances that led Islamist movements to arise and effectively influence on Uzbekistan political arena.

Even though it is possible to date back the past of the Islamic parties in Central Asia to the foundation of Islamic Revival Party in Astrakhan in 1990 that became system conform only in Tajikistan and played an important role in the break out of civil war in 1992. In other Central Asian countries – except for a few attempts in Kazakhstan – emergence of the Islamist parties could be brought back to the period prior to 1990 only in

Uzbekistan<sup>1</sup>. However, since the Islamist parties here are not granted the right to act as an opposition within the system, radical Islamist parties or movements emerged subsequently. The reasons for this circumstances can be stressed as follows: Lack of exact institutionalization of the democratic institutions in the Central Asian countries; emergence of the small and ineffective parties due to the weakness of in-party opposition; alliance between the democratic parties and Islamist forces through informal ways in the countries such as Uzbekistan and Tajikistan; ideological differences between the democratic political parties and nationalistic organizations; establishment of the pseudo parties by the Central Asian leaders, which are under their own control, and the limited opportunities of the political parties for constituting their own organization on financial grounds<sup>2</sup>. Moreover, using unbalanced force and rude methods by the current regimes have a big impact on the radicalization of the Islamist organizations in Central Asia. Most important thing is the inability to draw a clear line between proper Muslims and radical Islamists and terrorists. This situation, as Martha Brill Olcott states, causes the marginalisation of people that considers the religious values over the secular practices and they could be considered very easily as an “enemy of the state.” According to the reports of the human rights organizations, the fact is that in

<sup>1</sup> The first party was the “Uzbekistani Islamic and Democratic Party” (UIDP) that held its foundation congress on September 28<sup>th</sup> 1988 in Almaty. This party planned to extend its influence to the entire Central Asia, what remained however within the borders of Uzbekistan limited to rural areas. According to the Almas Estekov, its founder, the objective of this party is to lead people behave in a good manner in terms of immaterial grounds and to make propaganda for the democratic values presented in Quran. UIDP especially demonstrated for the removal of Mufti Babahan of Central Asia and Kazakhstan from office due to his behaviours that were against Islamic values. The majority of the supporters of this party were from provinces such as Andijan, Bukhara, and Samarkand. The figures of its members were estimated 2.500 in 1989. However, this party merged with other organizations in 1990 that was keen on similar ideologies (M. Haghayegli, *Islam and Politics in Central Asia*, New York, 1995, p. 85). In this regard, another organization was “Democratic Party of Islam” (DPI) that advocated of a theocratic regime of Persian style. According to Dadakhan Hassan, one of its leaders, this party was in favour of peaceful means for gaining power. The impact of DPI was limited to Namangan whose primary target was to unite all the Muslims (Ibidem. pp. 85–86).

<sup>2</sup> Ibidem, p. 102.

Uzbekistan, 7.000 people<sup>3</sup> have been sued due to religious reasons (wearing Islamic clothes, having beard, protesting the imprisonment of their friends or relatives) demonstrates the harsh conditions of the situation.

In this study, primarily Mujaddidiyya and Wahhabism will be explored that build the intellectual background of the extremist movements such as Hizb ut-Tahrir, Akromija, and Islamic Movement of Uzbekistan (IMU) emerged in late Soviet period. Subsequently, Islamist political parties in Uzbekistan (Islamic Revival Party of Uzbekistan, Adolat, Hezbollah, Islamic People Movement of Turkestan) will be analysed, some of which are the precursor of the IMU. Finally, Hizb ut-Tahrir, Akromija, and IMU will be examined. Especially by analysing the content of the brochures of Hizb ut-Tahrir and IMU, it will be attempted to explain the objectives of these movements in a more expressive way.

## NEW ISLAMIC UNDERSTANDING

During the USSR period, the Islamic understanding that formed on the basis of the separation of official and parallel Islam started to follow a rather different path especially after the inauguration of a madrasa by Mullah Muhammad Rustamov Hindustani. Subsequently, Sayed Abdullah Nuri and Muhammad Sharif Himmatzoda who acted as leaders of Islamic Revival Party of Tajikistan, gained their religious education in this madrasa<sup>4</sup>. In this manner, the class of new scholars led by Hindustani that is not involved in politics and that challenged the widespread Hanafi mazhab's (theological-juridical school) understanding was emerged in the end of the 1970s and they were called Mujaddids, which meant "reformers" or "innovators." Actually, this symbolizes the challenge to the current Hanafi understanding of Islam. Historian Ashirbekh Muminov separates

<sup>3</sup> N. Rao, *Religious Extremism in Central Asia: Towards a Conceptualization*, in: N. Rao, M.M. Alam (Eds.), *Central Asia: Present Challenges and Future Prospects*, New Delhi 2005, p. 115.

<sup>4</sup> P. Akçalı, *Orta Asya'da İslami Uyanış, Radikal İslami Hareketler ve Bu Hareketlerin Bölge Politikasına Etkileri*, in: E. Efeğil, P. Akçalı (Eds.), *Orta Asya'nın Sosyo-kültürel Sorunları: Kimlik, İslam, Milliyet ve Etnisite*, İstanbul, 2003, p. 152.

Hindustani's disciples who shaped the Mujaddidiyya movement in Central Asia into two groups. One of them is "Ahl al-Hadith" that underlines the superiority of hadiths against the Hanafi belief and the other is "Ahl al-Quran" that does not accept the existence of any sect and that advocates the necessity of referring directly to the sources of Islam. Abdulkhakim Qori Margilani and Abduvali Qori Mirzayev were the supporters of Ahl al-Hadith. Margilani was reputed in the region as the father of the Wahhabi movement. Another disciple of Hindustani is the person called Rahmatollah Alloma (1950–1981) who separated his way from that of his teacher. Alloma's another students is Abidjan Qori Nazarov. On the other hand Mominov qualifies a person called Tolkin Qori as the member of Ahl al-Quran and this person worked as an imam in Sahabes (companions of Prophet Mohammed) Mosque<sup>5</sup>.

Mujaddidiyya scholars emphasized that it was necessary to reinterpret Islam and rebuild the Muslim society in Central Asia, especially, re-Islamize the society and relinquish from secular government, and the purification of the beliefs of Muslims from superstitions; for instance, going to the tombs of saints must be prohibited. These groups especially wanted to ban the pre-Islamic habits, what supported by Mufti Ziyavuddin Babahanov. In fact, the success of the Islamic Revolution in Iran and the resistances of the Afghan fighters strengthen the Mujaddidiya movement. In this context, the Mujaddidiya supporters asserted that the Soviet Muslims should be on side of Afghan fighters. This situation was not easy for Hindustani and other Hanafi scholars. Since the young scholars who were in favour of these thoughts did not experience the terror of the Stalin's era like Hindustani. They did not know what it meant to challenge the Soviet power politically. On the other hand, it was possible to talk about the existence of an alliance between the Mujaddidiya imams and the government of USSR. Both parties were, for instance, against visiting the tombs

<sup>5</sup> A. Frank, J. Mamatov, *Uzbek Islamic Debates Texts, Translations and Commentary*, Springfield 2006, p. xi. For radicalization of reformist Islam from 1970s to mid-1980 in Central Asia see further M. Olcott, *Roots of Radical Islam in Central Asia*, "Carnegie Papers" 2007, No. 77, pp. 1–39,

[http://carnegieendowment.org/files/cp\\_77\\_olcott\\_roots\\_final.pdf](http://carnegieendowment.org/files/cp_77_olcott_roots_final.pdf), (accessed: 11.04.2013).

of the saints and following Sufism. For Mujaddidiya, such practices and rituals were nothing more than treating against the will of Allah<sup>6</sup>.

Thus, in the period of collapse of the USSR the supporters of Hindustani and Mujaddidiya disputed with each other over religious issues. As a result of these discussions the Mujaddidiya supporters declared that Hanafism did not concern themselves and Hindustani and his followers stigmatized this group as “Wahhabis” although Saudi Arabian Wahhabism is only one dimension of their theological approach. Subsequently, the concept of Wahhabism started to be used to describe all the Islamists in Central Asia without any difference. On the other hand, Mujaddidiya imams, as Abduvali Qori used in his sermons frequently, defined the Hanafis as polytheists.

Since, after the disintegration of the USSR, every state started to constitute its own religious approach, the authority of the “Central Asia and Kazakhstan Muslims Religious Administration” (*Sredneya-Aziatskoe Duhovleniye Upravleniye Musulman*) (SADUM) established in the era of Stalin, diminished and became an institution limited only to Uzbekistan<sup>7</sup>. Mohammed Sodiq Mohammed Yusuf attempted to appease the quarrel between Mujaddidiya and Hanafis elected as successor of Mufti Shamsuddin Babahanov in 1989, what worsened the situation even further. On the other hand, since Islam Karimov Regime was threatened by the Islamist groups throughout the 1990s, he tried to use SADUM as a balancing factor within these theological disputes. Hence, Mohammed Yusuf was replaced by Muhtarjon Abdullaev in 1993. However, quarrels occurred between the Mujaddidiya imams and the Hanafi imams living in the Fergana region following the independence led the situation to be more chronic and complex. In this period, apart from the Mujaddidiya imams, new movements that challenged the Hanafi School emerged as well.

Other Hanafi groups emerged as well. One of them is the organization called *Islam Lashkarlary* that concentrated on Namangan, based in *Atavelihan Tora Mosque*, of which imam was one of Alloma’s students. As these groups became politically active and started to be influential in

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<sup>6</sup> Ibidem, p.xii.

<sup>7</sup> P. Akçalı, *op.cit.*, p. 134.

Uzbekistan, SADUM, which had been transformed to an ideological device in the hands of Karimov, qualified them as Wahhabis and alleged that they received ideological and material support from Saudi Arabia. Moreover, the statements of the supporters of Mujaddidiya that were gradually politicized became harsher and harsher. For example, Abdulvali Qori was able to consider Uzbekistani regime as Jewish, atheist, and enemies of Islam in his speech delivered in 1991 in Andijan<sup>8</sup>.

### WAHHABI MOVEMENT

In addition to the Mujaddidiya imams indicated above, there was a Wahhabi Movement that expanded among the Uzbeks in Fergana Valley. The Wahhabis, known as Puritans of Islam, believe that Islam must influence in every field of the social and political sphere as practised in the time of Prophet Mohammad. Emergence of the Wahhabi sect penetrating Central Asia from India can be dated back to earlier periods<sup>9</sup>. The person who Sayed Ahmad brought Wahhabism from India to Central Asia in 1822 whom was introduced this sect during his hajj (pilgrimage to Mecca) duty. Ahmad who started to propagate for Wahhabi thought in the north-India fuelled a jihad lasting four years against the Sikhs in Peshaver in 1826. Despite the slowdown in the strength of this movement subsequent to his death, his followers continued to propagate for this movement in Afghanistan's Herat and Balkh regions. It must be pointed out that in the 1890s,

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<sup>8</sup> A. Frank, J. Mamatov, *op.cit.*, p., xii.

<sup>9</sup> This sect was founded by Muhammad ibn Abd al-Wahhab (1691–1765), who was raised by his father according to the rules of Hanbali sect. From his youth onwards Abd al-Wahhab opposed to the glorification of saints that was incorporated into Islam subsequently and to extravagancy among the Muslims as well. All these practices seemed to him as deviation from real Islam. So he thought that the Muslims should live according to the Quran and Hadith in order to find the right path to the real life, how they had practised in the era of prophet Muhammad in its authentic and puritanical form. By the time of death of Muhammad, Wahhabi sect was very influential within the Arabian Peninsula. It was founded even a Wahhabi administration in Eastern Arabia in 1830 (M. Haghayegli, *op.cit.*, pp. 92–93).



many Central Asian Muslims went to India in order to learn the core consumption of this movement, and then they returned back to their country. The fact is that in Central Asia, most reputed Wahhabi leader of that period is Hindustani who went to India during the October Revolution in Russia. Although the teachings of Hindustani who returned to Andijan after his education were strictly in connection with the principles of the Wahhabi sect, he opposed the politicization of religion. However, unlike Hindustani, the influential leaders such as Abdulvali Qori and Rahmatullah have politicized Wahhabism. The Wahhabi movement in Central Asia receives significant amount of financial aid from Saudi Arabia for building mosques and supplying religious education to children and young people<sup>10</sup>.

In Uzbekistan, Wahhabis did not hesitate to cooperate with the other Islamist organizations. For instance, they occupied together with the formations like Islamic Revival Party, Tauba, and Adolat the communist party building on December 8–9<sup>th</sup> 1991 in order to establish an Islamic centre in Namangan. However, this protest was transformed in a short time into an attempt to establish alternative Islamic government under the leadership of Tohir Yuldashev and some of Wahhabi imams. Protesters demanded that the laws of the sharia should be enacted and Islam should be proclaimed as the state religion. In fact, the activities for establishing a parallel government in the region can be dated back to Karimov's visit to Namangan during his election campaign. As Karimov did not feel himself powerful enough to defeat Islamists in that period, Muslim opponents succeeded in establishing an Islamic administration parallel to the government in Tashkent. Under this circumstances Karimov was obliged to recognize this movement supported by approximately 50.000 persons and its autonomous government. However, as soon as Karimov felt himself powerful enough, he let the Uzbek security forces overthrow this parallel government and 71 persons were arrested.

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<sup>10</sup> M. Haghayegli, *op.cit.*, pp. 92–94.

## ISLAMIST POLITICAL PARTIES

As indicated above that Islamist movements gained strength between the years of 1989 and 1992 in Uzbekistan. Mufti Muhammad Sadık Muhammad Yosuf said that he was opposed to a secular state in the Turkish style. For him, such system is unacceptable for Uzbekistan. Some radical Islamists advocated that a so-called Muslim state “Islamistan” must be established. Islamist groups in Uzbekistan concentrated especially on the provinces of Fergana Valley such as Namangan, Fergana, and Andijan. These groups located in different cities brought their forces together in order to reopen the mosques which were closed prior to 1989, to construct new mosques, and to publish religious books<sup>11</sup>.

Karimov who states that there were fifteen different religious movements in Uzbekistan believes that a substantial part of them is contrary to the Uzbeks’ traditional understanding of Islam. As Karimov underlined Uzbek people must have moral and immaterial values. According to the Uzbek leader, religion and holy values must not be instrumentalised for the power struggle. Karimov considers the utilization of religion for political aims as a serious handicap for Uzbekistan’s security and stability<sup>12</sup>. At the same time, favouring a good dialogue between the ethnic groups living in Central Asia, Karimov gave birth to “our home Turkestan” that he considered as a peaceful and constructive movement. According to Karimov, this movement aims at ensuring an international solidarity within the region. Karimov points out the importance of this movement for Central Asia due to the following words: “No doubt, this policy (our home Turkestan) is completely in accordance with the fundamental strategies and national interests of all the Central Asian states. The term “Turkestan” consist of here all population of a particular country in the region, not merely the Turkic peoples”<sup>13</sup>.

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<sup>11</sup> V. Babak, D. Vaisman, *Political Organization in Central Asia and Azerbaijan. Sources and Documents*, London, Portland, 2004, p. 385.

<sup>12</sup> For the thoughts of Karimov about religious radicalism and fundamentalism, see I. Karimov, *21. Yüzyılın Eşiğinde Özbekistan*, Ankara, 1997, pp. 36–49.

<sup>13</sup> Ibidem, p. 74.

## ISLAMIC REVIVAL PARTY OF UZBEKISTAN

Islamic Revival Party of Soviet Union was founded in Astrakhan in June 1989. Although this party's objective was to form an international structure, it soon withdrew behind the local and national borders. This party's intention was to resurrect the people of Central Asia within the framework of Islamic rules. However, it should be stressed that the Islamic understanding here was an understatement far from fundamentalism. By the way of emulating this formation in Soviet Union, political parties that adopted the Islamic principles as their guides were founded in the other union countries under the same or similar names. Islamic Revival Party Uzbekistan (IRPU) was founded on January 26<sup>th</sup> 1991 in Tashkent and Abdullah Utayev was assigned as leader of it after long debates. In the 1994s, IRPU had about 3.000 members. This party's primary objective was to found an Islamic Republic in Uzbekistan. In order to reach this aim, this party had to prepare for an Islamic revolution<sup>14</sup>.

IRPU's program also stipulates a general religious enlightenment. In addition, in the party program, there were some points such as fight against ethnic and racial discrimination, reanimation of the customs and traditions, struggle against crime and drugs, strengthening Islamic brotherhood, cooperation with the other party and organizations, support for the poor people, protection of family, and determinative role of the Islamic norms in the economic and social life. Being in good terms with the other parties in the beginning, IRPU isolated itself from them as they emphasized secularism more and more. IRPU used the facilities of the Unity Party in the Fergana Valley, which can be shown as an example of the IRPU's relation with the other parties<sup>15</sup>.

IRPU was repressed by the government's forces since its foundation because Uzbek laws prohibit the establishment of religion-based political parties. Even though IRPU brought together 3.000 signatures necessary for the registration of the party in 1992 and made the application for its

<sup>14</sup> I. Trutanow, *Zwischen Koran und Coca Cola*, Berlin, 1994, pp. 164–166.

<sup>15</sup> U. Halbach, *Politische Entwicklungen im nachsowjetischen Mittelasien: Usbekistan*, Köln No. 50, 1994, pp. 30–31.

official registration, Uzbek security forces did not delay starting to operate against this party. Firstly the party's Kokand Group was scattered and then the administrators of its Namangan branch were arrested in March 1992 by the Uzbek security forces. Accordingly, other members convened in August of the same year and resolved that IRPU would continue its activities in underground. Subsequent to these developments, A. Utayev, the leader of the party, was imprisoned and he took place among the lost persons in the report published by Amnesty International in 1994.

### ADOLAT

Adolat (Justice) cannot be characterized entirely as a political party. It was established in summer 1991, by the youth of the neighbourhood<sup>16</sup> in the regions such as Namangan, Andijan, and Fergana Valley, where the Islamic renaissance was in its peak in that time. Adolat as a youth organization established on the basis of mahalla (city district) was against illegality, theft; concisely, and all the activities prohibited by sharia. Having endeavoured to establish equality and justice within the society through its own initiative and efforts, "The Society of Afghanistan War Veterans" has taken its place within the structure of Adolat. Adolat groups were managed by the Elder's Committee in the neighbourhood. Adolat supporters tried to prevent the immoral behaviours. For instance, they kept watch in the streets at night in order to prevent possible events of theft and attacks. This actually meant the constitution of the pillars of a parallel Islamic state. Adolat collected alms for supporting poor people. As the first step for establishing an Islamic government in Namangan, an organization

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<sup>16</sup> "Mahalla" (city district) plays a crucial part in the social structure of Uzbekistan, which can be regarded as the traditional settlement areas. In other words each mahalla – regarded as the smallest unit of the political organization – managed by a board of elders. The Uzbek government considers mahalla essential for the formation of the non-governmental organizations. Hence, the mahallas work as an executive organ in line with the orders and decisions of main executive power (J. Eckert, *Konfliktregulierung in ethnisch heterogenen Staaten: Das Beispiel Usbekistan*, (unveröffentlichte Diplomarbeit) Freie Universitaet Berlin, 1993, p. 28).

called “Islamic Centre” was constituted in November 1991. Being on the eve of the elections, Karimov did not object to this and he even had the Namangan Communist Party building vacated and assigned to the Adolat supporters. In March 1992, after having his back to the wall, he hit Adolat like a ton of bricks<sup>17</sup>. The Uzbek law enforcement officers arrested 70 of the Adolat supporters in March 1993 in Namangan. Six of them were sentenced to imprisonment for 8 years, by allegation for establishing of a paramilitary organization<sup>18</sup>. According to Abdulmanob Polat 27 Adolat supporters were behind the bars in 1992<sup>19</sup>.

Adolat groups consist averagely of 100 to 200 persons. The core of each group is made up of smaller 20-person sub-groups, who were able to do Far Eastern sports such as carate. The fact is that more than 60 Adolat groups were active in Eastern Uzbekistan in 1992. Although Adolat was a youth organization, it did not neglect to integrate the committee of elderly and local leaders into its structure. These activities of the Adolat groups within the mahalla posed inconvenience on the government<sup>20</sup>.

In fact, the objective of Adolat that was working hand in hand with the groups such as Tauba (Repentence) and Islam Lashkarlary (Fighters for Islam)<sup>21</sup> was to prevent the illegal activities by the way of cooperating with the local bodies. Numerous members of this organization acted as quasi volunteer polices, which is in analogy to the “Neighbourhood Watch” practice in the USA. Since it was able to prevent theft and other illegal

<sup>17</sup> Y. Ro'i, *Islam in the FSU – An Inevitable Impediment to Democracy*, in: Y. Ro'i (Ed.), *Democracy and Pluralism in Muslim Eurasia*, London New York 2004, p. 109. And siehe Y. Kulchik. A. Fadin., V. Sergeev, *Central Asia after the Empire*, London Chicago 1996, p. 35.

<sup>18</sup> I. Trutanow, op.cit., pp. 164–165.

<sup>19</sup> A. Polat, *Political Prisoners in Uzbekistan: Five Pardoned, Eight on Trial*, “Central Asia Monitor” 1992, No. 6, p. 13.

<sup>20</sup> U. Halbach, op.cit., pp. 31–32.

<sup>21</sup> This term can be translated into Turkish as the “Islam orduları”. Islam Lashkarlary was actually a name, which was given to the Basmatschi groups during the War of Independence in Turkestan (1917–1932) against the Russians or Bolsheviks. However, the Islam Lashkarlary emerged in 1990 was not prone to violence. In the first half of the 1990s, no military activity was connected with the Islam Lashkarlary.

activities, Adolat gained the support of the public in a short time. However, sometimes they beat even the suspects<sup>22</sup>.

## HEZBOLLAH

Another Islamist and fundamentalist party in Uzbekistan was Hezbollah. Its founder is Tulkun Ergashev. The number of the members of Hezbollah that was founded in Tashkent in the 1980s was about 200. Hezbollah's intention was to bring Uzbekistan back to the age of umma (religious community). This party that carried out its activities underground showed its existence through the statements it occasionally distributed<sup>23</sup>. Ergashev stated in an interview to a Western journalist in the 1990s that he proclaimed war against Republic of Uzbekistan and its godless regime. This party was, as it can be understood from its name, more radical and rather inclined to the use of violence compared to IRPU<sup>24</sup>.

## TURKESTAN ISLAMIC PEOPLE'S MOVEMENT

This movement that emerged in Kokand in 1989 and stemmed from a group entitled "Humanity and Pity" had a big impact on the Fergana Valley. As its name would suggest, this movement is a Panturanian (Pan-Turkic) movement. This formation is distinguished from other movements because of its emphasis on the importance of religion. The objective of this movement is to establish a Turkestan dominated by Islam. As this movement contained two ideologies such as Pan-Turkism and Pan-Islamism, it is considered as an enemy by the Karimov Regime. For this reason Tashkent imprisoned the notable leaders of the movement in 1991.

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<sup>22</sup> A. Polat, *the Islamic Revival in Uzbekistan: A Threat to Stability*, in: R. Sagdeev, S. Eisenhower (Eds.), *Islam and Central Asia. An Enduring Legacy or An Evolving Threat?*, Washington 2000, p. 45.

<sup>23</sup> I. Trutanow, op.cit., p. 165.

<sup>24</sup> U. Halbach, op.cit., p. 32.

One year later, the number of the supporters of this movement reached approximately 1.000 people<sup>25</sup>.

Another Pan-Turanian party that must be highlighted in this regard is the party called “Turkistan Islam Democracy Party.” This party was founded on August 3<sup>rd</sup> 1990 in Namangan. Its founder is an Uzbek singer, Dadakhan Hassanov. According to him, the objective of his party was to establish a sharia-led state that controls its own economy and culture and that covers all the Central Asian Muslims. However, this party, in trying to pursue its aims, would struggle absolutely through democratic methods, and by no means use any violence<sup>26</sup>. Having been subject to a strict prosecution of the government as of its inception, this party was, thus unable to establish a structure that was able to stand on its own feet.

### HIZB UT-TAHRIR AL ISLAMI

“Hizb ut-Tahrir al Islami” (Islamic Salvation Party), shortly known as Hizb ut-Tahrir, was founded by Taqiuddin an-Nabhani (1909–1979) in 1953 in Jordan. The intention of this party that had a Sunni understanding was to combine all the Muslims politically within a Muslim state that would be governed by the caliph. Regarding Central Asia, the fact is that such caliphate would cover all the countries of the region such as Muslim parts of Russia, China and North Caucasia. However, Hizb ut-Tahrir would reach this objective without using violence; that is, in the words of its Central Asian leaders by means of a “peaceful jihad”<sup>27</sup>. In this regard, it does not resemble the organization called Tablighi Jamaat that is active in India. This party that created cell-structure propagate for its views through the distributing brochures. Considering both secular and non-secular Muslim nation states as its enemies, Hizb ut-Tahrir thinks that

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<sup>25</sup> Ibidem.

<sup>26</sup> M. Atkin, *Islamic Assertiveness and the Waning of the old Soviet Order*, “Nationalities Papers”, Volume 20, Number 1, Spring 1992, pp. 64–65 and A. Rashid, *Orta Asya'nın Dirilişi, İslam mı Milliyetçilik mi?* (Translated by) Osman Deniztekin, Cep Kitapları, İstanbul, 1996, p. 121.

<sup>27</sup> N. Rao, op.cit., p. 108.

these states prevent the establishment of caliphate. Therefore, secular Muslim countries perceive this party's activities as a security problem for their own regimes. In addition, it should be pointed out that the party brochures had an anti-Jews content. Hizb ut-Tahrir, just like the other radical Islamist organizations, shows Israel and the USA as implacable enemy of Islam<sup>28</sup>.

Continuing its activities nowadays as a London-based organization, Hizb ut-Tahrir started to settle down in Central Asia since the middle of 1990s. Endeavouring to carry out its activities in Uzbekistan, Tajikistan, and Kazakhstan, the organization attaches a particular importance to Kyrgyzstan<sup>29</sup>. As there is a state suppression in Central Asia, it is a very difficult to demonstrate whether Hizb ut-Tahrir or IMU enjoy more support for their politics by the people. Hizb ut-Tahrir and IMU's joint objective is the revival of caliphate in Central Asia. However, the methods they follow for reaching this aim and objective are very different from each other. This situation can be regarded as a treatment of the same patient by a doctor by the way of an operation and by an another one using medication<sup>30</sup>. On the other hand, Hizb ut-Tahrir brings forward the issue of the foundation of an Islamic state through a three-stage program: Firstly, it is necessary to warm up people for the party ideology. This is important because the party's thoughts would be communicated to other people by those people. Secondly, it should be established relations with the various Jamaats (Islamic congregation) and encourage them to work for the Islamic project, and ensure that they live in line with Islamic principles. Thirdly, the state will be completely seized, Islam will be rendered dominant in the societal and state lives, and in this regard a message will be given to the world<sup>31</sup>.

As the current regimes of Central Asian countries consider Hizb ut-Tahrir to be more dangerous than the other Islamic organizations, there

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<sup>28</sup> A. Frank, J. Mamatov, op.cit., p. 239.

<sup>29</sup> B. Thamm, *Der Dschihad in Asien. Die Islamistische Gefahr in Russland und China*, München, 2008, pp. 45–46.

<sup>30</sup> For Origin, structure, and Beliefs of the Hizb ut-Tahrir see. A. Rashid, *Jihad: The Rise of Militant Islam in Central Asia*, New York 2003, pp. 116–124.

<sup>31</sup> N. Rao, op.cit., p. 108.



are thousands of Hizb ut-Tahrir members sitting in the prisons of these countries. For instance, distribution of the 7.600 political arrestees in Uzbekistan as Hizb ut-Tahrir (5.100), IMU (1.600), and other (1.000) exhibit the fear of the regime in this country<sup>32</sup>. As concentrated specifically in the regions where the Uzbeks live, Hizb ut-Tahrir gradually appeared to be an alternative to the governing elite compared with the IMU that is identified with violence by the people<sup>33</sup>. In other words, reduction of the impact of the IMU caused the increase of Hizb ut-Tahrir's influence. Apart from Uzbekistan, Hizb ut-Tahrir was very influential in Tajikistan and Kyrgyzstan's part of Fergana Valley where overwhelmingly the Uzbek ethnic groups live<sup>34</sup>.

It can be pointed out that the first brochures published by Hizb ut-Tahrir after the oppressive measure of Karimov regime on the Mujaddidiya scholars, at the end of the 1990s. Karimov administration, especially since 1999, arrested thousands of persons for being the members of Hizb ut-Tahrir<sup>35</sup>. Sherfigullo Nazirov, the leader of Hizb ut-Tahrir, was even arrested in March 2000 and sentenced to 20 years of imprisonment. In 2001 the figure of the members of this organization was estimated to be approximately 10.000 in Uzbekistan<sup>36</sup>. According to the Uzbek opposition, Karimov uses the "Hizb ut-Tahrir" condemning the opposition and dismaying his potential competitors. However, Hizb ut-Tahrir protects the arrestees regardless of their identity or ideology.

When the brochures of Hizb ut-Tahrir are scrutinized, it is obviously that these written texts provide reliable information regarding to the general policies of the organization. In the brochures where extreme anti-Semitism draws attentions, one can see that the Jews are the grand enemy of the Muslims of Uzbekistan and that there is an alliance between the Jews

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<sup>32</sup> M. Kort, *Central Asian Republics*, New York 2004, p. 129.

<sup>33</sup> N. Rao, op.cit., p. 110.

<sup>34</sup> U. Halbach, *Zentralasien in Bedraengis. Problematische Reaktionen auf regionale Schicksalskrisen*, „Stiftung Wissenschaft und Politik“ 2001, p. 17.

[http://www.swp-berlin.org/fileadmin/contents/products/studien/S2001\\_35\\_hlb.pdf](http://www.swp-berlin.org/fileadmin/contents/products/studien/S2001_35_hlb.pdf) (accessed: 26.03.2013).

<sup>35</sup> A. Frank, J. Mamatov, op.cit., p. 240.

<sup>36</sup> U. Halbach, op.cit., p.17.

and the Westerners against the Muslims. Hence, Muslims are to be summoned to revive caliphate in order to defeat the mentioned enemies. In the brochures dealt issues dedicated to Uzbekistan, the problems of the Uzbek Muslims are brought in line with the general objectives of Hizb ut-Tahrir and some basic problems are taken into account. For instance, these brochures indicates that the Karimov regime is corrupt and has an anti-Islamic attitude, and Karimov was a Jew like Mustafa Kemal Atatürk. Because of this fact Karimov acts against the interests of the Uzbek Muslims<sup>37</sup>.

**Table 1.** Content Analysis of the Hizb ut-Tahrir Brochures

Word	Brochure I 7.2.2003	Brochure II 24.4.2000	Brochure III 23.4.2000	Brochure IV 30.12.1999	Total
Karimov	16	8	14	12	50
Caliph(ate)	3	2	4	4	13
Uzbekistan	25	13	6	8	52
Muslim(s)/Islam	16	23	40	41	120
Jew(s)/ Israel	2	-	4	30	36
Christian(s)	1	-	-	2	3
Ataturk	2	-	-	2	4
East Turkestan	-	1	-	1	2
Central Asia (states)	7	5	3	-	15
Kazakhstan	5	2	-	-	7
Kyrgyzstan	2	1	-	-	3
Tajikistan	1	-	-	-	1
Turkmenistan	-	-	-	-	-
The USA	5	7	6	-	18
West(ern)	4	-	3	-	7
USSR	2	-	-	-	2
Russia		-	-	2	2
China	-	4	-	4	8

Source: Uzbekistandagi siyasi-iktisodi vaziyat: muammolar va echimlar, 7 Fevral 2003  
 Uzbekiston prezidenti uzining fikri jihatdan ojisligiga ikrar bulmokda, 24 Aprel 2000,  
 Uzbekiston prezidenti Karimov Musulmonlarga kanday akida tikiştriyaptı, 23 Aprel 2000,  
 Musulmonlarga yahudi hokimlik kılışı haromdir, 30 Dekabr 1999 (A. Frank, J. Mamatov,  
 op.cit., pp. 243–278).

<sup>37</sup> A. Frank, J. Mamatov, op.cit., p. 240.

In the Table 1, if we bypass the frequency of repetition of the words “Muslim/s” and “Uzbekistan” due to understandable reasons, we can see first of all that the word Karimov is repeated totally 50 times. This is followed by the words of Jew(s)/Israel (36), the USA (18), Central Asia/states (15), and caliph(ate) (13). As these figures exhibit, on Hizb ut-Tahrir brochures, there is an obvious anti Jew(s)/Israel and anti-American attitudes. Regarding domestic issues they criticize Karimov’s policies and make a mudd propaganda that he is a Jew. Another word correlated with the term of “Jew” is Ataturk. Karimov and Ataturk are accused of being Jewish, which is a discourse adopted by the radical Islamists. Another concept linked with Ataturk’s name is caliph(ate) that is repeated totally 13 times. The reason for this is the accusation of Ataturk because of his abolishment of caliphate in 1924. In terms of the super powers, the USA (18) is the mostly criticized country. This is followed by China (8) and Russia (2). China is referred mainly in the context of the atrocity it inflicted on the Muslims in East Turkestan. Another important point in the brochures is that “Central Asia,” which is specifically an integrating concept, was preferred instead of the country names such as Kazakstan, Usbakistan and etc. (see Table 1).

### **AKROMIJA MOVEMENT**

Launched by Akram Yuldashev, a businessman of Andijan, Akromija Movement gained more reputation subsequent to the massacre that took place in May 2005 in Andijan. Yuldashev wrote a pamphlet with the title “the road to the faith” in 1992 and was sentenced for six-month imprisonment in March 1998 but released because of general amnesty after a short while. However, on February 17<sup>st</sup> 1999, under the pretext of bombing in Tashkent and the pamphlet he wrote, he was punished for 17-year imprisonment. This essay was considered to be as a work with political content and deemed to be an attempt for demolishing the current government and establishing caliphate. The government tried to push the events in Andijan off on the supporters of Yuldashev. In a news that published in May 2005 in a newspaper called “Halk Sözü” (the words of people) they alleged that

Akromija is a more radical branch of Hizb ut-Tahrir and that this movement did not even recognize Muhammad as a prophet. In fact, official bodies consider the Islamist groups such as Akromija, Hizb ut-Tahrir, and Mujaddidiya (Wahhabism) as the radical movements that are interconnected with each other in Fergana Valley<sup>38</sup>. On the other hand, Saidjahan Zaynabitdinov indicated that the allegations of the government were deceptions and warped. When the version of the essay published by Zeynabitdinov is scrutinized, it would be indicated that the above mentioned pamphlet cannot be qualified as political in its content. In this pamphlet, which is a philosophical text, attentions are drawn to the distinction between the Hanafis and Wahhabis in the Fergana region in the 1990s and Muslims are called for unity.

## ISLAMIC MOVEMENT OF UZBEKISTAN

Foundations of the Islamic Movement of Uzbekistan (IMU) that is established 1999 in order to overthrow the Karimov regime by armed force and to constitute an Islamic regime in Uzbekistan can be dated back to the time of the Islam Lashkarlary founded by Tohir Abdouhalilovitch Yuldashev<sup>39</sup> (political leader) and Jumaboi Ahmadzhanovitch Khojaev<sup>40</sup>

<sup>38</sup> A. Frank, J. Mamatov, op.cit., pp. 319–320.

<sup>39</sup> Yuldashev was born in 1967 who was not able to complete his high school education. He developed his religious knowledge underground and became a leader of political Islam. Being a brilliant orator Yoldashev was a perfect organizer as well (A. Rashid, *Jihad...*, op.cit., p. 137).

<sup>40</sup> Namangani was born in 1969 in Namangan/Uzbekistan served in the para-troops by the soviet Army deployed to Afghanistan between 1987 and 1989 after he finished Vocational High School for Agriculture. Coming to his hometown after Afghanistan war, Namangani joined Tauba, a militant Islamist group, in Fargana Valley. However, thereafter due to the accusation of crime and resurgence against the regime, he had to go to Tajikistan in 1992 and participated in civil war by the side of the Islamist opposition in Tajikistan. He tried there to compose armed troops by the Uzbeks in the Karategin region, the stronghold of opponents. Due to his failure, Namangani fled to Afghanistan in 1993 and he was allowed to maintain his troops in the Jirga Valley even after the agreement of a peace treaty between the United Tajik Opposition and Emomali Rahkman, from where he launched armed attacks to Kyrgyzstan's Batken region. Some sources state that

“Juma Namangani” (military wing leader) subsequent to the decline of USSR in Namangan. This organization was only one of the organizations founded in the Fergana region against corruption and injustice. Even though since its foundation IMU has attributed itself as a Hanafi organization, neither Yuldashev nor Namangani had anything to do with being an Islamic scholar. Thus, they had never taken part in the Islamic discussions mentioned above. Another characteristics of IMU was the fact that it was not related to Wahhabism as well<sup>41</sup>. Information regarding the IMU’s military power differs from some hundred warriors to some thousand warriors. However, Rashid estimates the manpower of the IMU fighters in 2001 especially in Mazar-i Sharif and Kunduz regions/North Afganistan as 3.000<sup>42</sup>. First of all the aims of IMU is to establish a sharia state in Fergana Valley and then to expand it throughout the Central Asia and East Turkestan as well.

In fact, the IMU’s history can be considered as a history of a revolt and exile. After Yuldashev’s protest of Karimov in his visit to Namangan in 1992 by shouting at him Uzbekistani leader did not hesitate to attack Yuldashev and his supporters as soon as he felt himself stronger. Hence, Yuldashev and Namangani fled to Tajikistan and fought in the civil war by the side of the Islamist opponents; then they settled down in Afghanistan and founded there the IMU in 1999. The IMU published a journal called “Umma of Islam.” However, this journal was published only three issues in 1999. There is no information that the journal was subsequently published. Anti-Semitism and the necessity to launch an armed struggle against the Kerimov regime were the attention drawing issues in the IMU journal<sup>43</sup>. Yuldashev, in his interview with “Voice of America” in September 2000, explained the IMU’s aims and objectives as follows: “We want

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the regiments under the command of Namangani went back to Afghanistan in May 2000 (K. Abdullaev, S. Akbarzadeh, *Asian/Oceanian Historical Dictionaries*, No. 38, Historical Dictionary of Tajikistan, The Scarecrow Press Inc, Lanham, Maryland and London 2002, p. 151 and for Namangani’s activities, see also: R. Johnson, *Oil, Islam and Conflict, Central Asia since 1945*, London 2007. pp. 119–124).

<sup>41</sup> A. Frank, J. Mamatov, op.cit., p. 381.

<sup>42</sup> U. Halbach, op.cit., p. 14.

<sup>43</sup> A. Frank, J. Mamatov, op.cit., p. 381.

to make an end to the tyranny. This is the basic reason why our movement declared jihad. This movement emerged against tyranny, corruption, and the injustice that are taking place in our country. Our intention is to rescue thousands of Muslims from prison, for whom we sacrifice our lives. This is our prime objective. The issue of establishing an Islamic government will be on the agenda later on [...] <sup>44</sup>.

On the other hand the external aid had a big impact on the IMU's partial success in its fight against the Karimov regime. For instance, while Taliban regime provided the IMU with military bases, El-Qaeda supported the organization financially. The number of the IMU's armed militants in Afghanistan was about 1.500 persons as the organization reached to the peak of its power. Being powerful especially in Tajikistan, Kyrgyzstan, and Uzbekistan, IMU conducted military operations in 2000 in Batken region of Kyrgyzstan and in Uzbekistan by accessing about 100 kilometres of proximity to Tashkent. After the 9/11 2001, the war against Taliban regime in Afghanistan resulted in losing IMU's foreign support to a substantial extent. Even there have been news that Namangani, military leader of the organization, was killed in an operation conducted by American armed forces in November 2001. Having suffered heavy casualties during this operation, IMU drew its operation base from north and central Afghanistan to the border region of Afghanistan and Pakistan. Nowadays, it carries out its operations mainly from the Southern-Waziristan/Pakistan. As a result IMU started to lose its influence since 2002 <sup>45</sup>. The most important reason for this was the ideological disputes within the organization. A split group not agreeing with IMU's concentration only on Uzbekistan and overthrowing Karimov regime started to support the El-Qaeda's policy on global jihad and they left the IMU and established another organization called "Islamic Jihad Union" (IJU) in 2002. However, there is close cooperation between both organizations <sup>46</sup>.

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<sup>44</sup> A radio Interview with Tohir Yuldashev, Leader of the Islamic Movement of Uzbekistan, October 2000.

<sup>45</sup> M. Kort, op.cit., p. 128.

<sup>46</sup> For detailed information for this subject, see G. Steinberg, *Die Islamische Jihad-Union. Zur Internationalisierung des usbekischen Jihadismus*, „Stiftung Wissenschaft und

**Table 2.** Content Analysis of the Second Issue of the Journal of “Umma of Islam”

Words	Repetition Frequency
Islamic law	11
Islam's enemies	4
Islamic community	5
Islamic state	2
Jihad	8
Mujahedin	8
Caliph(ate)	2
Jew(s)	13
Tyranny	3
Despotic regime	2
Pharaoh	2

Source: Umma of Islam, Issue 2, 05.07.1999, A. Frank, J. Mamatov, op.cit., pp. 383–427.

In Table 2, it is obvious that the Islamic law is emphasized. On the other hand the importance of the armed struggle is clearly understood from the frequent repetition of the concepts of “jihad” and “mujahedin”. Karimov regime is qualified with the concepts such as “tyranny” and “despotic regime” and he is referred to be as a “pharaoh.” In Yuldashev’s words, such concepts are mentioned as well. With 23 times repetition frequency the word “Jew/s” demonstrates the anti-Jews attitude of the IMU.

When Table 1 and Table 2 are compared with each other, an interesting constellation appears. In Table 1, which contains the statements of Hizb ut-Tahrir, caliphate (with 13 times of repetition frequency) is stressed in a very expressive manner, while in Table 2; in the IMU’s statements, caliphate is used only two times retrospectively. In the IMU’s statements, the terms; “Islamic law”, “Islamic community”, “mujahidin”, and “jihad” come

to the forefront explicitly. Hence, this can be commented that the last mentioned organization favours armed conflict.

Stressing jihad in its statements more emphatically, the IMU established contacts with the other jihad organizations in Afghanistan, Pakistan, East Turkestan, Chechnya, and Africa. Yuldashev lived in Pakistan and Afghanistan between the years of 1995 and 1998. The IMU ensured that its armed groups composed of the Uzbeks and the Tajiks were sent to Pakistan and Saudi Arabia in order to let them train in madrasas and guerrilla camps. These countries provided the IMU with financial support as well. For instance, Jamiatul Ulama permitted IMU to collect charity in Pakistan. Even though substantial portion of the guerrilla fighters, whose figure was between 3000 and 5000, underwent training in Afghanistan, there are reports that a part of them were trained in Pakistan, Chechnya, and East Turkestan. According to Rao, revenues of the IMU come from drug trafficking and from foreign aids. A Kyrgyz official reports that 70 % of the drug traffic through Kyrgyzstan is controlled by the radical Islamist groups<sup>47</sup>.

## CONCLUSION

As indicated above the Mujaddidiyya understanding and Wahhabism played an important role in the emergence of radical Islamic movements in Uzbekistan. Even if Wahhabism actually constitutes only one dimension of the theological thoughts of the mujaddidi imams, Hindustani and his friends did not hesitate to consider them as Wahhabis. Karimov regime names all the religious groups conveniently as Wahhabis without relying on any measure.

The transition period in Uzbekistan gave birth to Islamist political parties (IRPU, Adolat, Tauba, Islam Laskarlary, Hezbollah and Turkistan Islamic People Movement) on one side, and Islamist movements (Hizb ut-Tahrir, IMU and Akromija), on the other side. The first group based in Fergana Valley mainly focused on the solution of social problems and was

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<sup>47</sup> N. Rao, *op.cit.*, p. 105.



not influential and it can be considered as pseudo parties and formations without a strong membership base, while those that handled within the second group contained movements (IMU) that operate at global level, which have powerful financial supporters, and do not hesitate to conduct armed conflict with the Karimov regime.

Especially the brochures of Hizb ut-Tahrir and IMU demonstrate that Hizb ut-Tahrir refers to the word “caliphate” 13 times whereas in IMU’s statements, such it appeared only two times. Moreover, in IMU’s declarations, the terms of “Islamic law”, “Islamic community”, “mujahidin” and “jihad” are clearly dominant elements. This can be interpreted that IMU prefers armed conflict rather than peaceful treatment of the problems. The discourses of both Hizb ut-Tahrir and IMU indicate that the both organisations have an anti – Western and the anti-Jews attitudes.

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**THE ESSENCE AND FUNCTION OF BENEFITS  
SATISFYING BASIC SOCIAL NEEDS  
OF CITIZENS - SELECTED ISSUES IN THE CONTEXT  
OF THE IMPLEMENTATION  
OF THE NATIONAL SOCIAL POLICY<sup>1</sup>**

**Keywords:** social policy, social safety, social assistance, benefits, Human Capital Development Strategy.

**ABSTRACT:** State social policy should take into account the subsidiary nature of assistance from public authorities in relation to the activity of the interested parties in their efforts to find and pursue work.

Social assistance supports individuals and families in their efforts to meet the necessary needs and enables them to live in conditions which conform to human dignity. This aim is achieved by preventing insurmountable, difficult life situations when an individual in a crisis situation ceases to be self-sufficient. A classified form of this difficult situation is the case of individuals (families) who are on the verge of social exclusion. For it is the category of “social safety” that accommodates those allowances that are directed at individuals (families) being in a particularly difficult situation, and their function is to prevent the deprivation of needs.

The group of social safety benefits singled out in this study constitutes a sub-category of social assistance benefits. Providing social safety is implemented with the use of a directory of services of different specifics, roles and functions.

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<sup>1</sup> Translated by Daniel Wacinkiewicz, Agnieszka Kotula.

## PLACE AND ROLE OF SOCIAL SAFETY BENEFITS IN THE SOCIAL SECURITY SYSTEM<sup>2</sup>

The area of state social policy is the subject of many scientific disciplines, particularly of legal, economic and social sciences<sup>3</sup>. Of structural relevance to this policy are the regulations of several laws that make up the category of 'social safety'. Key role in this regard falls to the consti-

<sup>2</sup> Analyses contained in point 1 constitute an abridged and modified version of analyses contained in the study: „Zaspokajanie podstawowych potrzeb socjalnych obywateli – koncepcyjne założenia wstępne wyodrębnienia kategorii bezpieczeństwa socjalnego na gruncie normatywnym” in: *Sposoby pojmowania bezpieczeństwa w wybranych obszarach życia publicznego*. Zbiór studiów, Zeszyty Naukowe Państwowej Wyższej Szkoły Zawodowej w Gorzowie Wielkopolskim of 2013, No 2.

<sup>3</sup> The issues of social assistance, perceiving it now only from a legal perspective, are the subject of numerous studies in the doctrine. Taking into account only selected new publications, attention should be paid to the commentaries on the Law on Social Assistance: W. Maciejko, P. Zaborniak, *Ustawa o pomocy społecznej. Komentarz*, 4th edition, Warsaw 2013 and S. Nitecki, *Komentarz do ustawy o pomocy społecznej*, Wrocław 2013. Among monographs, worthy of attention are the following: Z. Góról (Ed.), *Bezrobocie i polityka zatrudnienia*, Warsaw 2013; I. Sierpowska, *Pomoc społeczna. Prawo do świadczeń. Zasady przyznawania świadczeń. Pracownicy pomocy społecznej. Decyzje w sprawach pomocy społecznej*, Warsaw 2013; J. Auleytner, *Polityka społeczna w Polsce i w świecie*, 2nd edition, Warsaw 2012; I. Sierpowska, *Pomoc społeczna jako administracja świadcząca. Studium administracyjnoprawne*, Warsaw 2012; J. Auleytner, *Polityka społeczna w Polsce i na świecie*, Warsaw 2011; I. Sierpowska, *Prawo pomocy społecznej*, 4th edition, Warsaw 2011; S. Nitecki, *Pomoc społeczna. Procedury i tryb przyznawania świadczeń*, 3rd edition, Wrocław 2012. What is also worth pointing out is articles in collective works and periodicals, in particular: P. Broda Wysocki, P. Kurowski, *Próg interwencji socjalnej czy minimalny dochód socjalny? Refleksja nad propozycjami zmian w pomocy społecznej*, *Polityka Społeczna* of 2013 No 4, pp. 1–6; A. Miruć, *Współdziałanie podmiotów zajmujących się pomocą społeczną* in: B. Dolnicki (Ed.), *Formy współdziałania jednostek samorządu terytorialnego. Materiały konferencyjne* Warsaw 2012, p. 52 et seq.; E. Bojanowski, *Refleksje nad charakterem prawa jednostki do pomocy społecznej* in: M. Seweryński, J. Stelina (Eds.), *Wolność i sprawiedliwość w zatrudnieniu. Księga pamiątkowa poświęcona Prezydentowi Rzeczypospolitej Polskiej Profesorowi Lechowi Kaczyńskiemu*, Gdańsk-Sopot 2012, pp. 37–41; A. Miruć, *Prawo stanowione przez administrację publiczną w obszarze pomocy społecznej – wybrane zagadnienia* in: M. Stahl, Z. Duniewska (Eds.), *Legislacja administracyjna. Teoria, orzecznictwo, praktyka*, Warsaw 2012, pp. 486–503; M.P. Gapski, *Prawo do pomocy społecznej w orzecznictwie sądów administracyjnych (wybrane zagadnienia)* in: R. Sztuchmiller, J. Krzywkowska (Eds.), *Problemy z sądowną*

tutional regulation. Art. 67 of the Constitution of the Republic of Poland provides for the right of a citizen to social safety in the event of incapacity for work due to illness or disability, and after reaching retirement age. This right is also held by a citizen remaining without a job, not of his own will and having no other means of support. The Constitution does not prejudge forms of implementation of the right to social safety, nor does it define clearly the criteria and directions for determining boundaries. In both cases, determining the scope and form of social safety has been left to the ordinary legislator. This means that the entire system of forms should be established (with varying scope, completing the content of the term), enabling a citizen remaining without a job not of his own will and having no other means of support to implement his right to social safety.<sup>4</sup>

“Social security” is not synonymous with “social assistance”<sup>5</sup>. Beyond this, it covers “social insurance” and “public procurement”, while social assistance alone is, in reference to the remaining forms of social security,

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*ochroną praw człowieka*, Vol. 1, Olsztyn 2012, pp. 589–601; A. Miruć, *Decyzja administracyjna jako prawna forma działania administracji pomocy społecznej* in: J. Łukasiewicz (Ed.), *Władztwo administracyjne. Administracja publiczna w sferze imperium i w sferze dominium*, Rzeszów 2012, pp. 423–441; D. Lebowa, K. Sikora, *Zadania organów administracji publicznej w zakresie realizacji świadczeń pomocy społecznej rodzinie i prawne formy ich realizacji* in: S. Bębas, E. Jasiuk (Eds.), *Prawne, administracyjne i etyczne aspekty wychowania w rodzinie*, Vol. 1, *Materiały konferencyjne*, Radom 2011, pp. 271–293; R. Babińska-Górecka, *O funkcjach prawa pomocy społecznej* in: Z. Kubot, T. Kuczyński (Eds.), *Z zagadnień prawa pracy i prawa socjalnego. Księga jubileuszowa Profesora Herberta Szurgacza*, Warsaw 2011, pp. 372–384; A. Jachowicz, *Zarządzanie systemem pomocy społecznej*, „Samorząd Terytorialny” 2011 No 9, pp. 33–39.

<sup>4</sup> Constitutional Court judgement of 20 November 2001, SK 15/01. This position is consistent with previous decisions of the Constitutional Court. See in particular the judgement of the Constitutional Court of 19 November 1996, ref. K. 7/95. The issue of social safety (in the context of Art. 67 par. 1 of the Constitution) is the subject of an array of decisions of the Constitutional Court.

<sup>5</sup> The “right to social assistance” itself is not explicitly guaranteed by the constitution, and the basic law refers to it indirectly, through the principle of subsidiarity and the institution of social safety. For this, see: I. Sierpowska, *Komentarz do art. 1* in: I. Sierpowska, *Ustawa o pomocy społecznej. Komentarz*, 2nd edition, ABC 2009, Lex No 7978.

of a complementary nature<sup>6</sup>. One can even conclude that social assistance is the last link in the system of social security and is of a complementary nature. Besides, there is a set of characteristics that distinguish social assistance from other forms of social security (that is, from other benefit systems) – in particular, on the side of citizens there is no legal claim to provide assistance<sup>7</sup>.

Key to the organisation and functioning of the social assistance system is the definition contained in the Law of 12 March 2004<sup>8</sup>. It characterises social assistance as an institution of state social policy, aiming at enabling individuals and families to overcome difficult life circumstances that they cannot transcend by means of their own rights, resources and capabilities<sup>9</sup>.

Social assistance supports individuals and families in their efforts to meet the necessary needs and enables them to live in conditions which conform to human dignity. This aim is achieved by preventing insurmountable (using their own rights, resources and capabilities), difficult life situations when an individual in a crisis situation ceases to be self-sufficient. Taking the perspective of structural assumptions of social assistance, what also needs to be emphasised is the fact that the support for an individual (family) serving to overcome a difficult life situation is of a temporary nature only, and the essence of the difficulty faced by the beneficiary points to the (objective) inability to overcome it without the help of the state<sup>10</sup>.

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<sup>6</sup> See Constitutional Court judgement of 20 November 2001, SK 15/01 and the subject literature referred to within, in particular T. Zieliński, *Ubezpieczenia społeczne pracowników. Zarys systemu prawnego – część ogólna*, Warsaw-Cracow 1994, K. Kolasiński, *Prawo pracy i zabezpieczenia społecznego*, Toruń 2001, Jan Jończyk, *Prawo zabezpieczenia społecznego*, Cracow 2001.

<sup>7</sup> See Constitutional Court judgement of 20 November 2001, SK 15/01 referring in this regard to the doctrinal position – K. Kolasiński, *Pojęcie i kryteria rozróżniania form zabezpieczenia społecznego*, PiZS 1969, p. 5.

<sup>8</sup> The Law of 12 March 2004 on social assistance, consolidated text. Journal of Laws 2013.182 as amended. – hereinafter referred to as LSA.

<sup>9</sup> Art. 2 par. 1 of the LSA.

<sup>10</sup> For this see, e.g. the judgement of Provincial Administrative Court in Gdańsk of 28 May 2008, II SA/Gd 146/08.

Undoubtedly, a classified form of this difficult, crisis situation is the case of individuals (families) who are on the verge of social exclusion. It is in relation to them that the allowances that shall be classified to the category of “social safety” will apply. For it is the category of “social safety” that accommodates those allowances that are directed at individuals (families) being in a particularly difficult situation, and their function is to prevent the deprivation of needs.

The term “social safety” does not hold a legal definition. Using it on the grounds of law (though extremely rare<sup>11</sup>) allows to notice its peculiar connection with social assistance. Also on the grounds of jurisprudence the term “social safety” appears incidentally – usually in the context of “subsistence level”, that is a defined pecuniary value that allows for the reproduction of man’s life forces, bringing up children and maintenance of social relationships during work, studying and leisure, at the same time defining the threshold below which there is the area of privation or poverty<sup>12</sup>.

It seems that combining the concepts of “social safety” and “subsistence level” is fully justified. The functioning of individuals (families) below the subsistence level denoting privation or poverty corresponds to the widespread conception of “a life difficulty”, which is usually insurmountable through the use of own rights, resources and capabilities. Such a state may lead to social exclusion, poverty remaining in a kind of “mutual coupling”.

Such an approach to the social safety category determines the adequacy of only including some of the benefits of social assistance in it. For instance, taking into account the fact that one of the main problems of individuals in this difficult situation is the lack of cash funds resulting in

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<sup>11</sup> The terms “social safety” cannot be found either in the legislation on social assistance, or – more broadly – on social security. Isolated cases of the use of the term “social safety” can be found for instance in government documents adopted in the form of resolutions concerning, among others the National Development Strategy 2020 (Resolution No. 157 of the Council of Ministers of 25 September 2012 on the adoption of the National Development Strategy 2020 (M.P.2012.882) or the update of the State Multi-Year Financial Plan for the years 2012–2015 (Resolution No. 71 of the Council of Ministers of 8 May 2012 on the updated State Multi-Year Financial Plan for the years 2012–2015 (M.P.2012.292).

<sup>12</sup> Constitutional Court judgement of 13 November 2012, Ref. No. K 2/12.

the loss of the ability to cover the necessary and elementary expenditure serving to satisfy basic needs, some services within the scope of “social safety” take the form of benefits (permanent, periodic or purpose-specific). An example of benefits of a different nature which also conform to the characteristics of “social safety” are non-cash benefits, ensuring the absolute minimum of satisfying needs in biological and social dimensions (housing, food, essential clothing).

### ANALYSIS OF SELECTED BENEFITS FALLING WITHIN THE CATEGORY OF SOCIAL SAFETY<sup>13</sup>

As previously indicated, the allowances classified as belonging to the category of social safety constitute a subcategory of the social assistance system. While the common goal of all benefits of the social assistance system is to aid individuals and families in difficult life situations which they are not able to overcome with the use of own rights, resources and capabilities, what distinguishes the benefits belonging to the category of “social safety” is their function to prevent needs deprivation of those on the verge of social exclusion. This approach to the category of “social safety” determines the adequacy of classifying under it only some social assistance benefits<sup>14</sup>.

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<sup>13</sup> Analyses contained in point 2 constitute an abridged and modified version of analyses contained in the study: „Świadczenia należące do kategorii bezpieczeństwa socjalnego realizowane przez samorządy gminne – analiza na gruncie orzecznictwa sądowo administracyjnego” in: *Sposoby pojmowania bezpieczeństwa w wybranych obszarach życia publicznego. Zbiór studiów*, Zeszyty Naukowe Państwowej Wyższej Szkoły Zawodowej w Gorzowie Wielkopolskim of 2013, No 2.

<sup>14</sup> Social assistance benefits are classified into two groups – cash benefits and non-cash benefits. The LSA includes in the first group: 1. permanent benefit, 2. temporary benefit, 3. purpose benefit and special purpose benefit, 4. grant and loan for becoming economically independent, 5. assistance in becoming independent and continuing education, 6. cash benefits for the maintenance and coverage of expenses connected with the learning of the Polish language for foreigners who have been granted the refugee status or subsidiary protection on the territory of Poland, 7. remuneration payable to the carer for the care provided, awarded by the court. The second group – non-cash benefits –



Undoubtedly, one can include in the category of “social safety” one of the basic forms of social assistance – “**permanent benefit**” (Art. 37 of the LSA) which is granted to a person of full legal age unfit to work because of age or totally unfit to work – who (running a household alone or in a family) derives an income lower than the per capita income criterion. Its essence is to guarantee day-to-day existence to the beneficiary<sup>15</sup>, and a key prerequisite for the permanent benefit is the inability to work (because of age or total inability to work). The case law notes that “retaining even a limited ability to perform intellectual or physical work in regular circumstances excludes the possibility of considering a person as totally unfit to work, and therefore prevents the granting of the permanent benefit”<sup>16</sup>. Pursuant to the provisions of Art. 37 of the LSA the permanent benefit is of an obligatory benefit nature<sup>17</sup> and the authority competent to grant the permanent benefit will be required to make a positive decision in favour of the applicant (unless there occurs one of the impediments referred to in Art. 11 of the LSA, or the granting of such entitlement would be in conflict with the objectives and principles of social assistance)<sup>18</sup>.

Another allowance which needs to be included in the category of “social safety” is the “**temporary benefit**” which is granted in particular on grounds of a prolonged illness, disability, unemployment, ability to

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includes: 1. social work, 2. credit ticket, 3. health care insurance contributions, 4. social insurance contributions, 5. in-kind assistance, including economic independence, 6. giving a funeral, 7 specialised counselling, 8. crisis intervention, 9. shelter, 10 a meal, 11. necessary clothing, 12. care services at the place of residence, support centres and family care homes, 13. specialist care services at the place of residence and in support centres, 14. sheltered housing, 15. stay and services in a social assistance home, 16. assistance in obtaining adequate housing conditions, including in sheltered housing, assistance in obtaining employment, assistance in business start-up – in kind for independent persons.

<sup>15</sup> Judgement of the Provincial Administrative Court in Szczecin of 2 June 2011, II SA/Sz 417/11.

<sup>16</sup> Judgement of the Provincial Administrative Court in Warsaw of 5 May 2011, VIII SA/Wa 1/11.

<sup>17</sup> Judgement of the Provincial Administrative Court in Cracow of 30 January 2013, III SA/Kr 352/12.

<sup>18</sup> Judgement of the Supreme Administrative Court in Gliwice of 20 January 2012, IV SA/Gl 130/11.

maintain or acquire rights to benefits under other social security systems. What is important, a necessary condition for granting the temporary benefit is obtaining an income lower than the statutory income criterion<sup>19</sup> (Art. 38 par. 1 of the LSA). Where a person's income exceeds the statutory income criterion, the authority does not even proceed to consider whether an evaluative premise in the form of a necessity to meet the necessary life need occurred in a given case<sup>20</sup>.

It is arguable whether the temporary benefit is a provision of a mandatory or discretionary nature. On the one hand, it should be noted that "the fulfilment of statutory premises provides a basis for granting the entitlement, and does not leave this right to evaluation based on the recognition interpreted out of the principles generally adopted in the LSA"<sup>21</sup>, and thus has no legal grounds to refuse the granting of this benefit to the party<sup>22</sup>. On the other hand, though, one cannot overlook the fact that its amount is left to administrative discretion<sup>23</sup>, as is the collection period, by a statutorily defined possibility to moderate (naturally, within the limits defined by the LSA)<sup>24</sup>. Furthermore, an additional factor acting in favour of a discretionary nature of the temporary benefit is an exemplary only listing of

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<sup>19</sup> The income criterion results from Art. 8 par. 1 of the LSA.

<sup>20</sup> Art. 39 of the LSA in relation to Art. 8 par. 1 of the LSA. See Judgement of the Provincial Administrative Court in Gdańsk of 10 October 2012, III SA/Gd 351/12, in which it is indicated that it is about such basic needs as covering part or all of the costs of the purchase of food, medicines and medical treatment, fuel, clothing, necessary household items, as well as minor renovations and repairs in the apartment.

<sup>21</sup> Judgement of the Supreme Administrative Court of 16 November 2011, I OSK 1088/11.

<sup>22</sup> Judgement of the Provincial Administrative Court in Łódź of 12 June 2012, II SA/Łd 333/12.

<sup>23</sup> See in particular judgement of the Provincial Administrative Court in Olsztyn of 17 January 2008, II SA/Ol 1034/07; Judgement of the Supreme Administrative Court of 16 October 2007, I OSK 58/07; Judgement of the Provincial Administrative Court in Gdańsk of 11 May 2011, II SA/Gd 280/11.

<sup>24</sup> See in particular Judgement of the Provincial Administrative Court in Łódź of 6 September 2011, II SA/Łd 531/11. See also Judgement of the Supreme Administrative Court of 16 November 2012, I OSK 1222/12.

circumstances whose occurrence entitles to the temporary benefit (Art. 38 of the LSA) <sup>25</sup>.

These above positions of jurisprudence induce to acknowledge that the decision on the subject of granting the temporary benefit is marked by relative discretion – limited by the statutory amount of the highest and lowest benefit<sup>26</sup>. Therefore, whether that benefit is granted in a higher or lower scope is decided by the authority, taking into account the family and health situation of the entitlement holder and members of his family, the attitude of the beneficiary, his objective opportunities to come out of the crisis, and subjective elements – willingness and activeness in solving his difficult life situation<sup>27</sup>.

Another cash benefit belonging to the category of “social safety” is the “**purpose benefit**”, awarded in order to meet the essential livelihood needs (Art. 39 par. 1 of the LSA) – for example, to cover, fully or partially, costs of purchase of food, medicines and medical treatment, fuel, clothing, necessary household accessories, as well as minor renovations and repairs in the flat, or funeral expenses.

Purpose benefit falls under discretionary forms of social assistance<sup>28</sup> (Art. 39 of the LSA is not resultant in an individual claim for granting social assistance<sup>29</sup>), therefore this benefit may, but does not need not to be granted, even where the conditions are met by the applicant. This does not

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<sup>25</sup> This benefit is granted, inter alia, to the chronically ill, the disabled, the unemployed, those whose income does not exceed the established criterion – but it can also be granted in circumstances other than those listed. It is pointed out in the Judgement of the Provincial Administrative Court in Warsaw of 2 August 2006, I SA / Wa 1018/06. This position is supported by, among others, the Judgement of the Provincial Administrative Court in Gdansk of 3 February 2011, II SA / Gd 800/10.

<sup>26</sup> In this way, the legal nature of the allowance in the form of a temporary benefit is determined by the Provincial Administrative Court in Warsaw in its judgement of 14 July 2006, I SA / Wa 603/06.

<sup>27</sup> Ibidem.

<sup>28</sup> Judgement of the Supreme Administrative Court of 14 March 2012, I OSK 1795/11. See also Judgement of the Provincial Administrative Court in Gdańsk of 14 January 2009, II SA/Gd 797/08.

<sup>29</sup> Judgement of the Provincial Administrative Court in Gdańsk of 14 January 2009, II SA/Gd 797/08.

mean, however, that the decision on granting the benefit is arbitrary, since the LSA gives specific guidance on the principles of providing assistance to those in need (under Art. 3 paragraphs 3 and 4 of the LSA)<sup>30</sup>.

The essence of the purpose benefit is to satisfy a specific livelihood need allowing for living in conditions which conform to human dignity. The authority granting the allowance should therefore assess the overall family and financial situation of the person applying for the benefit, and then, after concluding that the reported need cannot indeed be met within own capabilities and resources at hand – may grant a purpose benefit, taking into account the circumstances in favour of granting the assistance, as well as those against the provision of it<sup>31</sup>. Following the general principle of adapting the type, form and amount of benefits to the circumstances of a given case and having regard to beneficiaries' needs corresponding to the objectives of social assistance, it should also take into account the capacity of social assistance<sup>32</sup>.

Among the non-cash benefits that shall be classified as “social safety” special attention is prescribed to the regulation of Art. 48 of the LSA, providing that an individual or a family has the “**right to shelter, a meal and necessary clothing**” if he is deprived of it. Providing shelter is performed by awarding temporary accommodation in hostels, shelters, homes for the homeless and other designated places. On the other hand, the granting of necessary clothing is done by providing the person in need with undergarments, clothing and footwear appropriate to the individual characteristics and time of the year. Moreover, a person who by his own efforts cannot provide the necessary meal, temporary or periodic aid is granted in the form of one hot meal a day.

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<sup>30</sup> According to it, the type, form and amount of the assistance benefit should be adequate to the circumstances justifying providing assistance, where the needs of beneficiaries should be included if they meet objectives and are within the capabilities of social assistance. See Judgement of the Provincial Administrative Court in Warsaw of 19 April 2006, I SA / Wa 439/05.

<sup>31</sup> Judgement of the Provincial Administrative Court in Olsztyn of 20 January 2009, II SA/OI 964/08.

<sup>32</sup> Judgement of the Supreme Administrative Court of 19 June 2007, I OSK 1464/06.

Given the issue of social safety, one should also pay attention to the regulation concerning the particularly difficult situation of the homeless. Polish legal regulation on social assistance (Art. 49 of the LSA) provides for the possibility of a homeless person to be covered under – the **“individual program for recovery from homelessness”**, consisting in the support of a homeless person in dealing with his life problems, especially family and housing ones, and assistance in obtaining employment. This individual program is developed by a social worker of a social assistance centre together with the homeless person. The shelter or home for the homeless is the executor. The individual program for recovery from homelessness should take into account the situation of the homeless person and provide specific support for a person actively involved in recovery from homelessness. In addition, according to the needs of the homeless person, this program can accommodate any aid available to the social assistance centre implementing the program

From the perspective of social safety, among non-cash benefits assistance in the form of **“care services or specialist care services”** is also noteworthy. It serves single persons who because of age, illness or other reasons require the assistance of others, and are deprived of it. Care services or specialist care services may also be granted to the person requiring assistance from others when their relations (family, non-cohabiting spouse, ascendants, descendants) cannot provide such assistance. Care services include assistance in meeting everyday life needs, hygienic care, nursing recommended by a doctor, and, if possible, providing contact with the environment. However, specialist care services are services tailored to the specific needs resulting from the type of illness or disability, provided by persons with specialised professional training (Art. 50 of the LSA).

Lastly, attention should be paid to the **“right to be placed in a social assistance home.”** The entitlement to it lies with the person requiring full-time care because of age, illness or disability, who cannot function independently in a daily life, for whom necessary assistance in the form of care services cannot be provided. Such a person, shall be referred to a social assistance home of an appropriate type, located as close to the person's place of residence as possible (Art. 54 of the LSA).

## SATISFYING BASIC SOCIAL NEEDS OF CITIZENS IN THE NATIONAL SOCIAL POLICY

The issues of deficits in meeting basic needs of citizens is a problem not only apparent in the national perspective, but also a broader European one. Suffice to note that in 2011, approximately 120 million inhabitants of the European Union (representing nearly 25% of its population) experienced various (and of varying degrees) deficits concerning among other things: the lack of financial resources, access to tangible property or access to work. Knowing that such marginalisation of nearly a quarter of the population of the European Union prompted Member States to efforts aiming at reducing poverty and social exclusion. Their effect is allocating adequate resources for this objective in the new financial perspective (2014–2020), as well as the commitment to develop national policies for reducing poverty<sup>33</sup>.

At this point it is worth recalling that the objective of the “Europe 2020” European strategy is to reduce by 2020 the number of people at risk of poverty or social exclusion by 20 million people. The corresponding national target adopted by Poland was defined as “a reduction in the number of people at risk of poverty and/or economic deprivation and/or living in households with no people employed or of low labour intensity by 1.5 million”<sup>34</sup>.

Locating the issues of allowances satisfying basic social needs of citizens (social safety benefits) in the context of the national social policy, particular attention should be paid to the Programme for the Prevention of Poverty and Social Exclusion 2020<sup>35</sup>.

Justifications for the creation of such a program can be traced to many areas of public life, showing various dysfunctions of satisfying basic needs of citizens that lead to deprivation. Undoubtedly, one must see as particu-

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<sup>33</sup> National Programme for the Prevention of Poverty and Social Exclusion 2020. New dimension of active integration, Ministry of Labour and Social Policy, Warsaw 2013, p. 4 – hereinafter as National Programme for the Prevention of Poverty and Social Exclusion 2020.

<sup>34</sup> National Reform Programme, November 2011, p. 46.

<sup>35</sup> National Programme for the Prevention of Poverty and Social Exclusion 2020, p. 3.

larly difficult the situation of persons at risk of poverty. Given that Poland, through entering into the implementation of the “Europe 2020” strategy, committed to a reduction in the number of people at risk of poverty by about 1.5 million, it became legitimate to place measures aimed at its reduction in a separate development program – the Programme for the Prevention of Poverty and Social Exclusion 2020.

With regard to its legal status, it should be noted that this is a development program within the meaning of Art. 15 Paragraph 4 Section 2 of the Act of 6 December 2006 on the Principles of the Development Policy<sup>36</sup>, and hence, it constitutes a document of an operational and implementation nature, set up to institute the medium-term development strategy for the state<sup>37</sup>.

This program is the implementation of a national social policy, and in particular the third specific objective of the Human Capital Development Strategy 2020<sup>38</sup>, entitled “Improving the situation of individuals and groups at risk of social exclusion”. This goal, points to the need of redefining basic objectives of social policy which should support the pursuit of employment, while ensuring an adequate level of social security of persons who for various reasons cannot obtain income from work. In particular, it is about ensuring that each citizen has access to public services which will allow for the reduction or elimination of deficits or dysfunctions, even out of disparities and make it possible to pursue employment<sup>39</sup>.

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<sup>36</sup> Journal of Laws of 2009 No. 157, item. 1240, as amended. – hereinafter referred to as the Law on principles of the development policy.

<sup>37</sup> National Programme for the Prevention of Poverty and Social Exclusion 2020, p. 3.

<sup>38</sup> The Human Capital Development Strategy 2020 was adopted by the Council of Ministers (Resolution No. 104 of the Council of Ministers of 18 June 2013 on the adoption of the Human Capital Development Strategy 2020) and is one of nine sectoral strategies constituting the so-called ‘other development strategies’ within the meaning of the Act on principles of the development policy, implementing medium and long-term national development strategy. The main objective of the Human Capital Development Strategy 2020 is the development of human capital through extracting potentials of people in such a way that they can participate fully in the social, political and economical life at all stages of life.

<sup>39</sup> Human Capital Development Strategy 2020, p. 39. This objective will be achieved, inter alia, through the intervention directions such as: development of tools ensuring to



In addition to the Human Capital Development Strategy 2020 playing the leading role in the fight against poverty in the Polish development policy, this matter was contained in a number of documents relating to the Europe 2020 strategy. Strategic documents, directly or indirectly determining the shape of the policy for combating poverty, are Long-term National Development Strategy “Poland 2030”, National Spatial Development Concept and National Spatial Development Plan, and in the perspective of 2020 – Medium-term National Development Strategy along with 9 Integrated Strategies. It should be emphasised that the problem of combating poverty is also the subject of other strategies, including National Strategy of Regional Development 2010–2020. Regions, cities, rural areas, Social Capital Development Strategy, Strategy for Sustainable Development of Rural Areas, Agriculture and Fisheries, Strategy for Innovation and Efficiency of the Economy and Efficient State<sup>40</sup>.

In National Development Strategy 2020, one of the three strategic areas relating to social and territorial cohesion identified priority directions of public intervention, which included: ‘Increasing the activity of people socially excluded or at risk of social exclusion’ embracing, *inter alia*,: changes in the system of social benefits (a better adjustment of support), social integration programs aimed at eliminating deficits of individuals and promoting their potentials. Another priority direction of public intervention was defined as “Reducing poverty among the highest risk groups” including, but not limited to: changes in the system of social benefits (a better adjustment of support), increasing the availability of various

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those who are excluded access to public services allowing for the return to the labour market; reducing the scope of poverty and risk of poverty, especially among children, the elderly and the disabled; strengthening preventive measures aimed at children and families at risk of dysfunction or experiencing difficulties; the development of active, including innovative, forms of assistance to those at risk of exclusion or socially excluded (including social innovation in the field of integration and social economy and social entrepreneurship); prevention of new types of social exclusion, including digital exclusion and fuel poverty; increasing the availability of housing, including the expansion of the rental system and the development of social housing, assuming that it will be a form of temporary and time-limited support to persons in a difficult financial situation. For the subject see: Human Capital Development Strategy 2020, pp. 39–40.

<sup>40</sup> National Programme for the Prevention of Poverty and Social Exclusion 2020, p. 36.



forms of assistance to students, the creation of an effective housing rental system, social housing development, rationalization of the principles of the management of public housing resources and the resources of communal building societies<sup>41</sup>.

## FINAL CONCLUSIONS

State social policy should take into account the subsidiary nature of assistance from public authorities in relation to the activity of the interested parties in their efforts to find and pursue work. In accordance with the principle of subsidiarity, overcoming difficult life situations by individuals and families should be carried out with the use of their own resources, capabilities and rights – and only the inability to overcome them independently will constitute a revaluation prerequisite for the joining in of public institutions offering, among others, social insurance benefits, family benefits and assistance for the unemployed and, finally, social assistance benefits (as the last, supplementary link in the social safety system). This way of understanding of the state social policy determines ways of implementation of its objectives, and hence, its functions and tasks specified in the form of granting of certain benefits. Thus, the instruments of social assistance, which include benefits contained in the category of social safety, should be treated as final, last support from the state.

One of the more sensitive elements of the state social policy, especially social assistance system, is the (commonly known) fact of having limited financial resources at disposal to achieve its objectives. There is no doubt that the condition for the real and effective implementation of elements of state social policy is having adequate financial resources for their implementation. It is also evident that it is impossible to protect all needs of persons pursuing assistance, much less provide benefits to the amount expected by such persons (especially considering the growing number of people awaiting and in need of support). In situations where the law

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<sup>41</sup> Ibidem.

provides a basis for doing so, it results in the authority's right to assess the hierarchy of reported needs that must be determined in the context of the overall number of persons applying for assistance and requests submitted by them, and also the amount of financial resources allocated for the benefits.

The public authority has a duty to ensure a basis of appropriate existence to citizens – both individuals and families. To said obligation corresponds the right of these persons to receive adequate benefits from the state, which are a component of the pursued social policy. The group of social safety benefits singled out in this study constitutes a sub-category of social assistance benefits. Their characteristic feature is, in the objective sense, meeting the needs expressing the minimum social safety, and in the subjective sense – focusing on the direct meeting of needs of those individuals (families) who are on the verge of social exclusion. Providing social safety is implemented with the use of a directory of services of different specifics, roles and functions. The proper selection and application thereof allow – at least in the model approach – for the proper directing of a stream of benefits corresponding to specific, real needs – because every case of social assistance benefits should take into account the specifics of beneficiary's situation (position), resulting in individualisation of the assistance provided. It will not be possible without a proper diagnosis of a life situation in which persons applying for the benefits are and evaluation of their merits (whether, in particular, their difficult life situation has been caused by factors over which the individual (family) had no influence). When granting a benefit falling under the category of social safety, the state authority should take into account the legitimate interest of the party, as long as it does not interfere with the legitimate public interest (i.e. the interests of all beneficiaries). Deciding on a concrete and individual case should be preceded by an adequate analysis – with the object being the relation of available financial resources (capabilities) allocated to the payment of social assistance benefits, in relation to the number of persons entitled to such benefits.

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## **COMMON SECURITY AND DEFENCE POLICY OF THE EUROPEAN UNION IN THEORIES OF THE EUROPEAN INTEGRATION**

**Keywords:** European Union, Common Security and Defence Policy, Europeanization, theories of the European integration.

**ABSTRACT:** The purpose of this article is synthetic analysis of the theories concerning the Security and Defence Policy of the European Union. Author analyses neorealist and neofunctionalist theories and marginally takes into account theory of liberal intergovernmentalism and new institutionalism theory

Neorealists argued that in order to understand CSDP, one should look at the changing nature of the balance of power and the way in which member states sought profits coming from the negotiation process, which took place between European Union and NATO. Liberal intergovernmentalists, including Andrew Moravcsik, assumed that CSDP is a factor created and driven by the domestic policy of member states, although both NATO and EU institutions influenced this process. Neofunctionalists' hypothesis assumed that CSDP is a result of the spill-over effect – consequence of the economic integration. They demonstrated, through economic analysis, the impact of economic and monetary union on the process of development of the European security and defence policy. In neoinstitutionalist theory, the emergence of the CSDP is explained by highlighting the impact of international institutions in the foreign policy of the EU and NATO member states.

Above hypotheses have the objective of finding the causes of the CSDP's emergence, but are also an attempt to answer the question what is the CSDP. Existing theories do not address the whole issue comprehensively, because they are missing implication of links between supranational, transnational and intergovernmental dimension of CSDP, indicating only the conceptualization of evolution and the role of the various bodies at different levels, particularly in the theories of neoliberalism, neoinstitutionalism and intergovernmental liberalism.

## **INTRODUCTION**

The purpose of this article is analysis of the theories concerning the Security and Defence Policy of the European Union (EU). It should be noted that the EU's defence dimension is so far poorly explored area – theoretically and conceptually. Therefore, due to the specificity of the topic, the author analyses neorealist and neofunctionalist theories and marginally takes into account theory of liberal intergovernmentalism and new institutionalism theory. Studies on this topic are concentrated mainly around the EU activity in the framework of the Common Security and Defence Policy (CSDP), so an attempt to identify the causes that led to this state of affairs is also important. In the first part of this article author mentions the most important initiatives that led to the development of these policies, by yielding the impulses which reflected in the numerous agreements and all sorts of concepts. Then the author analyses the key theoretical issues during the debate, and in the final part of the study creates a resume of hypotheses that have been raised in the course of the development of an area of security and defence.

### **I. SELECTED INITIATIVES WITHIN THE EUROPEAN SECURITY AND DEFENCE POLICY**

In the European Union, the integration in the area of security and defence was forming not without difficulties. For a long time the term ‘integration’ was identified as an activity of states in the fields related to the economy and monetary policy, gradually also to political cooperation, but issues related to security and defense were initially the exclusive domain of states. There is another notion strongly connected with the process of European integration and treated as its consequence – Europeanisation. According to Thomas Grosse, ‘Europeanisation’ refers to a single entity, which is the European Union, recognizing that it is the cornerstone and the most important source of Europeanisation processes. Most often it means the impact of the EU on member states, by extending the boundaries of the EU, accepting new members, transferring the Com-

munity institutions, European rights and values beyond the borders of the European Union. Europeanisation is also linked with the process of transfer of competencies from the member states to the European Union, this is then a bottom-up process of building European structures and their successive strengthening by the Member states. However, the reverse process, namely transferring standards from the EU to the Member states, is referred to as a top-down Europeanisation<sup>1</sup>. In the development of the European security and defence policy the bottom-up Europeanisation is noticeable, because mechanisms of action and competencies are gradually transferred from national level to European level. Europeanisation *ad extra* may be also observable as the common principles of the European security and defence policy are exported to third countries, with examples in numerous civilian and military missions carried out on behalf of the European Union, thanks to the established European Security and Defence Policy<sup>2</sup>.

The very idea of Europe as a third force and an independent actor in the world politics as well as the discussions about a nature of policy on security and defence policy, represent a long process in the creation of the European Union. The cornerstone of building unity in Western Europe in the security and defence area was laid right after World War II. Winston Churchill's speech in Zurich on September 19, 1946 may be viewed as the beginning of European integration in the security and defence area. In his exposé he mostly pointed out the ineffectiveness of The League of Nations and a threat of nuclear weapon. These arguments were the impulse to call on European countries to build structures, so that they would be safe and free<sup>3</sup>. The signing of the Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence in Brussels on March 17, 1948 was

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<sup>1</sup> T. G. Grosse, *W objęciach europeizacji. Wybrane przykłady z Europy Środkowej i Wschodniej*, Warszawa 2012, pp. 8–11.

<sup>2</sup> More about Europeanisation *ad extra*: J. Ruszkowski, *Europeizacja ad extra w zarządzaniu zewnętrznym (external governance) Unii Europejskiej*, „Rocznik Integracji Europejskiej” 2010, Poznań, No. 4, p. 7 and subsequent.

<sup>3</sup> W. Churchill, *Speech delivered at the University of Zurich, 19 September 1946*. [Strasbourg]: Council of Europe – Conseil de l'Europe, mise à jour 21.11.2005, [www.coe.int](http://www.coe.int) (accessed 30.08.2013).

important step towards wider cooperation within a range of security and defence policy<sup>4</sup>. This treaty, called most often the Treaty of Brussels, created an organization called Western Union (WU)<sup>5</sup>. It consisted of following countries: Belgium, France, Luxembourg, the Netherlands and the United Kingdom. Determinants, which led to the creation of the WU, were primarily a result of the absence of safeguard, which could act as a deterrent. It is worth noting, however, that the bilateral Franco-British Alliance based on the Treaty of Dunkirk signed in 1947 was the cornerstone of Treaty of Brussels.

Because within a year after the establishment of the North Atlantic Treaty Organization (NATO), WU had not had the possibility of the development of its abilities and as a result was weak and incapable of proper functioning at the very beginning. This meant that the first major project in the area of security and defence in Western Europe had no chance of a full implementation. Although it should be noted that member states expected that at last a common security and defence system could be established. Robert Edwards Hunter believes that in 1948 Western countries thought of creating institutions responsible for their foreign policy, as well as defence, and gradually proceeded to that. Pleven Plan, signed on October 24, 1950, was supposed to be the first step towards defence integration and the creation of a European Defence Community (EDC)<sup>6</sup>.

The concept of establishment of the European Coal and Steel Community (ECSC) in 1957 as well as the war in Korea were the main reasons to create a community concept of a wider range, that includes cooperation

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<sup>4</sup> *The Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence, signed in Brussels on 17 March 1948 by Belgium, France, Luxembourg, the Netherlands and the United Kingdom.*

<sup>5</sup> On October 23, 1954 r. WU was transformed into the Western European Union (WEU).

<sup>6</sup> R.E. Hunter, *The European Security and Defence Policy: NATO's Companion – Or Competition?*, Santa Monica 2002, p. 7. Cf. *The Schuman Declaration, Selection of texts concerning institutional matters of the Community from 1950 to 1982*. Luxembourg: European Parliament – Committee on Institutional Affairs, 1982, pp. 47–48; *Fondation Jean Monnet pour l'Europe, Lausanne. Archives Jean Monnet. Fonds AME. 33/1/4, J. Monnet, Mémoires*. Paris: Fayard, 1976, pp. 349–350.

in the field of security and defence policy. On February 17, 1986 the Single European Act (SEA) was signed in Luxembourg<sup>7</sup>. In the context of this study, the Title III SEA (Treaty provisions on European cooperation in the field of foreign policy) deserves attention. It contains one article along with thirty points, from which the most important is the point 6. According to that: the Member states have expressed the view that closer co-operation on questions of European security would contribute in an essential way to the development of a European identity in external policy. The states are ready to co-ordinate their positions more closely on the political and economic aspects of security (6a). In addition, Member states are determined to maintain the technological and industrial conditions necessary for their security. They would work to that end both at national level and, where appropriate, within the framework of the competent institutions and bodies (6b). In the last sections, it was underlined that the provisions of the document would not impede closer co-operation in the field of security between states within the framework of the Western European Union or the Atlantic Alliance (6 c)<sup>8</sup>. The Single European Act stressed the intergovernmental nature of political cooperation. As a result, the area of security was formalized within the European Political Cooperation (EPC). However, SEA didn't put anything new into that, except that the primary Community law acquired the concept of security, which meant that the EPC had developed a legal basis, and it was nevertheless a significant contribution into building a pillar of security and defence. One of the relevant results of SEA was the establishment of a permanent secretariat of the EPC in Brussels. It created the opportunity for discussion in areas related to security, that is defence policy<sup>9</sup>.

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<sup>7</sup> JAE was signed by nine countries, i.e. Belgium, The Netherlands, Luxembourg, Federal Republic of Germany, France, Spain, Ireland, Portugal, United Kingdom and later for a second time on February 28, 1986 by three countries i.e. Denmark, Greece and Italy. It came into force on July 1, 1987, J. Barcz, A. Koliński, *Jednolity Akt Europejski. Zagadnienia prawne i instytucjonalne*, Warszawa 1991, also: *Single European Act*, *Official Journal of the European Communities* (OJ). 29.06.1987, No. L 169, p. 1.

<sup>8</sup> Ibidem.

<sup>9</sup> Cf. M. Sjøvaag, *The Single European Act*, in: K.A. Aliassen (Ed.), *Foreign and Security policy in the European Union*, London, 1998, pp. 22–23.



Created on the basis of the Maastricht Treaty of European Union (TEU), the European Union included more visible symptoms of security and defence area, as in the Treaty defence issues and Western European Union were concerned. It was included in the article J.4 of TEU, which says that the common foreign and security policy shall include all questions related to the security of the Union, including the eventual framing of the common defence policy, which might in time lead to a common defence. In addition, EU confirmed that WEU was an integral part of the development of the Union<sup>10</sup>. It didn't mean incorporation of WEU into the European Union, but only support for its activities within the range of defence area. Declaration no 30 on Western European Union<sup>11</sup> signed as an Annex to the TEU, deserves further attention. It was the confirmation of the role WEU had to play. Member states of both the EU and the WEU, agreed that they would develop the dualistic role of WEU, which meant that it would be both a defensive component of the EU, as well as its activity would contribute to the strengthening of the European pillar within the North Atlantic Treaty Organization. The Treaty Of Amsterdam<sup>12</sup>, in turn, introduced some changes to the second pillar of the EU (title V of the TEU). The most important changes included: adding the objectives of Common Foreign and Security Policy (CFSP), provision on the protection of the integrity of the Union and strengthening the security in all forms (article 11, paragraph 1), introduction of the common policies as an instrument to facilitate the achievement of the objectives of the second pillar (articles 12 and 13 of the TEU). The most important change was the new form of the article 17 (former article. J. 4). It established that the common foreign and security policy shall include all matters relating to the security, including the progressive (and not "possible" as this article does. J 4) framing of a common defence policy, which might lead to

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<sup>10</sup> Article J.4, op.cit.

<sup>11</sup> *Treaty of European Union: Declaration on Western European Union*, OJ, No C 191, 29.07.1992, p. 105.

<sup>12</sup> *Treaty of Amsterdam amending the Treaty of European Union, the Treaties establishing the European Communities and Related Acts*, OJ, C 340, 10 November 1997.

a common defence, when the European Council so decide<sup>13</sup>. Subsequent meetings and treaties (Nice 2001, Lisbon 2009), increasingly equipped the European Union with new mechanisms of action in the area of security and defence, through the creation of appropriate structures and tools for effective management of military and civilian crises and effective conflict prevention.

According to Tuomas Fosberg<sup>14</sup>, the development of cooperation in the field of security and defence policy, initially called European Security and Defence Policy (ESDP), then the Common Security and Defence Policy, was one of the most remarkable trends shaping both the European security architecture, as well as the integration process in the beginning of the 21<sup>st</sup> century. Initially, tasks within these areas were to be carried out by Western European Union, however, prospects for the development of its capacity in the field of security and defence policy were not really good. Not before the Franco-British Saint Malo Summit in December 1998, it was concluded that the European Union should be able to fully play the part on the international scene. In order to do so, it should have capacity to act independently, backed by reliable military forces, and ability to make decisions about their use, and to be ready to respond to international crises<sup>15</sup>. Franco-British agreement is regarded as key factor in the development of the ESDP. Afterwards, during an informal summit of the EU in October 1998 in Pörtschach, British Prime Minister Tony Blair declared that Common Foreign and Security Policy could not be sustained in its form, and European defence capability should be achieved, what would

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<sup>13</sup> J. Barcik, *Europejska Polityka Bezpieczeństwa i Obrony. Aspekty prawne i polityczne*, Bydgoszcz-Katowice 2008, pp. 90–91. Art. 17 *Treaty of Amsterdam*; J. Monar, W. Wessels (Eds.), *The European Union after Treaty of Amsterdam*, London-New York 2001.

<sup>14</sup> Finnish International Studies Association.

<sup>15</sup> *Joint Declaration on European Defence, Joint Declaration issued at the British-French Summit, Saint-Malo, 3–4 December 1998*, p.1, in: Foreign and Commonwealth Office of the United Kingdom, [www.fco.gov.uk](http://www.fco.gov.uk), [12 VIII 2008]. Por. Chirac wants an autonomous European Demence capability, „Le Figaro”, 20 X 1999,; [www.cvce.eu](http://www.cvce.eu) [4 XII 2012]., T.M. Lange, *European security and Demence Policy. EU a global security actor?*, Seminar Paper, 2007, p.6, P. H. Gordon, *Their Own Army? Making European Defense Work*, „Foreign Affairs”, 2000, Vol. 79, No. 4, *The European Security Development and Finnish Defence*. Report by the Council of State to Parliament on 17 March 1997.

allow EU member states to conduct joint military operations, especially the peace-keeping missions<sup>16</sup>. This change in the policy of the United Kingdom, which had earlier blocked the development of cooperation in these areas, actuated the activity of previously neutral countries, such as Sweden and Finland. Earlier, these countries had been also skeptical about the militarization of the European Union. The Summit in Santa Maria da Feira in 2000, only confirmed the desire to strengthen defense policy of the EU and greater involvement of member states in this area<sup>17</sup>. In 2000, the newly appointed High Representative of the Union for Foreign Affairs and Security Policy (HR), Javier Solana stated that the European defence matters had been developed at the “speed of light” in comparison with the normal practice in the EU<sup>18</sup>. This was due to many factors, the most important of which was the conflict in the Balkans and EU’s low ability to respond. United Kingdom and France were frustrated by the fact that the European Union did not possess the ability to take military action and could not play a key part in Kosovo crisis<sup>19</sup>. Thus “the green light” was given to a rapid development and strengthening of the European Security and Defence Policy. Its development was so vigorous, that only few have questioned the tempo and dependencies that were formed as a results of its dynamism, and for the most observers the evaluation criteria were its activity and effectiveness.

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<sup>16</sup> R. Zięba, *Wspólna Polityka Bezpieczeństwa i Obrony*, Warszawa 2005, p.38. Cf. N. Winn, *CFSP, CESDP, and the Eastern Enlargement of the European Union: Evolution in the Brussels Institutions?*, „World Affairs”, 2003, Vol. 7, No. 1, J. Peterson, H. Sjursen (eds.) *A Common Foreign Policy for Europe? Competing visions of the CFSP*. Routledge, London and New York, 1998, A. Missiroli, *Coherence for European security policy: debates, cases and assessments*. „Occasional Paper”, Paris: WEU Institute for Security Studies, 2001, No. 27.

<sup>17</sup> European Council – *Presidency Conclusions (Santa Maria da Feira, 19 and 20 June 2000)*, Council of the European Union, [13.06.2007]. No. 200/1/00.

<sup>18</sup> T. Fosberg, *Integration Theories, theory development and European Security and Defence Policy*, Paper presented at the fifth Pan-European Conference on EU Politics, Porto, 23–26 June 2010.

<sup>19</sup> E. Pond, *Kosovo: Catalyst for Europe*, „The Wasinghton Quartely”, Vol. 22, No 4, pp. 77–79.

## II. THE COMMON SECURITY AND DEFENCE POLICY – THEORETICAL APPROACH

As the above mentioned conclusion points out, contemporary debate in literature about the European defence cooperation, was carried on mostly about the subject of needs of the sole cooperation and its future directions, without taking account of the tempo of its development. A few reasons, that explain the lack of in-depth analysis in this area, may be mentioned. In particular:

- existence of old type game between European powers,
- natural divergence of strategic national interests,
- confusion caused by the end of the Cold War
- structural crisis of modern European democracies and the weakness of the European institutions.

Paradoxically, the most simple scenarios about the increase of the role and importance of the EU as an international entity, were often presented critically by those who negated militarization of the EU<sup>20</sup>. Hanna Ojanen also believes that this long period of time, when the security and defence policy was not visible during the European integration process, was a solid proof of the validity of the realism, which was supported by the theories of the intergovernmental integration. The militarization of the European Union was an anomaly in majority of theories of integration, which were developed at the time when the EU was not equipped with a defence dimension, and therefore it was not part of the European integration<sup>21</sup>. Therefore, the conceptualisation of a relationship between the European Communities (EC)/UE and the European integration process, and security and defence policy was sparsely included into the theoretical framework. From 1970 to 1980, two approaches were created, namely neorealism and

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<sup>20</sup> Ibidem, pp. 2–5; cf. J. Zielonka, *Explaining Euro-Paralysis. Why Europe is Unable to Act In International Politics*, London 1998.

<sup>21</sup> H. Ojanen, *The EU and Nato: Two Competing Models for a Common Defence Policy*, „*Journal of Common Market Studies*” No 44/1, pp.57–76. Cf. H. Ojanen, *Theories at a Loss. EU-NATO Fusion and the, Low-Politicization of Security and Defence in European Integration*, „UPI Working Papers” 2002, Helsinki: The Finnish Institute of International Affairs, No. 35.

functionalism. Neorealists pointed out that the development could not be understood without structural changes in the international system. Kenneth Waltz was one of the key exponents of this view. He even reinterpreted classical realism, proposing to work on the balance of forces, as a factor in determining the behaviour of states in the international relations. Waltz understood balance of power as a primary determinant of behavior in international relations. Within this approach, however, defence and security matters belonged to the realm of the “high politics” and they were not susceptible to the dynamics of the process of integration. Whereas EU policies were driven by the member states, which sought relative profits<sup>22</sup>. However, already in the beginning of the 1960s, the neofunctionalists managed to gain an advantage in the competition for the best theoretical explanation of a new phenomenon, called integration. As supporters of the liberal theory of international relations, initially they did not foresee expansion of integration of military affairs, considering that the Union should rather remain a civil actor. At the same time, their thinking gave a new impetus to the creation of different mechanisms through which member states could create new political community<sup>23</sup>. Theories of neofunctionalists stressed the importance of transferring tasks from the European Political Community into framework of the Common Foreign and Security Policy, extending the objectives of the European Union and including security and defence issues, which was the result of a wider process of European integration<sup>24</sup>. A new mechanism appeared in their theories, the so-called spill-over effect, i.e. spilling integration out of one area to others. It was initially negated that spillover was a quick process, but neofunctionalists were aware that this is an inevitable part. Spill-over

<sup>22</sup> G. Bono, *ESDP and Democracy. European Security and Defence Policy: theoretical approaches, the Nice Summit and hot issue*, February 2002, <http://www.nassauer.org/CESD-PA/esdp02.pdf> (accessed: 20.10.2013); p. 6. cf. K.N. Waltz, *Theory of International Politics*, Massachusetts 1979, K.N. Waltz, *Reflection on Theories of International Politics: A response to my critics*, in: R.O. Keohane (Ed.), *Neorealism and its critics*, Columbia 1986, J. Peterson, *The choice of EU theorists: establishing a common framework for analysis*, „European Journal of Political Research”, 2001, Vol. 39.

<sup>23</sup> Ibidem.

<sup>24</sup> J. Peterson, H. Sjursen (eds.), *A Common Foreign Policy for Europe? Competing visions of the CFSP*. Routledge, London and New York, 1998, p. 96.

effect in terms of European security and defence policy was basically the right method, because one would expect the creation of supranational defence institutions, reflecting the unity of the EU. Despite this, the integration of European defence area was strictly at intergovernmental level and there was no top-down harmonisation in military affairs<sup>25</sup>. Neofunctionalists understood integration process as an institutionalised model of political interests, taking place within international organizations. From their point of view, the spill-over effect was a tendency favourable for the formation of a foreign policy<sup>26</sup>. As a matter of fact that during the process of European integration, national political parties were convinced to move its loyalties, expectations and political actions towards the new center (and not their own central political institutions), whose institutions have or require supra-national jurisdiction. This loyalty will not have any influence on issues related to the defence policy<sup>27</sup>. The mechanism of spill-over dynamically developed in the area of Economics, which directly affected the improvement of the quality of life of citizens living in the European communities and later the European Union. In this case states conformity about objectives was clear, as well as that the institutionalization was developed supranationally. In relation to security and defence policy, there was no clarity nor conformity between countries and even between the European Union and NATO, which had the lead in this area. However, a matter of sovereignty was a deciding factor and member states did not want to sacrifice that in favor of supranational institutions. According to the realists, security and defence policy should be in the hands of the Government, even if the process of European integration would be developed in an innovative way. The trans theoretical consensus translated into an actual image indicated the lack of major progress in the security and defence policy. That was revealed by the signing of the Maastricht Treaty

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<sup>25</sup> E. Haas, *The Uniting of Europe. Political, Social and Economic Forces 1950–57*, Stanford, California, 1968, pp.4–5, 16; cf. H. Ojanen, *Theories*, in: S. Dühr, C. Colomb, V. Nadin (Eds.), *European Spatial Planning and Territorial Cooperation*, New York 2010, p. 96.

<sup>26</sup> E. Haas, *Turbulent Fields and the Theory of Regional Integration*, „International Organizations” 1976, Vol. 30, pp. 173–212.

<sup>27</sup> Ibidem.

of 1992 and Amsterdam Treaty in 1997, although the latter showed some progress, as WEU's Petersberg tasks<sup>28</sup> were incorporated into the EU. Subsequent years surprised both theorists and practitioners, because the security and defence policy began to develop within the framework of the EU. This was caused by the lack of the UE's ability to act independently, even using military measures. In 2000, new institutions started to work on an ad hoc basis, while member states started to achieve significant military capacity intended to be used by the Union. Common defence was not such an abstract idea at that time. In any case, an autonomous capacity for action required common standards, joint planning and joint operational procedures. Since 1998, more progress has been achieved in this area than in the previous 50 years history of the EC/EU. For neofunctionalists, such a sudden development of the European security and defence policy was evidence of the strength of the spill-over effect, and this mechanism also resulted in security and defense becoming part of the European Union<sup>29</sup>. According to Jolyon Howorth, a factor in integrating member states in this new field, which not so long before had had been considered too abstract, was a specific feature of the process. The development of European security and defence policy is able to give a new impetus to the process of European integration, because it differs from other policy domains implemented before (that is, traditionally, intergovernmentally and supranationally)<sup>30</sup>. The difference is noticeable in the dynamics and mechanisms for shaping a new policy. To emphasize the sovereignty of Member states, an intergovernmental model of decision-making from the former SECOND pillar of the EU was retained. Article 23 TEU establishes unanimity as a primary rule of decision-making process with two specified exceptions:

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<sup>28</sup> They are a) humanitarian and rescue tasks b) peace-keeping tasks c) tasks of combat forces in crisis management, including peace-making, R. Zięba, op.cit., p.20; cf. *Western European Union Council of Ministers, Bonn, 19 June 1992 Petersberg Declaration*.

<sup>29</sup> H. Ojanen, *Theories...*, op.cit.

<sup>30</sup> J. Howorth, *European Defence and the Changing Politics of the European Union: Hanging Together Or Hanging Separately?*, „Journal of Common Market”, 2001, Vol. 39, No. 4, p. 766.



- 1) Constructive abstention lies in the fact that each Member of the Council of the European Union (RUE), who abstains from vote, can simultaneously make a formal declaration. In this case, state is not obliged to implement the decision, but agrees that it binding. Such state is obliged to refrain from any action which might interfere with the decision taken. If the number of Member states submitting a statement is greater, i.e. they represent totally one-third of the weighted votes, that can lead to a situation in which a decision will be locked.
- 2) deciding by a qualified majority. Here art. 23 (2) of the TEU provides for three cases in which a majority vote is possible, with the proviso that the decisions taken in a such vote cannot affect the military or politically-defense affairs.

Transnational elements can also be pointed out in the decision-making process, despite the fact that were introduced only to a limited extent and function outside of the CSDP, however, both the European Commission and the European Parliament are involved in the decision-making and implementation of CFSP decisions<sup>31</sup>. In addition, the development and implementation of a new type of progress confirms the CSDP sovereignty, in which Member states jointly create opportunities for the EU to act as an independent unit assembling Member states which have set themselves the objective of creating a military capability in a single body<sup>32</sup>. This separation also confirms the budgetary issues in the area of defence, that look as follows:

- administrative expenditure, which shall be borne by the European institutions, that is, both the CFSP and CSDP are financed from the EU budget,
- operational expenses, the costs of which, depending on the type of operation are covered from different sources.

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<sup>31</sup> J. Barcik..., op. cit., pp. 297–298. Cf. M. R. Freire, *The European Security and Defence Policy: History, Structures and Capabilities*, in: M. Merlingen, R. Ostrauskaite (Eds.), *European Security and Defence Policy. An Implementation Perspective*, New York 2008.

<sup>32</sup> P. Bonnén, *Toward a Common European Security and Defence Policy. The Ways and Means of Making it a Reality*, COMPAS Group on Security and Defence Studies, Münster-Hamburg-London, 2003, Vol. 1, p. 40.



For example, exclusively civil operations are financed from the EU budget, and operations affecting the military and politically-defensive issues are charged to the budgets of the member states. They are divided on the basis of GDP. There is also the possibility of exemptions from cost for those Member states which do not take part in the operations, provided that they abstained and made the formal declaration, than they would not be obliged to make a financial contribution. Common operating expenses are allocated, among others, to maintain chief staff, including maintenance staff and infrastructure, medical expenses. In addition, CEU decides whether the costs of forces' transport and their accommodation should be considered common it is called ATHENA (ATHENA mechanism)<sup>33</sup>. This mechanism acts on behalf of the EU Member states participating in the operation and third countries providing financial contributions. It has the legal capacity, which means that it can open bank accounts, acquire, hold and dispose of property, etc., however, has a non-profit character<sup>34</sup>.

On the one hand, European integration in the area of security and defence was directed gradually to increase the use of national armed forces in the EU's multilateral operations, and, on the other hand, progressively affected the decision-making process by moving it to the supra-national level. This is due to the fact that parliamentary control of the security and defence policy is relatively difficult at the national level i.e. because of the secrecy of the decision, which in practice should mean a lack of consultation with Parliament. Ensuring democratic accountability of CSDP becomes even more difficult when the decision to send troops abroad is associated both at the national and EU level (supranational), therefore

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<sup>33</sup> J. Barcik..., op.cit., pp. 300–303, cf. *Council Decision 2004/197/CFSP of 23 February 2004 establishing a mechanism to administer the financing of the common costs of the European Union operations having military or defence implications*, OJ L 63, 28.02.2004 as amended, v. *Council Decision 2011/871/CFSP of 14 May 2007 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena)*, OJ L 343, 23.12.2011. cf. A. Missiroli, *Euros for ESDP: financing EU operations*, „Occasional Papers”, 2003, June No. 45.

<sup>34</sup> Ibidem, p. 304.

more often you can come across a notion of the double democratic deficit, happening at both these levels<sup>35</sup>.

The above analysis suggests that several theories were involved in explaining the process of shaping Common Security and Defence Policy, namely: neorealism and neofunctionalism as leading theories, relating to the whole process from an external view. The theory of neofunctionalism gained advantage, through the mechanism of spill-over. While neorealism had no chance of fully explaining the phenomenon, because in the course of development of CSDP pretty quickly it went beyond the classic framework of neorealism, that is a game of power and selfish interests with a provision that security matters are the exclusive domain of state actors. In addition, it may be noticed that there are two theories attempting to refer to the internal process of CSDP's creation (internal view) and the changes that were made by the dynamic development of this policy. These are the liberal intergovernmentalism and rational choice institutionalism. The first of them, on some parts analogous to neorealism, fits into the picture of the relationship between the Member states and their perspective on the evolution of the European security and defence policy and, above all, indicates to uphold the intergovernmental position in this area. This theory may clash with the neofunctionalism theory and mechanism of spill-over, as a blurring effect is already visible in the institutional structure of the decision-making procedure and CSDP's budgetary issues (discussed above). From the point of view of the development of a Common Security and Defence Policy and the tasks imposed on it, it was hard to maintain a strictly intergovernmental in nature. However, it is problematic to assume what will bring better effect in the future – whether maintaining intergovernmental model or shifting CSDP's decisions in the direction of supranationality until fully outside its framework. The trend,

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<sup>35</sup> M. Conelli, F. Zanon, *Democratic Legitimacy and accountability of ESDP operations*, Documenti, Istituto Affari Internazionali (IAI), 0934, pp. 2–3. Cf. S. E., Gavrilescu, *Parliamentary Scrutiny of European Security and Defence Policy: is there anybody in charge?*, in: "Perspectives: The Central European Review of International Affairs" 2004, No. 22, M. Zürn, *Democratic Governance Beyond the Nation-State: The EU and Other International Institutions*, „European Journal of International Relations”, 2000, Vol. 6, No. 2.

which has remained for several years in the European Union, is rather to move away from what is “*stricte*”. Similar conversion results from the theory of rational choice institutionalism, it indicates the supranational dimension of cooperation. In addition to creating the institutional system in CSDP, which is supranational-intergovernmental anyways, the scope of activity in areas of security and defence has been further expanded to international organisations and the states which are not members of the EU, exemplified in stabilisation missions and numerous forums for cooperation. This means that CSDP is not a policy restricted in its activities only to Member states, once again is not ‘*stricte*’, this in turn means, that the result opposite to the intended has been achieved (the idea of intergovernmentalism). In the initial phase of European Communities’ functioning, issues of security and defense were to be built on the basis of maintaining sovereignty and strict intergovernmentalism. Initially, it was also assumed that the process of European integration is more favorable for economic cooperation, because societies of member states benefit from that. In addition, within the meaning of the idea of intergovernmentalism, security and defence policy were perceived as not susceptible to the process of European integration. Review of this assumption came pretty quickly. Currently, from the point of view of transnational threats, it was noticed that CSDP is doubly beneficial, both for member states and citizens, because they were given a sense of greater security in a broader view, as well as the European Union, as an organisation, gaining prestige.

### III. RESUME OF HYPOTHESES ON THE SHAPING OF THE COMMON SECURITY AND DEFENCE POLICY

In order to understand above-mentioned theoretical approaches to the Common Security and Defence Policy several hypotheses created during European integration process should be pointed out. They were directed into theories regarding the possibility of the emergence and the development of the common security policy and defence policy. Neorealists argued that in order to understand CSDP, one should look at the changing nature of the balance of power and the way in which member states sought

profits coming from the negotiation process, which took place between European Union and NATO. On the one hand, negotiations consisted in the strengthening of European Identity in the areas of security and defense (European Security and Defence Identity – ESDI) as well as the strengthening of transatlantic links at the same time, which, in turn, was supposed to provide opportunities to take greater responsibility by member states of the EU for Common Security and Defence Policy. It was highlighted that the EU and NATO have common interests aimed at the strengthening, not relaxing, cooperation<sup>36</sup>.

Liberal intergovernmentalists, including Andrew Moravcsik, assumed that CSDP is a factor created and driven by the domestic policy of member states, although both NATO and EU institutions influenced this process.

Neofunctionalists' hypothesis assumed that CSDP is a result of the spill-over effect – consequence of the economic integration. They demonstrated, through economic analysis, the impact of economic and monetary union on the process of development of the European security and defence policy. The weakness of this hypothesis is that it does not explain why a more pronounced level of integration in military matters was not formed within the framework of the Single European Act, the Maastricht Treaty, or the Amsterdam Treaty, only until the end of the 1990s. In addition, to mark this hypothesis as a certainty, empirical research should have been carried out. Their theories do not explain the ups and downs of the EU during the creation of a security and defence policy.

In neoinstitutionalist theory, the emergence of the CSDP is explained by highlighting the impact of international institutions in the foreign policy of the EU and NATO member states. Their initial hypothesis assumed the creation of several working groups, various bodies within the framework of the EPC and later CFSP in conjunction with the interaction between NATO and the WEU, through numerous working groups, exchange of experience, mutual understanding in foreign and defence

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<sup>36</sup> G. Bono..., op.cit., p.9, v. *Ministerial Communiqués 1994. Ministerial Meeting of the North Atlantic Council, North Atlantic Cooperation Council*, NATO Headquarters, Brussels, 10–11 January 1994.

affairs. Criticism of this hypothesis was pointed at the lack of connection between this primary factor in the evolution of EU defence policy and NATO, which is international organizations, and the internal and supra-national factor<sup>37</sup>. There were also hypothesis that the CSDP is a product of a special relationship between France and the United Kingdom, as well as France and Germany, reducing the rise of particular interests between the three member states<sup>38</sup>. It would be a mistake to completely negate this theory, as it shows the history of European integration, the individual policies, created precisely from the vested interests of several member states, and their common interests. It is also worth noting that the emergence of CSDP was influenced by external factors, largely crises in Kosovo, which has already been mentioned, Afghanistan and Iraq, because that showed the political weakness of the European Union. The role of United States, their initial skepticism and concern about the development of the European forces resulting in weakening of transatlantic ties, and increasing disparities between the member states of the EU and NATO may be also also treated as a external factor. These factors have led to increasingly closer integration of the EU member states in the area of security and defence.

Other hypotheses indicated that the CSDP was a way to strengthen transatlantic relations, keeping USA involvement in the European affairs<sup>39</sup>. This approach, in turn, excludes contradictions between CSDP and NATO and United States. At first, neorealists viewed United States as a benign hegemon and predicted that USA would withdraw from the European affairs that after the disappearance of the threat of the Soviet Union

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<sup>37</sup> Ibidem, pp. 9–10.

<sup>38</sup> J. Howorth, A. Menon, *The European Union and National Defence Policy*. London 1997, pp.121–140. Por. A. Missiroli, *Towards a European Security and Defence Identity? Record – State of Play – Prospects*, in: M. Jopp, H. Ojanen (Eds.) *European Security Integration. Implications for Non-alignment and Alliances*. Programme on the Northern Dimension of the CFSP, Finnish Institute of International Affairs, Institut für Europäische Politik and WEU Institute for Security Studies, Helsinki, Bonn and Paris, 1999.

<sup>39</sup> G. Bono..., op.cit., p. 11, Cf. F.S. Larrabee, *The United States and the evolution of ESDP*, RAND Corporation 2009, N. Winn, *CFSP, ESDP, and the Future of European Security: Whither NATO?*, „The Brown Journal World Affairs”, 2003, Vol. 9, Issue 2, A. Missiroli, *CFSP, Defense, and Flexibility*, „Chaillot Paper”, 2000, No. 38.

(USSR) Neoinstitutionalists, however, felt that the United States would continue its activities in Europe, despite the collapse of the Soviet Union, due to the institutional links with Western countries<sup>40</sup>.

Above hypotheses have the objective of finding the causes of the CSDP's emergence, but are also an attempt to answer the question what is the CSDP. At the very beginning of this article it was mentioned that in principle theoretical approach to security and defence policy is still marginal, and the status of research confirms this fact. Existing theories do not address the whole issue comprehensively, because they are missing implication of links between supranational, transnational and intergovernmental dimension of CSDP, indicating only the conceptualization of evolution and the role of the various bodies at different levels, particularly in the theories of neoliberalism, neoinstitutionalism and intergovernmental liberalism. Perhaps the solution to this issue will be found in modernization of the classic theory towards its upgrading (neofunctionalism type) or adaptation of more precise and flexible of the specialist theories (segmental) like the theory of Multi-level Governance or the theory of Europeanisation<sup>41</sup>.

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<sup>40</sup> Ibidem.

<sup>41</sup> Cf. J. Ruszkowski, *Wymiar teoretyczny integracji europejskiej*, in: K. A. Wojtaszczyk (Ed.), *Integracja Europejska*, Warszawa 2011, p. 9 and subsequent.

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## **PARLIAMENTARY ELECTIONS IN ITALY 2013 STRUGGLE BETWEEN DEMAGOGY AND PRAGMATISM**

**Keywords:** Italian politics, parliamentary elections, Italian party system, Silvio Berlusconi, Five Star Movement.

**ABSTRACT:** Parliamentary elections in Italy, which took place on 24–25 February 2013 in a very specific political circumstances caused by economical crisis and the internal situation of the Italian State. The fall of the Silvio Berlusconi's government and replacement it with a technical government did not improve the internal situation of the country, and indeed it has deepened. The withdrawal of support by the Popolodella Libertà to the government of Prime Minister Mario Monti has caused the need for early parliamentary elections.

On the political scene appeared new political parties, including Movimento Cinque Stelle (Five Stars Movement), which stood out from the traditionally corrupt politics and proposed a new form of campaign, using such means as the Internet, blogs, and tour around the country. The new group has also set up outgoing Prime Minister Mario Monti called Scelta Civica (Civic Choice) aided by the smaller parties which were in the Parliament and supported of the European Union austerity policies. In addition, in the election participated the Democratic Party, the Northern League and the Popolodella Libertà (People of Freedom). In total, their participation in the elections reported 215 political parties.

Elections minimally won leftist Democratic Party with a score of 29.54% (Chamber of Deputies). Surprisingly Popolodella Libertà of Silvio Berlusconi received 29.13% (Chamber of Deputies). But the biggest winner was the Five Star Movement, which won 25.55% of the seats, while the biggest loser was the group of Mario Monti, because he received only 10.54% of votes. The result above shows that the creation of the coalition will be very difficult. Political class will have to regain the trust of the society to be able to make the necessary reforms to cure the economical situation of Italy and they should focus on the problems of the country and not the Silvio Berlusconi's excesses.



On 24–25 February in Italy took place early parliamentary elections, due to the collapse of Silvio Berlusconi's government in 2011 and its replacement by the technical government of Mario Monti, who has received broad support from the coalition of the previous government and opposition. After thirteen months, he has lost the endorsement of the People of Freedom (PopolodellaLibertà, PDL) and had no longer a majority, making it necessary to organize the early elections.

The crisis of the Berlusconi's government was manifested for the first time October 10, 2011, when the state budget for 2010 was not approved by the coalition because of the lack of a one vote (290 votes in favour and 290 against). The opposition immediately began to attack, shouting from the benches of the Chamber of Deputies that the government should resign<sup>1</sup>. The Prime Minister decided, however, before to vote again the budget, check the support for the Government in the Chamber of Deputies, calling for a vote of confidence. Berlusconi, on 14 October 2011, gained confidence in the House receiving 316 votes in favour and 301 against, with a quorum of 309 votes<sup>2</sup>. This vote showed that Berlusconi had a margin of support in parliament, but the opposition criticized the outcome of the vote, denouncing the corruption of some MPs by the government for receiving their support. The November 8, 2011 was repeated vote on the state budget, but the result was not satisfactory for Berlusconi because he received only 308 votes in support of the 316 required, despite the exit of the left-wing parties from the hall during the vote, in order to lower a quorum. Shortly before the vote, several members of Berlusconi's party – the so-called “eleven traitors”, including Versace, Gianni's brother – abstained or did not take part in the vote, and Ber-

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<sup>1</sup> It should be noted that during the vote were absent some coalition members, including Minister of Finance Giulio Tremonti. See also: *Governo battuto, la mossa del premier*. “Chiederò io a fiducia alla Camera”, *“Corriere della Sera”*, on-line version of 11 ottobre 2011: [http://www.corriere.it/politica/11\\_ottobre\\_11/governo-camera-rendiconto-berlusconi\\_aa9115e4-f41b-11e0-8382-87e70525ad6b.shtml](http://www.corriere.it/politica/11_ottobre_11/governo-camera-rendiconto-berlusconi_aa9115e4-f41b-11e0-8382-87e70525ad6b.shtml) (accessed: 20.10.2013).

<sup>2</sup> Check: *Il governo ottiene la fiducia, 316 voti. Berlusconi*: “Figuraccia delle opposizioni”, *“La Repubblica”*, on-line version of 14 ottobre 2011: [http://www.repubblica.it/politica/2011/10/14/dirette/voto\\_di\\_fiducia\\_alternativa\\_voto-23200930/](http://www.repubblica.it/politica/2011/10/14/dirette/voto_di_fiducia_alternativa_voto-23200930/) (accessed: 20.10.2013).

lusconi's the only solution was to announce his resignation to the President of the State Giorgio Napolitano, while waiting for the formalization of the vote on the Stability Pact to counteract the difficult economic situation of the country. The Northern League, however, proposed to form a government with Angelino Alfano as Prime Minister, secretary of the PDL and late Minister of Justice of the Berlusconi's government. The League considered more convenient this scenario, in order to maintain the obligations concerning the introduction of federalism in Italy<sup>3</sup>.

November 12, 2011 took place the long-awaited vote on the Stability Pact, which was supported by 379 deputies and 26 deputies voted against and two abstained. Then, Silvio Berlusconi resigned. President of the State Giorgio Napolitano accepted Berlusconi's resignation and immediately began consultations with the various political parties for the formation of a new government, this time technical, headed by Mario Monti<sup>4</sup>. Ilvo Diamanti believes that the fall of Berlusconi took place in specific circumstances, under the pressure of various foreign institutions such as the European Central Bank, the European Union and the International Monetary Fund, which conditioned the Italian democracy<sup>5</sup>. One may ask why the President Napolitano refused to confirm Berlusconi, as had been done previously with Romano Prodi, or, alternatively, he could change qualitatively the composition of the government, as proposed by the League. Diamanti, citing the French intellectual Emmanuel Todd responded to this question by saying that "sometimes, to defend democ-

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<sup>3</sup> See more: *Berlusconi, passo indietro al Colle*. „Lascio, non ho più la maggioranza”, “Corriere della Sera”, on-line version of 8 novembre 2011: [http://www.corriere.it/politica/11\\_novembre\\_08/governo-voto-rendiconto\\_3a4537ce-09f2-11e1-8aac-d731b-63fbb0f.shtml](http://www.corriere.it/politica/11_novembre_08/governo-voto-rendiconto_3a4537ce-09f2-11e1-8aac-d731b-63fbb0f.shtml) (accessed: 20.10.2013).

<sup>4</sup> Mario Monti is a professor of economics. In 1995–1999 he was the Commissioner for the internal market, while in 1999–2004 the Commissioner for Competition of the European Commission. Check: Berlusconi si è dimesso: “Sì a Monti, ma non si ricandidi”, “Corriere della Sera”, on-line version of 12 novembre 2011: [http://www.corriere.it/politica/11\\_novembre\\_12/monti-palazzo-giustiniani\\_044bdea8-0d0c-11e1-a42a-1562b6741916.shtml](http://www.corriere.it/politica/11_novembre_12/monti-palazzo-giustiniani_044bdea8-0d0c-11e1-a42a-1562b6741916.shtml) (accessed: 20.10.2013).

<sup>5</sup> See: I. Diamanti, *Fine della Seconda Repubblica*, “La Repubblica”, on-line version of 14 novembre 2011: <http://ricerca.repubblica.it/repubblica/archivio/repubblica/2011/11/14/fine-della-seconda-repubblica.html> (accessed: 20.10.2013).

racy, it is necessary to defend democracy from itself”<sup>6</sup>, which means that one needs to take measures to ensure the healing of the State, even if they are unpopular. The Government Monti was sworn in November 16, 2011, with the support of almost all parties.

The Northern League has not supported the government of Mario Monti for several reasons, first of all to emphasize the disagreement with the behaviour of President Napolitano during the crisis of the Berlusconi's government, and in support of the belief that it should not change the democratically elected majority, also Monti had no intention to continue the federal reforms initiated by the Berlusconi and the League itself: on the contrary, he nominated a minister of territorial cohesion Fabrizio Barca. For the League this fact meant to go back, with the destruction of many years of work. In addition, Mario Monti is considered a representative of banks, finance and the European Union, considered as the most responsible for the economic and monetary crisis in Italy, and he is a former Commissioner of the European Commission, a structure that does not meet the needs of small local communities and languages. The league, as has happened in the past, has become once again the party of the anti-government rebellion, “dusting” the slogan for the creation of the Padania and the reopening of the Parliament of Padania.

At the beginning of December 2012, however, even Mario Monti has lived on his skin the loss of support in Parliament, because the PDL has decided to withdraw the confidence in the government of technicians. On 6 December 2012, the Secretary of PDL Angelino Alfano and all PDL abstained from voting on the decree for the development of Italy, allowing the government to obtain the quorum but not a majority. The reason of this choice was the concern about the deterioration of the economic situation in the country and also to give a clear signal to end the Monti legislature. Alfano has confirmed, however, that the PDL would participate in the vote on the Stability of the country plunged into chaos<sup>7</sup>. Silvio Berlusconi, who after his resignation in 2011 has retired in the shadows,

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<sup>6</sup> Ibidem.

<sup>7</sup> See: non vota la fiducia, *Alfano sale al Colle*, “Tgcom 24”, on-line version of 7 dicembre 2012: <http://www.tgcom24.mediaset.it/politica/articoli/1072221/pdl-non-vota-la-fiducia-alfano-sale-al-colle.shtml> (accessed: 20.10.2013).

thought that the situation demanded his presence to bring victory to the PDL in the case of new elections, although in December they provided the primary elections to nominate the candidate for prime minister of the PDL for future parliamentary elections. The new descent of Berlusconi has discontent some members of the PDL, that is why some of them, belonging firstly to the National Alliance (Alleanza Nazionale, AN), created December 20, 2012 a new political party, called the Brothers of Italy National Centre-Right (Fratellid'ItaliaCentrodestraNazionale) remaining, however, in coalition with the PDL. Silvio Berlusconi has confirmed, however that he is not interested to be the party's candidate for the Presidency of the Council designating the Secretary Angelino Alfano.

In this situation, on December 8, Mario Monti announced the resignation of his government, which have been formally approved at December 21, after the adoption of the Stability Pact. Silvio Berlusconi has used harsh words declaring the end of the democracy suspension and the hope that would not be repeated ever again such a situation<sup>8</sup>. At this point, it remained only to determine the date of the parliamentary elections, which would eventually held in conjunction with the local in regions of Lazio, Lombardy and Molise on 24–25 February 2013.

The campaign from the beginning has been very stormy and full of negative epithets directed against political opponents. In general, all groups have focused on reducing the tax pressure in Italy, equal to 45%, and except of the centre-right wing on attacking a Silvio Berlusconi. Since Parliament had not changed the electoral law, elections would be held using the so-called "Porcellum law"<sup>9</sup>, adopted December 21, 2005. This law is a system of proportional representatives for the election of senators and MPs with the vote taken on the party lists rather than individual candidates. The parties, in the moment of the registration of their lists of candidates and party symbols, determine the order of selection of candi-

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<sup>8</sup> See more: *Dimissioni di Monti, Berlusconi*: "Finita la sospensione della democrazia", "Il fatto quotidiano", on-line version of 21 dicembre 2012: <http://www.ilfattoquotidiano.it/2012/12/21/dimissioni-di-monti-berlusconi-finita-sospensione-della-democrazia/453191> (accessed: 20.10.2013).

<sup>9</sup> The name was given by Giovanni Sartori, an Italian political scientist.

dates and show the name of the leader of the coalition or party, natural aspirant for the post of Prime Minister.

For the Chamber of Deputies were created thirteen proportional constituencies and a single-member constituency in the region Valle d'Aosta. In the Senate, instead, constituencies correspond to the Italian regions. The majority of the premium and the electoral threshold for the Senate are calculated according to the regional allocation, while the Chamber of Deputies depends on the number of votes cast in the whole national territory. The electoral thresholds are different and depend on whether the parties participate in the elections individually or in coalition. So for the parties participating in elections individually the threshold is 4%, while for those who take part in coalition is 10%. At this point everything seems clear, but the situation is slightly more complicated, because this election law stipulates that parties participating in elections in coalition (and only for those coalitions which in the country exceeded 10% of the vote) and obtain at least 2% of the votes at the national level can bring its members according to the rule "best loser". At a time when the coalition does not exceed 10%, the individual parties must receive at least 4% of the votes to enter to the Chamber. For linguistic minorities the electoral threshold is 20% of the vote in the region in which language is used.

The threshold for coalitions in the Senate is 20%, but at least one of the parties within the coalition should exceed the 3% of the threshold in constituency. Consequently, the following distribution of seats is made only between parties who have received at least 3% of the votes in the region. For individual parties, the threshold is 8% of the valid votes<sup>10</sup>. Twelve deputies and six senators are elected in the foreign district.

In the elections were presented 215 party symbols. The most important of these are the Democratic Party (Partito Democratico-PD), the People of Freedom, the Five Star Movement, the Northern League and the Civic Party of outgoing Prime Minister Mario Monti.

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<sup>10</sup> Check: T. Groppi, *Forma rządu a systemy wyborcze we Włoszech*, "Przegląd Sejmowy" 2007, no 83, pp. 55–59.

## I. DEMOCRATIC PARTY

The Democratic Party is a party of quite recent foundation, because is created in 2007, which has a centre-left orientation, and descending from the Democrats of the Left who were part of the Union coalition<sup>11</sup>, which best known leader was Romano Prodi, former Prime Minister and former President of the European Commission. The secretary of the Democratic Party, Pier Luigi Bersani, elected through primary elections, which took place December 2, 2012. His fiercest opponent was Matteo Renzi, Mayor of Florence. It was a clash between the old and the new, and unfortunately, won the old. Bersani, devoid of charisma and even mediocre as a politician, he was largely chosen because he represents the continuity in the leadership of the party, whose history can be traced back to the Italian Communist Party. Matteo Renzi has proved to be much more dynamic and full of ideas, but also could change the party's image, making it more modern and open, with a greater inspiration to the centre-left parties in Europe. However Bersani, at the end of the campaign had "reconciled" with Renzi, to attract more young people and undecided voters, even if Renzi was out of the competition for the parliamentary elections, and returned to his role as mayor. The Democratic Party has contested the elections together with the Italian Socialist Party (Partito Socialista Italiano), Left, Ecology and Freedom (Sinistra, Ecologia e Libertà), South Tyrolean People's Party (Südtirole Volkspartei) and Democratic Centre (Centro Democratico)<sup>12</sup> adopting the campaign slogan "Italy Right" (Italia Giusta).

<sup>11</sup> The coalition "Unione" (Union) was created on 10 February 2005 and consisted of the following groups: Democrats of the Left (Democratici di Sinistra), The Daisy (La Margherita), Italy of Values (Italia dei Valori), The Rose in the Fist (La Rosa nel Pugno), Green Federation (Federazione dei Verdi), Italian Communist Party (Partito dei Comunisti Italiani), Communist Renew Party (Partito della Rifondazione Comunista), Union Democrats for Europe (Unione dei Democratici per l'Europa), United Socialists (Socialisti Uniti), United Christian Democrats (Democratici Cristiani Uniti), Pensioners Party (Partito Pensionati), South Tyrolean People's Party (Südtiroler Volkspartei), European Republicans Movement (Movimento Repubblicani Europei).

<sup>12</sup> See more: *Elezioni, anche SVP in coalizione con Pd-Sel-Psi*, "Agi.it", on-line version of 12 gennaio 2013: [http://www.agi.it/politica/notizie/201301121155-pol-rt10055-elezioni\\_anche\\_svp\\_in\\_coalizione\\_con\\_pd\\_sel\\_psi](http://www.agi.it/politica/notizie/201301121155-pol-rt10055-elezioni_anche_svp_in_coalizione_con_pd_sel_psi)

The party program focused on several important issues like the economy, jobs, health care, infrastructure, social and scientific research.

In the economic sphere the party has proposed to strengthen and support small and medium-sized enterprises, for example through access to credit and the revival of trade, with a “careful and prudent use of public resources”<sup>13</sup> and the simplification of administrative procedures. In addition, were announced the investments in the steel and chemical industries, taking care to protect the environment, the consolidation of exports and the promotion of traditional manufacturing sectors. The program includes tax cuts, especially those borne by society and the lowering of the IMU (Imposta Municipale Unica-Local Unique Tax) on the property for the first home (where the family is signed in)<sup>14</sup>. This point is very important and relevant for the Italians, but does not bring anything new. The data indicate that the export works fine, but, in spite of the waste of resources in the public administration are talking about for years, there are no proposals incisive in this area because the public administration was always been considered a reservoir of votes for the left. Following the economic crisis that prevails in Italy, the party should put the emphasis on a more global approach in this matter.

In the sphere of work the attention of the party is directed on the fight against unemployment in Italy amounted to nearly 12%, the adjustment of regional training programs, the incentives for the opening of new businesses and investment in so-called “green jobs” and those related to the development of new technologies. The program highlights the problem of women employment and people prematurely expelled from the labour market, and aims to encourage entrepreneurs with special deductions to their employ and protection of these categories<sup>15</sup>. In this regard too, the party has not delivered anything new, because discrimination against women, particularly in the labour market is well known, and unfortunately tolerated even by leftist trade unions.

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(accessed: 20.10.2013).

<sup>13</sup> Programma elettorale del Partito Democratico 2013.

<sup>14</sup> See: Ibidem.

<sup>15</sup> Check: Ibidem.



The healthcare because of the crisis, has suffered significant cuts in its budget, obviously at the expenses of the patients. According to the party, the time of waiting lists for medical examinations should be reduced and local structures should be strengthened to limit the number of people hospitalized, while for disabled access to health services authorities and the drugs should be facilitated<sup>16</sup>. Without a doubt, this is an ambitious project, but the program does not mention how to get the resources to cover this health care reform.

The program on social services focuses on immigrants and their rights: the Democratic Party proposes the creation of regional observatories on immigration and the legalization of immigration, citizenship and giving jobs, especially for women<sup>17</sup>. Although this is undoubtedly a very interesting, but does not take into account the fact that the Italians already feel discriminated against immigrants in access to housing or childcare. The program is still very generic and does not bring anything new, but rather perpetuates the status quo.

According to the party it should be developed appropriate regional programs for the public transport and also should be facilitated the access of small and medium-sized enterprises to the network by emphasizing the development of broadband. In addition, the program speaks of hiring a greatest number of young people in the areas of academic research<sup>18</sup>, but does not refer the main reason of their absence: the lack of young researchers in the universities is caused by that they have no access to them, because of the widespread nepotism and unnecessary competitions announced every few years, often with the clear winner.

Evaluating the program of the Democratic Party it can be said that it is not an innovative program and does not provide answers to the problems that oppress Italy as the corruption and waste of public money. Mostly, the left is trying to convince the society that the only problem in Italy is the antagonist Silvio Berlusconi.

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<sup>16</sup> Compare with: *Ibidem*.

<sup>17</sup> See more: *Ibidem*.

<sup>18</sup> Check: *Ibidem*.



## II. PEOPLE OF FREEDOM

The program of the People of Freedom Party, allied with the Northern League (Lega Nord), Brothers of Italy (Fratellid'Italia), The Right (La Destra), Moderates in the Revolution (Moderati in Rivoluzione), the Great South (Grande Sud), People's Agreement (IntesaPopolare), Free for an Equal Italy (Liberi per un'ItaliaEqua), Pensioners Party (PartitoPensionati), focused on following issues: family, the development, cost reduction, the renewal of public institutions and the judiciary.

The project of Berlusconi included, among other things, the direct election of the President of the Republic, the abolition of the provinces, costs reduction of the politics and the abolition of public funding of political parties. Considering the European Union, the People of Freedom is expressed against the austerity policy, proposes the creation of European rating agency, an extension of the powers of the European Central Bank and the direct election of the President of the European Commission. The PDL is also back on the issue of interrupted federal reform, promoting the abolition of unnecessary and counterproductive institutions, making possible the reduction of tax pressure in the north through the distribution according to the following scheme: 75% of the tax would remain in the regions, while 25% would be transferred to the State Treasury. The family for the party is in the centre of attention, and for that the PDL would like to introduce a financial incentive in the case of birth of children, provide special assistance to families in case in their circle are disabled or elderly people, and tax relief for big families. For the most delicate issue of the campaign, the taxes, the PDL has announced the abolition of the so-called IMU for first home, his opposition to the increase of value added tax (VAT), a reduction in income taxes of one point per year and the phasing out of IRAP on business. It will be also a reform of the Tax Agency, in order to make it friendlier to the taxpayer. In the program plenty of space is dedicated to issues related to small and medium-sized enterprises because they were most affected by the crisis. In contrast to the Five Star Movement, the PDL believes that the construction of the high-speed railway between Turin and Lyon should be completed. Considering judicial system, a very sensitive issue for Silvio Berlusconi, the PDL believes

that judges should be civilly responsible for their decisions, with a career that should be linked to performances and not age, should be limited wiretapping and prohibited their publications, should be reduced the time for the hearings and in general the judicial system and the judiciary should modernize. The debt could be reduced through the sale of public buildings, with the tax treaty with Switzerland and the reduction of state and local shares. In doing so the prediction of the reduction in public spending would be at least sixteen billion euro per year<sup>19</sup>.

The program of the People of Freedom is very ambitious and requires the reform of nearly all the weaknesses of the Italian state, starting from public spending, and ending with the judiciary. Silvio Berlusconi has great charisma and knows how to win over people, however the PDL has not been released by populism promising to repay the property tax for the first house paid in 2012. The new descent in politics of Silvio Berlusconi definitely helped a lot to the PDL, because in the pre-election polls it became visible.

The Northern League, which participated in the elections in coalition with Silvio Berlusconi, was called to a very difficult task, in particular for the recovery of lost reputation during the scandal on the use of party funds for the private purposes of the Umberto Bossi's family. The new secretary, Roberto Maroni, has worked hard to restore the good name of the party. Whereas in the Lombardy region in conjunction with the general election took place elections for the Regional Council, the League has committed his forces to win especially in its main bastion that is the Lombardy: for the office of the regional governor applied secretary of the League Roberto Maroni and this was a victorious tactic, as Maroni was elected to this office.

### III. FIVE STAR MOVEMENT

The Five Star Movement is a new Italian political party, founded October 4, 2009, in Milan. The leader of the movement BeppeGrillo has focused primarily on a critique of political life and the ineffectiveness of the Italian

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<sup>19</sup> See more: PDL-Programma elezioni politiche 24–25 febbraio 2013, pp. 7–23.

State. His campaign has been carried out mainly in the Internet and through demonstrations in major Italian cities called "Tsunami Tour". Grillo has not kept away from the insults to his political opponents, even giving them suitable nicknames, for example Bersani was called "Gargamel", the villain of the Smurfs. The main points of the program relates to the economy, health, environment and the development of new technologies.<sup>20</sup>

The program on the economy in general, introduces the class action<sup>21</sup>, prohibition of the nominations to the board of directors over a listed company, the elimination of the so-called Chinese boxes<sup>22</sup>, the introduction of limits on the income of managers in companies with state capital and the stock exchange, the abolition of monopolies, such as Mediaset and Telecom, and stock options as a form of compensation for managers, which allow the purchase of shares at a specified price, usually lower to their market value. Moreover, the movement would like to harmonize energy prices, the Internet, transport and telephone to the European average. To reduce the debt they want to cut all types of waste and the use of new technologies to facilitate citizens' access to information and services, to promote and to support the local market and non-profit companies, to guarantee the unemployment benefits at the time of job loss and to penalise the companies that can cause damage, as those which distribute the bottled water<sup>23</sup>. In some cases, the ideas of Grillo are reasonable, because

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<sup>20</sup> I invite you to read the analysis of the Five Stars Movement programme, written by Mauro Bottarelli, which you find on the following web site: <http://www.ilsussidiario.net/News/Economia-e-Finanza/2013/2/21/BEPPE-GRILLO-Le-20-balle-del-programma-di-M5S/365783/> (accessed: 20.10.2013).

<sup>21</sup> The class action is a collective action undertaken by one or more persons whose summon in court alone or in agreement with the association for the protection of consumers' rights. Other consumers interested and who have the same demands, can join the action, without requiring the assistance of a lawyer.

<sup>22</sup> It is better to explain the system of Chinese boxes with an example. It occurs when you have control of a company by other companies, but for which you do not have absolute control, in the sense that a person owns 51% of Company A, Company A owns 51% of company B, in fact, the person controls company B, even though they have 51% of the 51% of the shares of company B.

<sup>23</sup> See more: Programma del Movimento Cinque Stelle 2013.

such communication over the Internet is indispensable, but certain positions are incomprehensible, such as on plants that bottle water to be penalized for the fact that water is a common good.

In health care, the movement believes that the introduction of devolution<sup>24</sup> threatens its universal character, and that the private health centres steal the best specialists and doctors of talent coming from public hospitals. Health care should be free and accessible to all, while payments should be introduced only for the additional services, taking into account the income of the people. Here Grillo actually commits an error, since devolution has not entered into force, and the design of fiscal federalism<sup>25</sup>, which provides the transfer of health care in the hands of the Regions, is undiminished. Continuing, Grillo supports the use of substitute drugs, which are cheaper and less harmful, inputting prescriptions only in the active ingredient and not the name of a commercial product, is a supporter of proper nutrition education and to provide more accurate information

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<sup>24</sup> Devolution or equivalent Italian – *devoluzione* means a profound changes in the constitution, which deals with the transfer of responsibilities from the central level (in this case the state government) to other levels of government (in this case, the local government). Unlike the federal system, the system of devolution is very flexible, because at any time the Central Government may revoke the powers given. Devolution was mainly based on the completion of the transfer and integration of the legislative functions of the state at the regional levels, for example through the strengthening and greater involvement of people in decision-making process, for example through the organization of the referendum and the reorganization of Italian parliament, creating the Federal Senate. The referendum on devolution took place on 25 and 26 June 2006. Attended by 52.3% of voters, and in favor of devolution voted 38.7%, while against 61.3% of those eligible. The above result shows that slightly more than a half of those eligible participated in the referendum and the majority ruled against the reform of the political system. Maximum support to the reform has been achieved in the north of Italy where the League and the North were its promoters, receiving 48% of the votes.

<sup>25</sup> The term “fiscal federalism” has been used for the first time by Richard Musgrave in 1959, and subsequently by Wallace Oates in 1972, two American economists. The fiscal federalism in the United States meant the adoption by the government the particular policy on the powers of the States, which concerns the transition from dual federalism to cooperative federalism and consequent breakage of localism. Federalism explains how the skills (expenses) and fiscal instruments (revenue) are shared between the different levels (vertical) if the administration. Watch more: T. Groppi, *Il Federalismo*, Roma-Bari 2014, pp. 74–76 and P. Hay, *Federalism and Supranational Organizations*, Chicago 1966.

about the effects of abused substance. In this context, the technology is put on first place, because waiting lists should be published on the Internet, as well as reservations for physicians. However, these ideas do not take into account that the majority of older people do not have much experience with the use of a computer or other electronic devices. About doctors, BeppeGrillo aims to encourage them to remain in public structures, and he opposes to the possibility of working simultaneously in both the public and private health centres. Health care could be financed by a proportion of the income taxes, called 8/1000, or by taking a portion of funding for military research<sup>26</sup>. The program of the Five Star Movement in general can be considered as dangerous and shows that the leaders of the movement have ideas of the extreme left. The implementation of the program could lead to the elimination of the free market, the reduction of transport networks, such as blocking the construction of the high-speed train between Lyon and Turin, and the elimination of monopolies. These populist slogans have been widely recognized by the Italian people, taking advantage of the wave of anti-politics, so that the movement, although not reaching the majority of votes, is considered the party winning of the parliamentary election 2013.

#### IV. CIVIC CHOICE OF MONTI FOR ITALY

The Civic List of the Prime Minister Mario Monti was one of the novelties of this election, since it was established only January 4, 2013 under the name Civic Choice of Monti for Italy. For the Chamber of Deputies Monti presented his candidates in coalition with two parties: Union of the Centre (Unione del Centro-UDC) of Pier Ferdinando Casini and Future and Freedom for Italy (Futuro e Libertà per Italia) of Gianfranco Fini<sup>27</sup>,

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<sup>26</sup> See more: *Programma del Movimento...*op.cit.

<sup>27</sup> Gianfranco Fini was the Secretary of the National Alliance (Alleanza Nazionale) between 1995 and 2008. In 2008 the party allied with the People of Freedom and together participated in the elections of 2008, winning it. Fini during this legislature had the office of President of the Chamber of Deputies. In 2010, because of disagreements

while in the Senate, the three parties were under a common flag: Civic Choice of Monti for Italy.

During the election campaign, Mario Monti has had some sort of transformation from a “modest” professor to aggressive politician. As most of the political parties even he began to blame Silvio Berlusconi for all the troubles of the country, there is also a web site on unfulfilled promises of Berlusconi<sup>28</sup>. The program of this party continued the policy of Monti in Parliament, although during his rule Monti glorified himself and the results obtained, despite its contribution to raising the tax burden during election campaign has begun to have a different attitude, even promising major changes in taxation. Considering this, one of the programmatic points was the reduction of taxes on the labour market (IRAP and income tax). In addition, re-evaluation of the introduction of the tax on property and the great difficulties in paying for part of the people, proposed to increase the relief for children and for the first house. The program also spoke of the question of tax evaders, promising that every euro recovered would go to reduce the tax burden. For small and medium-sized enterprises, the program introduced incentives for hiring women and young people. Like most of his political opponents, Monti focused on the rational use of public resources, reduction of costs related to politics (the number of parliamentarians and political party financing) and increase in education spending<sup>29</sup>. Evaluating the Monti’s program one must say that it is more fair and realistic, although difficult to achieve, because the Italians should have to change their mentality. The problem however was, above all, the communication, because instead of praise himself, Monti should have to come down from the pedestal, closer to people, speak their language instead of using technical jargon to most people, and explain step by step his reform plan of the Italian State. Mario Monti is an inaccessible man, haughty and cold, even if he tried to use tricks to warm up his image

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with Berlusconi, Fini left the PDL and entered into a new party, Future and Freedom for Italy (Futuro e Libertà per l’Italia), which was created on 30 July 2010.

<sup>28</sup> Read more: <http://www.agenda-monti.it> (accessed: 20.10.2013).

<sup>29</sup> Watch more: Programma della Scelta Civica: <http://www.sceltacivica.it/doc/356/agendacrescita.htm> (accessed: 20.10.2013).

by the adoption of a puppy on live television but these efforts have not helped him, given the pre-election polls.

**Table 1.** Pre-election survey conducted on days 17 to 22 January 2013-the Chamber of Deputies

Name of the party	Percentage of support
Democratic Party	38,1
People of Freedom	25,8
Five Stars Movements	13
Civic Choice with Monti for Italy	16,2
Civil Revolution of Ingroia	4,5

Source: Sondaggio Demos & Pi, in [http://www.huffingtonpost.it/2013/02/08/elezioni-2013-i-sondaggi-\\_n\\_2643003.html](http://www.huffingtonpost.it/2013/02/08/elezioni-2013-i-sondaggi-_n_2643003.html) (accessed: 20.10.2013).

The result in Table 1 indicates that the first group which would have a majority in the Chamber of Deputies is the Democratic Party, and the People of Freedom is in second place. The distance between the two coalitions is quite extensive and is over 12%. The Monti's list is in third place, but the most surprising result is that of the Five Stars Movement, with 13% of votes. Another survey conducted by Ipsos, changes a little the data presented in Table 1.

**Table 2.** Pre-election survey conducted on days 22 to 28 January 2013-the Chamber of Deputies

Name of the party	Percentage of support
Democratic Party	36,4
People of Freedom	26,6
Five Stars Movements	12,9
Civic Choice with Monti for Italy	17,7
Civil Revolution of Ingroia	4,2

Source: Sondaggio Demos & Pi, in [http://www.huffingtonpost.it/2013/02/08/elezioni-2013-i-sondaggi-\\_n\\_2643003.html](http://www.huffingtonpost.it/2013/02/08/elezioni-2013-i-sondaggi-_n_2643003.html) (accessed: 20.10.2013).

The data of table 2 are very clear and show that support for the PDL increased by almost one percentage point, while the Democratic Party has fallen by almost 2 points. The list of Monti was 17.7% of the votes of surveyed, with a growth of 1.7% in comparison with the data included in Table 1. A survey conducted in early February changes further the picture.

**Table 3.** Pre-election survey conducted on days 4 to 6 February 2013-the Chamber of Deputies

Name of the party	Percentage of support
Democratic Party	34,1
People of Freedom	28,6
Five Stars Movements	16
Civic Choice with Monti for Italy	16
Civil Revolution of Ingroia	4,0

Source: Sondaggio Demos & Pi, in [http://www.huffingtonpost.it/2013/02/08/elezioni-2013-i-sondaggi-\\_n\\_2643003.html](http://www.huffingtonpost.it/2013/02/08/elezioni-2013-i-sondaggi-_n_2643003.html) (accessed: 20.10.2013).

Table 3 shows that the Democratic Party once again registered a downward trend in favour of the People of Freedom, whose support has increased by 2 percentage points. A similar trend has been registered Five Stars Movement with 3 percentage points. The list of Monti has lost votes, taking into account possible statistical errors the Civil Revolution of Ingroia would not be able to enter in the Chamber of Deputies.

Summarizing the data contained in the pre-election polls, the winning coalition would be those of the left. However, despite the problems of the Berlusconi, the coalition of People's Freedom could get a satisfactory result in the elections. The biggest unknown was certainly the Five Stars Movement. Parliamentary elections took place on 24–25 February 2013. At 15 of the last day of the elections were collected surveys at polling station.

The results in Table 4 confirm the data published in other pre-election polls, giving the victory to the Democratic Party. The People of Freedom was still in second place in Parliament, while the biggest loser would be Mario Monti, because in the Chamber of Deputies would not exceed 10%



of the minimum threshold. The Five Stars Movement would become the third force in the two chambers, while Civil Revolution of Ingroia would be included in the statistic errors.

**Table 4.** Survey conducted at polling stations in the 24–25 February 2013

Name of the party	Percentage of support-Chamber of Deputies	Percentage of support-Senate
Democratic Party	34,5	37
People of Freedom	29	31
Five Stars Movements	19	16,50
Civic Choice with Monti for Italy	9,50	9
Civil Revolution of Ingroia	3,5	3

Source: Tecna per Sky, pubblicato da “Il Giornale” nella pagina [www.ilgiornale.it](http://www.ilgiornale.it) (accessed: 20.10.2013).

The first results from polling stations began arrive in the afternoon of February 25, not confirming fully pre-election forecasts.

**Table 5.** he results of the parliamentary elections on 24–25 February 2013

Name of the party	Percentage of votes-Chamber of Deputies	Percentage of votes-Senate
Democratic Party	29,54	31,60
People of Freedom	29,13	30,66
Five Stars Movements	25,55	23,79
Civic Choice with Monti for Italy	10,54	9,13
Civil Revolution of Ingroia	2,25	1,79
Fare of Oscar Giannino	1,12	0,90

Source: <http://www.corriere.it/Speciali/Politica/2013/elezioni/camera/index.shtml> (accessed: 20.10.2013); e <http://www.corriere.it/Speciali/Politica/2013/elezioni/senato/> (accessed: 20.10.2013).

Table 5 shows that the most voted party is the Democratic Party, which received also the prize of majority in the Chamber of Deputies. It should be noted, however, that the victory of the Democratic Party is minimal on

Berlusconi's coalition. Therefore, it will be very difficult to form a government, and above all it will be very difficult to govern the country. It is opportune to emphasize that the civil list of Mario Monti has just passed the electoral threshold in the Chamber of Deputies and therefore will not have many representatives in Parliament. The biggest winner of these elections is the Five Stars Movement of BeppeGrillo, because despite of being the only party that participated in the elections alone, it was able to collect the highest number of votes. This result shows the rate of the citizens' confidence in politics and their vulnerability to populist slogans of Grillo. The turnout was at the level of 75.17% of those who have a right to vote, and decreased of almost 5% compared to the elections of 2008. Grillo, as indicated by Renato Mannheimer, has attracted about 20% of the left and right voters, and received 16% of votes from young people<sup>30</sup>. Comparing the pre-election polls, it should be noted that do not coincide with the election results, with regard to the Democratic Party, the Five Star Movement and the list of Monti. The biggest surprise was also the result obtained by Berlusconi, who was able to bring his party to that level of votes, with a great recovery from the initial surveys. The Democratic Party certainly has not been helped by scandal at the end of January 2013 in the oldest Italian bank, Monte dei Paschi di Siena, which was related to certain financial transactions that have exposed the bank to substantial losses. The bank is traditionally linked very closely with the leadership of the Italian left, for example, until very recent times it was a tradition that the general manager came from the Democratic Party, or at least close to members of it.

The question that arises is the following: the Democratic Party will be able to overcome political divisions? He began to speak to the Five Stars Movement, which seems to have rejected any suggestion of alliance with any political force. Therefore, already at this stage, we can see that the PD will not have an easy task. The anti-Berlusconi position and lack of willingness to work with him can lead to new elections in a short time, unless

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<sup>30</sup> See more: R. Mannheimer, *Si sono spostati 16 milioni di elettori: il Pd perde un terzo di voti, il PDL metà*, „Corriere della Sera”, on-line version of 27 February 2013:

[http://www.corriere.it/politica/speciali/2013/elezioni/notizie/27-febbraio-16-milioni-mannheimer\\_f251a786-80a1-11e2-b0f8-b0cda815bb62.shtml](http://www.corriere.it/politica/speciali/2013/elezioni/notizie/27-febbraio-16-milioni-mannheimer_f251a786-80a1-11e2-b0f8-b0cda815bb62.shtml) (accessed: 20.10.2013).

at the end of this attitude does not change. Of course, the market has over-reacted to the election results, but it is also the fault of the Italians themselves because they do not bother to defend its interests in the international arena. The bad press image abroad is also a direct result of the exploitation of the media by politicians to break down their opponents. The politics needs to be renewed and to be enriched with the moral standard; the young people should be encouraged to enter in, so as to not repeat the corruption scandals, as was Tangentopoli. The Italian left should also accept the fact that in a democracy exists also a right (including a character like Berlusconi) because the result of the parliamentary elections confirms this thesis. The hope however is, that for the good of the country it will form a broad coalition to reform the country, which Italy is in great need.

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# REVIEWS



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**Book review: Zbigniew Brzezinski, *Strategic Vision. America and the Crisis of Global Power*, Basic Books, A Member of the Perseus Books Group, New York 2012**

*by Piotr Mszyca*

After Soviet Union collapsed in 1991, the World has entered into new era. After Cold War has ended and United States finally prevailed, America remained as the only global superpower which supremacy was undisputed. Some scientists called it as 'the end of history', when after collapsing of the communism, USA didn't have anyone to compete with. There was an illusion that the World will not have to hold its breath during every single political crisis that could lead to a global conflict. The position of the 'World's Sheriff' might have given illusory sense of security.

The most pleased with such a course should have been America itself. No one could have ever assumed however, that the lack of one defined enemy or competitor could have been the biggest danger for USA. The last decade showed that America has increasing problems with bearing responsibility of the only global power in the World.

First decade of 21st century brought the crisis of American politics and started the changes in the international balance of power. Extremely unpopular and costly wars in Afghanistan and Iraq, Europe's

demographic problems and its decreasing role in the international politics, new potential global players and international economic crisis started in 2008, proved that United States cannot longer hold a status of the only superpower in the World.

In the book *Strategic Vision. America and the Crisis of Global Power*, Zbigniew Brzezinski is striving for answer four key questions: What are the reasons for declining USA and whole West's role? What would be possible consequences if America lost its superpower status? What would have happened if any other country would take the lead in World's supremacy? Last but not least, the Author is trying to look at World's politics map in 2025 and defines geostrategic goals that America should have to, remain its role of global superpower till that time and beyond.

In the first part of his book, Zbigniew Brzezinski admits that there were many empires in the World's history, however all of them, sooner or later collapsed. Brzezinski says, that USA are the next World's empire with its leading role in North Atlantic Treaty Organization (NATO). Mr.

Brzezinski is going back to the moment, when the Western World was united within the one Pact to contain expansion of Soviet Union and communism. After Cold War has ended, uniting Europe and America had to face another challenges, after the main enemy was gone. The reality in the World's politics discredited the status of NATO, but most of all, created the necessity for re-defining the real dangers for the Pact.

Collapse of the Soviet Union and degraded role of Russia let other World's players to gain more importance. Zbigniew Brzezinski advances a thesis that geopolitical stabilization is impossible without the cooperation of all the states which striving for regional power status. Very expansive attitude such countries as China, Russia, India or Brazil have, Mr. Brzezinski calls massive political awakening phenomenon. He claims that in the last few years, because of declining America and Europe's role on World's economy, the center of gravity moved from West to East. If this tendency will remain, and above mentioned countries will intensify their rivalry for resources, security and economic advance, the number of potential conflicts will raise.

The Author debates, how those factors could contribute to the collapsing of the West. Nevertheless, he leans toward the statement that the end of the Western World has not come yet but its leading role – has. America should re-gain its leading

role. The way American model of interior policy will prove useful, and the role of USA in the international politics will determine the importance of whole Western World.

The second part of the book, is focused on the number of problems, Mr. Brzezinski points that America has to face in early 21st century. There is really high speed growth of national public debt, spreading stratification and inequality within the American society, adoration to materialism, the need for financial system reform and polarization of political regime.

The so called American dream is breaking down, according to Brzezinski. This really important feature for USA, which was the synonym of freedom and liberalism, has become discredited after global economic downturn started. Mentioned in above paragraph problems and also: massive dismissal, growing unemployment, worsening infrastructure which is a key element for country's development, poor condition of early school education, spreading ignorance of American society and bigger dichotomy of American political scene where the consensus is more rare, give a picture of today's United States of America which fell into crisis.

On the other hand, Zbigniew Brzezinski gives also USA's strong points which could be a driving force to a positive changes that could heal America. To those Brzezinski qualifies: still strong position of American economy and its impact on the interna-



tional level, measured by GPD *per capita* factor. Second of all, the level of higher education which leads to innovativeness and technical progress on later stage. The third important determinant is high population growth rate which comparing to getting older society in Europe, Russia or Japan, gives America an advantage in struggling with China or India. In the end, Mr. Brzezinski includes also: capability to ensure constant energy security and democratic values. All those factors according to Brzezinski, give evidence to the mighty of USA. If America could effectively use them, together with correcting the problems, there would be a chance for re-gaining superpower status again.

In the third element of the book, Brzezinski tries to answer the question: What would the World look like, if the States lost its imperial power? Possible weakening of the United States could lead to a situation, that some other countries were in danger and became an object for potential expansionist policy of other bigger players. Brzezinski mentions Georgia, Belarus and Ukraine which could have fallen back under Russian sphere of influence. Whereas China could have used weak America to control Asian tigers – Taiwan and South Korea. The scenario where USA are losing its superpower status, could also lead to partition of Pakistan with effective role of India. Additionally, the Author thinks that without the American backup, Israel could have lost the biggest ally and

fallen into long, exterminatory conflict with Arabic World. What is more, Afghanistan would have likely become a new home for international terrorists.

Furthermore, only strong United States of America could effectively face climate changes and secure common properties: seas, cosmic space, cyberspace, security the territorial waters and peaceful exploration of Arctics. According to Brzezinski, the argument that decline of America and its isolation could destabilize international security must be the main determinant in Washington's activities for remaining superpower status. That is why, America should take the responsibility to lead the World.

In the last part of his book, professor Brzezinski indicates there should crystallize a strategic vision that could reach beyond 2025. This is the keynote of the whole book. According to this idea, America should play double role in the international relations. First of all, United States have to fix themselves and overcome all the obstacles. Secondly, US should push for bigger role of the whole Western World and at the same time strive to remain the balance in the East to contain China's growing position.

To do so, American politicians need to redefine the role of Russia and Turkey in American politics and include them to this strategy. Brzezinski offers to incorporate those two countries into the idea of Western World. That could improve interna-

tional security meaningly. Author also underlines that scenario is not possible to happen, without adopting by Russia and Turkey democratic values.

Zbigniew Brzezinski in his book *Strategic Vision. America and the Crisis of Global Power*, claims that United States of America has the leading role in the World, gained after collapsing of Soviet Union. The role of the only superpower in the World, gives Washington responsibility to protect international stabilization. However the 1st decade of 21st century with its culminating moment in 2008 questions America's status. This moment in the history showed how big the problems are that Obama's Administration has to face. It also showed that America isn't perfect and let to shorten the distance between USA and other countries. The idea of strategic vision gives almost messianic role to America. The conclusion therefore is that the international stabilization is possible only, when Washington remains strong and global superpower.

Zbigniew Brzezinski approaches the subject of Russia and Turkey in a very innovative way. He claims that without those two countries the international relations cannot gain stabilization. This state-

ment met skepticism in America and its ally states. Turkey is one of the biggest ally for USA already and has strong position in NATO, however most of European countries do not include Turkey to their definition of 'West'. Russia's issue is even more complicated after Cold War memories and authoritarian regime in Moscow. That is kind of new thinking of Brzezinski, because he thought of Russia with huge distance and even hostility. In *Strategic Vision* we can notice an evolution of Brzezinski's opinion.

*Strategic Vision. America and the Crisis of Global Power* book is extremely interesting. On one hand, Zbigniew Brzezinski advances an undeniable thesis that United States World Sherriff status is not so obvious anymore. What is more, he gives several evidences, for example economic factors. Really fast growth of China does not fascinate but starts to scare. What would happen if USA lost their global superpower status? The Author tries to predict and name the dangers connected to this issue. On the other hand, Brzezinski has a panacea for this. He calls it Strategic Vision. Only Strong United States of America give a warranty for stabilization in the international relations.

**Book review: *Cyberterrorism – a threat to 21st century. Political science's and legal perspective*. Scientific monograph edited by Andrzej Podraza, Paweł Potakowski and Krzysztof Wiak, Publishing house DIFIN SA, Warsaw 2013**

*by Paweł Tański*

Cyberterrorism. Cyberterrorism or cybercrime? Or maybe hacktivism? Cyberterrorism is a term which is currently overused to describe almost every misdeed committed using a computer. It is beyond doubt that the term of cyberterrorism is much more media than a cybercrime. The term hacktivism, which could be referred to the civil society's activities, is though much less recognizable. Nevertheless, the straight majority of the activities presented in media, is non-terrorist, and they are just the cybercrimes.

It should be noted, that the boundary between these three terms is extremely fluent. From the perspective of criminal law, the act defined as cyberterrorism, should fulfill the conditions specified in the Penal Code, so it should be a criminal act, punishable by imprisonment of an upper limit of at least five years. The threat of such an act or an act itself must also be committed in order to cause a serious intimidation of many people, to force a public authority of the Republic of Poland or another state or an organ of an international organization to perform or abstain from certain actions or to cause

a serious disturbances in the system or the Polish economy, other states, or international organization. From the point of view of the political science, however, a terrorist activity may also be the one which is directed against the infrastructure of the state. Hacktivism, on the other hand, is such a new term, that currently it is very hard to decide, whether the actions are just a civil protest (taking into account the specific nature of cyberspace) or are already criminal activities.

In the monograph: *Cyberterrorism – a threat to 21st century. Political science's and legal perspective*, there were not only made the attempts to determine the boundaries between these terms but also to identify a number of other phenomena related to cyberspace and its users. The Authors of the texts, in an easy and transparent way, describe the issues related to virtual reality, repeatedly citing specific examples. At the same time, basing on the analysis, there could be created a list of major documents related to cyberspace, having not only the character of legal acts, such as the Council Framework Decision on attacks against information systems or the Convention on Cybercrime, but also

administrative acts such as the National Strategy to Secure Cyberspace.

Monograph consists of three interrelated and complementary to each other parts.

In the first part, *cyberterrorism – political dimension*, this phenomenon is analyzed in the context of political science. In the first article, Andrzej Podraza makes an attempt to define cyberterrorism, noticing at the same time, that not every use of modern technology, even against critical infrastructures, can be defined with this name. The other two articles are dedicated to the issue of prevention of cyberterrorism. Wojciech Gizicki took into account European Union and Martin Libicki referred to NATO.

The purpose of the attacks in cyberspace, due to its significance, is often the United States. The target of the attacks is not only public infrastructure, but also private entities. Also, there are various reasons for the attacks. On the one hand, these measures are designed to try to paralyze the critical infrastructure of the state and on the other hand they are focused on corporate espionage. Łukasz Czebotar's article, *Strategy of the United States against cybersecurity problem*, is a synthetic analysis of the National Security Strategy to Cyberspace (NSSC), whereas Dominika Dziwisz's article is dedicated to the issue of critical infrastructure protection against attacks from cyberspace undertaken for the administration of the next three Presidents: Clinton, Bush and Obama.

In the last article of this part, Stanisław Kosmynka presents phenomenon of cyber-jihad, which is a use of the Internet mainly to promote the idea of jihad, to gather information or to communicate between the cells of the organization.

Another part of the monograph, *cyberterrorism – the legal and institutional dimension*, includes the analysis of cyberterrorism, as well as the threats from cyberspace in general, considering also the legal acts. Mariusz Czyżak raises the issue of legislative actions, which enable to prevent cyberterrorism, and also indicates the elements, which are essential for effective actions against virtual threats relating not only to the sphere of the state but also to the private telecommunication companies and system administrators. Paweł Fajgielski, while presenting the development of risks arising from technological development, refers to the binding Polish legislation, such as the Penal Code or the act on crisis management, and emphasizes the need to respond to these threats at three levels: technical, legal and educational. The next two articles, Aleksandra Suchorzewski's and Marek Grajek's, relate to the issues of security of the information systems and data communications systems, considering the legal and institutional dimension of actions.

Wojciech Wytrązek in his article refers to the virtual public space associated with the activities of public administration bodies. It does not apply, however, to official actions

of public administration (f.e. administrative decisions via ePUAP) but it refers to a communication with citizens using the new forms, such as Facebook or Twitter.

Important issues, concerning the possibility of restricting human rights, presents in his article Michał Skwarzyński. Under current law it is possible to introduce a state of emergency, such as a state of martial law, in case of an external threat to the state, caused by the terrorist activities or actions in cyberspace. During martial law it is possible to limit human rights and civil liberties in order to restore the normal functioning of the state. However, as the author highlights, it is unclear which rights could be limited, in case of introducing martial law due to actions in cyberspace.

Małgorzata Dziewanowska in a very interesting way presents relatively new phenomenon, which is internet vigilantism. It is an activity which involves finding and publishing personal information including personal data of people who made a particularly reprehensible act. The Author, citing numerous examples, indicates that this behavior not always has to be illegal and whether it should be stigmatized or not decides anonymous collective – netizens (e-citizens).

In the article titled: *May hacker declare a war? WikiLeaks case assignment* Paweł Potakowski makes a characteristics of the most active and aware entities acting in cyberspace, which are: hacker who is an

activist, hacker who is a criminal and a hacker who is a terrorist, trying to assign the selected behavior of a particular group, which is not always possible.

The third part, which closes the monograph, includes penal dimension of cyberterrorism. Although the articles are thematically similar, because Krzysztof Wiak points to criminal law measures to counteract cyberterrorism, Zuzanna Gądzik characterizes crimes against the integrity and availability of computer data as a terrorist crime and Stanisław Dziwisz writes about criminal responsibility for offenses of a terrorist nature, each of the articles presents a unique approach to the subject. The common point for each of these three studies is a statement, that in the Polish criminal law it is not easy to attribute a perpetrator an act of terrorist activity, due to the need to fulfill all appointed by the legislator features of an offense.

The monograph is an interesting presentation of the subject. The attempt to analyze the phenomenon of cyberterrorism from two perspectives, legal and political science's is extremely successful. At the same time, it is currently the most recent and complete study of this phenomenon. Written in simple language, this monograph allows the students of all directions, to get to know the dangers of cyberspace. On the other hand, specific information, particularly concerning the legal sphere, makes it also a must-have position for the specialists of data security.

**Book review: George Friedman, *The Next Decade: Were We've Been... And Were We're Going*, Publishing House Literackie, Warszawa 2012.**

*by Sylwia Ewelina Serwońska*

The Publisher book *The Next Decade: Were We've Been... and Were We're Going*, posits that The United States Has evolved from a republic to an empire, not intentionally but through circumstances. Friedman's first major point in *The Next Decade* is that America, which has always been a republic, has since WWII become an empire and that it hasn't learned to how an empire sustains itself. Using ancient Rome and early 1900s Britain as examples, Friedman says that empires don't rule by brute force, but rather they maintain their dominance by setting regional players against each other and balancing their power.

Why? The United States accounts for more than 20 percent of All foreign direct investment In the World, China f.e. In 2009 accounted for 4,4 percent. So this economy is a quarter of the world economy (The U.S.). They spend over 40 percent of the Total World military budget.

They are like world's policeman. Is that suitable for long? Probably not, but the role of the U.S. should not be the world's policeman but the balance wheel that works with alliance to serve our interests. America's war on terror, according to Friedman, was a huge mistake because its

objective was misstated. Instead of trying to cripple al Qaeda, they tried to eliminate the threat of terrorism everywhere, which is an impossible objective that could bankrupt the country. "Recovering from the depletions and distractions of this effort will consume the United States over the next ten years"<sup>1</sup>.

Friedman suggests that American foreign policy is too often debated in terms of idealism and realism, but that power is really the key – „Power as an end in itself is a monstrosity that does not achieve anything lasting and will inevitably deform the American regime. Ideals without Power are simply words – they can come alive only when reinforced by the capacity to act. Reality is understanding how to wield power, but by itself it doesn't guide you toward the end to which your power should be put.... Realism and idealism are not alternatives but necessary complements. Neither can serve as a principle for foreign policy by itself"<sup>2</sup>.

<sup>1</sup> George Friedman, *The Next Decade: Were We've Been...and Were We're Going*, Publishing House Literackie, Warszawa 2012, p. 42.

<sup>2</sup> George Friedman, *The Next...*, p. 41.; to see: Joseph Nye jr., *Soft Power: The Means to Success in World Politics*, Academic and Profes-

Three Machiavellian<sup>3</sup> principles should be applied to serve they strategic interests:

1. To the extent possible, enable a balance of power in each region to consume energies and divert threats from the United States.

2. Maneuver others into bearing the major burden of confrontation or conflict, supporting those countries with economic benefits, military technology, and promises of military intervention if required.

3. Use military intervention only as a last resort, when the balance of power breaks down and allies can no longer cope with a problem.

Friedman spends the bulk of *The Next Decade* going from country to country and region to region, describing what America needs to do achieve an acceptable balance of power. His starting position is that Bush's post-9/11 War on Terror was a huge mistake because terror was never an existential threat to America and therefore shouldn't have been treated as a threat that transcended all others. Rather, our objective should have been to manage the threat (and public insecurity). Perhaps that is what President Obama is doing now.

Because America became obsessed with terrorism post-9/11, it failed to manage several regional balances of power:

- Israel is becoming dominant over the Arabs;

- India is becoming dominant over Pakistan;

- Iran is becoming dominant over Iraq;

- Germany and Russia may unite and dominate the remainder of Europe;

- Japan and its navy may dominate China.

Regarding Israel, Friedman points out the America was unpopular in the Middle East even before it became Israel's sponsor, so it is inaccurate to blame Israel for our current unpopularity in the region. But he also believes that Israel is less important strategically to America since the end of the Cold War, and this should enable us to expend fewer resources.

Ironically, the second and third dot-points above reveal that countries we have been trying to help – Pakistan and Iraq – have been so weakened by our help that they are in danger of being eclipsed by their neighbors – India and Iran.

Regarding Germany and Russia, Friedman thinks they are individually powerful, but because of synergies they would be dangerous as close allies, with Russia providing the people and natural resources and Germany providing the technology. Germany no longer has much need for America, and we can expect to see our relationship deteriorate in the future. But we want to prevent Germany and Russia from getting too close, and Poland will be the key.

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sional Publishing House, Warsaw 2007, pp. 7–188.

<sup>3</sup> George Friedman, *The Next...*, p. 50.



Despite all the talk about the Indian and Chinese economic juggernauts, Friedman is concerned that Japan, when it pulls out of its current economic slump, will feel pressured to address its insecurities over lack of resources (just as Germany, France, and Russia were insecure over their borders in the 1900s). Because India is physically isolated, it doesn't figure into this regional problem, but China and Japan have a long history of not liking each other, and Friedman believes they will eventually clash, with Japan having a stronger hand because of the way its society is organized.

Friedman is not shy about admitting that America sometimes has to abandon a country that has been an ally in the past:

- „The United States made promises to Georgia that it now isn't going to keep. But when we look at the broader picture, this betrayal increases America's ability to keep other commitments. Georgia is of little importance to the United States, but is of enormous importance to Russia, guaranteeing the security of their southern frontier. The Russians would be prepared to pay a substantial price for Georgia, and

U.S. willingness to exit voluntarily should command a premium<sup>4</sup>”.

Or that a President sometimes has to lie to the American people about what he is doing. For example, Friedman thinks the President has to tell the American people that he is going to stop illegal drugs and illegal immigrants from coming in from Mexico, when, in fact, the President knows that this is impossible unless you legalize the drugs and have a national ID card.

In the long view, history is seen as a series of events – but the course of those events is determined by individuals and their actions. During the next ten years, individual leaders will face significant transitions for their nations: the United States' relationships with Iran and Israel will be undergoing changes, China will likely confront a major crisis, and the wars in the Islamic world will subside. Unexpected energy and technology developments will emerge, and labor shortages will begin to matter more than financial crises. *The Next Decade* is a provocative and fascinating look at the conflicts and opportunities that lie ahead. I recommend you read.

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<sup>4</sup> George Friedman, *The Next...*, p. 174.



**Book review: *The tenth parallel reports from the border of christianity and islam* by Eliza Griswold, Warsaw Penguin Books Muza SA, Warsaw 2013, the position taken in the series Spectrum**

*by Agnieszka Kociemba*

Eliza Griswold received a Guggenheim Fellowship for her ongoing work on water and poverty in America. Her first non-fiction book, *The Tenth Parallel*, was awarded the Anthony J. Lukas prize and it was a New York Times bestseller.

Her poetry and reportage has appeared in *The New York Times Magazine*, *The New Yorker*, *The Atlantic*, and many others. She's held fellowships at Harvard University and at the New America Foundation. Her collection of reportage and translations of Afghan folk poetry, *I am the Beggar of the World*, will be published in the Spring of 2014 by Farrar, Straus and Giroux with a second collection of her poems to follow<sup>(1)</sup>.

„Tenth paralel” is not only an indication of the geographical coordinates of the area that the author will write about. Title appears as a symbol of the horizontal separation. As the author points out:

„The tenth parallel encircles the globe at a distance of one thousand one hundred and twenty miles north of the equator. If we assume that Africa resembles a crumpled sock with South Africa in the place of

the big toe and Somalia on the heel, the tenth parallel would run through the ankle. Along it, in Sudan and in the great expanses of the African continent, collide two worlds: Muslim north being under the influence of Arab borders with black African south inhabited by Christians and followers of indigenous religions – (...) „(2).

The author takes her readers on a journey along the tenth parallel, from Nigeria in Africa and ending in the Philippines in Asia.

The book has a very clear layout, consists of two parts of Africa and Asia. Each section is divided into countries traveled by the author (Nigeria, Sudan, Indonesia, Malaysia and the Philippines). Before the introduction to the book there is a map of the journey in which author takes her readers. Stories from each country are presented in the form of short documentaries, always described the climate, the short history of the country and the current political situation.

<sup>1</sup> E. Griswold, *Bio & Kontakt*, <http://www.elizagriswold.com/bio/> (accessed: 10.10.2013).

<sup>2</sup> E. Griswold, *The tenth parallel reports from the border of Christianity and Islam*, Warszawa 2013, p. 12.

The author also indicates the time frame of each documentary. It is worth mentioning that each part is preceded by a quote from Bible and Koran, appropriate selection of quotes is to identify the similarities in two religions. In the preface E. Griswold shows, how in area between the tenth parallel and the Equator, the two religions meet in the direct vicinity. The history of this phenomenon through Muhammad dates back to 615 r.<sup>(3)</sup> It should be noted that the author began work on the subject of the division between religions on the north and the south in the region of the tenth parallel in the 2003 trip to Khartoum with Franklin Graham. In her work on the subject, she shows the „clash of civilizations”, where the guiding theme is the conflict between the two religions, shown in the everyday life of ordinary believers. In the book you can also see another plane of the problem, which does not apply to ordinary people, but the global business of oil and other mineral resources. The first part, Africa begins with a trip to Nigeria, which is the most populous country in the continent, with population of approximately 140 million people. Nigeria is also one of the main providers of oil to America. In this section E. Griswold visited the Emir of Wase Muslim king. The author showed in the report „The Rock” backstage visit to the Emir, and the paradox of his person.

Although the emir holds a Ph.D. from the University of Pittsburgh, and power passed down from generation to generation since 1816, is unable to prevent escalating religious conflict. One of the most shocking stories that Griswold describes relates to two Muslim women Hamamatu Danladi and Yasser Ibrahim. During the Christians’ attack on Jelwa, the two women were forced to break the precepts of Muslim faith. Despite Danladi’s advanced pregnancy, the women were raped for four days. Her child was born after twelve months spent in the womb. The author in order to make sure whether the story is true, returns to Jelwa to listen to it again in 2007.

The second part, Asia starts with travel to Indonesia. It is the country with the biggest number of Muslims in the world. In Indonesia, there is a mix of nationalities, best seen in Jakarta. The author shows that Sharia law protects, in the draconian way, the continuity of culture and the principles of Islam. In Jakarta in 2006, the author met with one of the most well-known radical – Iran Awwas<sup>4</sup>. During the interview, the priest predicate thesis that the Christianization and Westernization are one and the same. During a trip to Indonesia, in the report „World after renovation” author tells the story how she accompanied the squad from the Department for the vice and virtues at the night patrol. This is the best

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<sup>3</sup> To see: E. Griswold, *p.* 18.

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<sup>4</sup> To see: E. Griswold, *p.* 290.

example of how everyday life in Indonesia is dependent on the principles of religion . As pointed out by the author Indonesia is a conglomeration of many muslim faction , which gives rise to serious conflicts . In Malaysia, Griswold had the opportunity to attend a wedding . Wedding was very unusual , because the bride was a Christian and a Muslim groom.

Traveling through Asia ends up in the Philippines. This country also ends the trip along the tenth parallel. The Philippines is a country where the Christian religion prevails. The trip that took us E. Griswold took us, conclude that civilizational conflict played out along the tenth parallel not only refers to the religion. The conflict is made up of many factors such as demographics , climate, and contemporary conflict over oil . The tension between the two religions originated from the time of colonialism , where the inhabitants have adapted to the rules imposed by foreign nations . Centuries of coexistence of the

two religions show that the dispute between the followers of Islam and Christianity is still valid , and that new, more contemporary flashpoints still appears . It should also be noted that the problems of ordinary people living in the area along the tenth parallel , regardless of the religion are similar.

The book is very interesting. Submitted in accordance with the terms and facts interspersed with relevant historical facts . The author allows you to construct your own view on the ordinary lives of people of the tenth parallel region, in the context of the great figures and important events of the territory. The text reveals to readers unfamiliar aspects of everyday lives of followers of Islam and Christianity. The book shows reports of the same events taking place in the same area from two perspectives , from the perspective of the followers of Islam and Christianity. Reading recommendable.

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