CENTRAL EUROPEAN PAPERS

Volume IX 2021/1

SILESIAN UNIVERSITY
FACULTY OF PUBLIC POLICIES IN OPAVA

SILESIAN
UNIVERSITY
FACULTY OF PUBLIC
POLICIES IN OPAVA

Silesian University in Opava
Faculty of Public Policies in Opava
Bezručovo nám. 885/14
746 01 Opava
Czech Republic

The online version of the journal is available on the following website:
cep.slu.cz

The Journal is indexed in the following international databases:
The Central European Journal of Social Sciences and Humanities (CEJSH)
http://cejsh.icm.edu.pl
Central and Eastern European Online Library (C.E.E.O.L.)
http://www.ceeol.com
European Reference Index for the Humanities and Social Sciences (ERIH PLUS)
https://dbh.nsd.uib.no/publiseringskanaler/erihplus/

Published:
Silesian University in Opava, Faculty of Public Policies in Opava
Bezručovo nám. 885/14, 746 01 Opava, Czech Republic

Company Registration Number:
47813059

Two issues per year

Graphic design:
NAKNAP - reklamní a grafické studio, Jan Knap
Na Krásné vyhlídce 591/10, 748 01 Hlučín, Czech Republic

Printed by:
Profi-tisk group, s.r.o.
Chválkovická 223/5, 779 00 Olomouc, Czech Republic

Journal's title abbreviation: C.E.P.
Registration Number of The Ministry of Culture of the Czech Republic:
E21553

ISSN 2336-3312 (Print)
ISSN 2336-369X (Online)

CONTENTS

EDITORIAL

We greet the reader on the occasion of the publication of the sixteenth issue of the Central European Papers (C.E.P.). This number of our scientifical journal is dedicated to different topics from the area of constitutional law, social state, foreign policy, history and political science.The authors of these articles are famous former diplomats, professors and scholars from Hungary, Poland and Slovakia. They have theoretical erudition and also practical experience in the field of their studies.

This issue was prepared in the shadow of the 30th anniversary of the start of the Visegrád cooperation. Thirty years ago the political leaders of post-communist Czechoslovakia, Hungary and Poland signed an important declaration about the cooperation among their contries. The two main goals of this cooperation were, on the one hand, the creation of the conditions of peaceful coexistence in Central Europe and on the other hand also the Euro-Atlantic integration of this sensitive area. Currently we are publishing here an interview with the former Hungarian minister of foreign affairs Géza Jeszenszky, who participated in the preparation and realisation of the high level meeting very actively. The former Hungarian state secretary and professor Iván Bába is publishing here a very timely article about the position of Central Europe within the European Union. Researchers from Slovakia (Dalibor Mikuš and Richard Geffert) have written papers about the relationship between political parties and churches in Slovakia, and about social justice and the valorisation of old age pensions in this country. The Polish scholars (Joanna Podgórska-Rykała and Marcin Kępa) are dealing here with the position of the private foundations in the Polish legal system. Finally, the young Hungarian scholar Lea Pődör has prepared a very interesting article about he „trolleyology" and autonomous vehicles from the legal and moral point of view.

Every topic of this issue, which wishes to cover the age.old problems of foreign policy, public politics, social system and modern technologies is absolutely timely. We hope that this new issue of Central European Papers (C.E.P.) will be useful not only for scholars but also for graduate and undergraduate students as well as for non-professional readers living here in Central Europe and living outside of our region, too.

Editors

INTERVIEW

VISEGRÁD, THE UNWRITTEN ALLIANCE

Géza JESZENSZKY

1. Could you give us a description of circumstancies of the Visegrad meeting held in 1991? What was the position of Hungary as host country?

Three historic kingdoms constitute the core of Central Europe: the Polish, the Czech (or Bohemian), and the Hungarian. They often had to fight wars against the nearby Great Powers for their freedom, their very existence. In October 1335, hosted by the King of Hungary, Carloberto of Anjou, the kings of Poland (Kazimierz the Great) and Bohemia (John of Luxembourg), met in the Royal Palace at Visegrád in order to coordinate their commercial policies. Today's cooperation is rooted in the fight of the Central European intellectuals (the 'dissidents') for human rights, based upon the 1975 Helsinki Final Act, particularly on Charta '77, and in the inspiration received from the Polish Solidarność, and the reburial of the martyrs of the 1956 Hungarian Revolution in June 1989.

At the beginning of 1990 the democratic new politicians of Poland, Czechoslovakia, and Hungary, who had been opposed to Communism and now formed the freely-elected governments, were determined to preserve their solidarity. In November 1990, when the Paris Charter recording the basic principles of a new Europe after the Cold War was signed, Hungarian Prime Minister József Antall proposed to his Polish and Czech colleagues that the leaders of the three countries should meet at the beginning of the following year in Visegrád, recalling the royal summit of 1335, in order to coordinate their political aims.

Set up on February 15, 1991 by Presidents Walesa and Havel and Prime Minister Antall, the goal of the cooperative mechanism named after the venue was to help and speed up the transition of those countries from the Soviet orbit to the Euro-Atlantic structures, monitoring each other, learning from each other, coordinating foreign policy in all directions. The precondition of joining the process of European integration was seen as the dissolution of the Warsaw Pact, the political and military alliance imposed upon them by the Soviet Union in 1955. The common stand taken by the three countries sped up the process: the alliance of the unwilling was officially dissolved by the member-states on 1 July in Prague.

Sadly, I am the last survivor of the foreign ministers who prepared that memorable meeting and the documents signed in the restored part of the Visegrád palace of the Hungarian Angevin kings. I mourn the passing away of my two dear friends and colleagues, Krzystof Skubiszewski and Jiři Dienstbier, and, naturally, József Antall (my one-time history teacher) as well as Vaclav Havel. There was such a harmony in thinking between all the founders: they were all staunch anti-Communists, committed to democracy and human rights.

2. Could you speak about the symbolic meaning of the Visegrad meeting? Whoese idea was Visegrad as location for the meeting?

[I have answered that, too.]

3. How can you define the policy of Hungary towards the different integration forms during the first years of transition? What was the regional alternative for the Visegrad formation?

Besides European integration as the long-term aim of Visegrád there was also a determination to set aside old rivalries and the memory of conflicts between the four nations, to replace them with sincere friendship, re-establishing the economic and cultural ties that existed before the First World War. Visegrád was the alternative to earlier, bad arrangements for Central Europe, such as direct foreign domination (the Habsburg Empire before 1867 and, in a brutal version, Hitler's Third Reich), the attempt at integration above the heads of the member-nations (the Austro-Hungarian Monarchy, 1867–1918), or one group ganging up against another and seeking support from selfish great powers (the so-called Little Entente in 1921–1938 and the alliance of Austria, Hungary and Italy in the early and mid–1930s). Visegrád set a positive model for the whole post-communist world. It was not a formal alliance, but was quite close to that. As once I put it to Skubiszewski, my Polish colleague, it was an alliance *"in pectore,"* in our hearts.

Visegrád precluded an "unholy alliance," a new "Little Entente" by the three countries which, as a result of the 1920 Trianon Peace Treaty, acquired large Hungarian minorities: Czechoslovakia, Romania and Yugoslavia. The nationalists of those three desired cooperation in repressive policies against those minorities.

There were quite a few earlier plans for bringing together the smaller nations of Central Europe. After the defeat of the Hungarian War of Independence in 1849 its leader, Lajos Kossuth, contemplated a "Danubian Confederation" of Hungary, Transylvania, Serbia and the Romanian principalities. The Romanian Aurel Popovici published a book in 1906 *„Die Vereinigten Staaten von Großösterreich"* a plan for the transformation of the Austro-Hungarian Monarchy into a federation. During the Second World War, conquered by Hitler and threatened by Stalin, the Slovak Milan Hodža had similar ideas in his "Federation in Central Europe", published in his exile in the United States (1942). Several Hungarian and Polish contemporaries wrote and thought along similar lines during the war years. The idea was supported by several American and British politicians and authors, including Prime Minister Winston Churchill, but was categorically rejected by Stalin, whose aim was to bring its whole western neighbourhood under his total control. In the 1970s and 80s many intellectuals in the satellite states (Milan Kundera was best known internationally) revived the idea of Central Europe, as a historically and culturally distinct region desiring independence from Soviet domination.

A very cautious version of Central European cooperation during the last years of the Cold War was the creation of the *Alps-Adriatic (Alpen-Adria) Partnership (AAP)* in 1978. It began as a cooperation that crossed borders and brought together regions with divergent

social, political and economic systems. It included the provinces of Northern Italy (Friuli-Venezia Giulia and Veneto), Austria (Upper Austria, Styria and Carinthia), Bavaria, Croatia and Slovenia, and from the mid–1980's the south-western counties of Hungary (Vas, Zala, Somogy, Baranya, Győr-Sopron). In the late1980s this region had 40 million inhabitants (more than twice the population of Scandinavia), and it contained 18 regional administrations. The many ethnic, national, linguistic and cultural groups made it one of the most colourful and varied regions in Europe. The aim of the AAP in the politically divided Europe was to transcend the division brought about by the Cold War. From above it wanted to harmonize development, environmental and economic plans, and from below (more important and more practical) to create micro-regional cooperation between civil communities, and so to prepare a testing ground for pan-European „pre-integration," free of blocs and antagonistic ideologies.

It was primarily Italy who decided in a fundamentally unfavourable world political environment to establish a regional cooperation that extended beyond the bounds of the European Economic Community and constituted a thrust towards Central and Eastern Europe. This organization – willy-nilly – contributed to the erosion of the two European blocs that emerged after the Second World War. By the end of October 1989 the Polish and Hungarian regime change was on track, but the Berlin Wall was still solid and Ceausescu was moving ahead with destroying old Bucarest and erasing villages. Then, on 11 November, Italy, Austria, Yugoslavia and Hungary established the governmental cooperation called *Quandrangolare* in Budapest. Italy and Hungary in particular expressed clearly the intention of using the initiative to transcend the military and ideological blocs. The acceleration of the democratic processes in Europe, the fall of the communist dominoes raised the question of whether an initiative in Central Europe designed to bridge the gap between the blocs had a reason to exist now that the objective stated on its foundation had lost its validity. An unambiguous answer was provided by the steadily progressing cooperation inside it, by the dozen or so working committees dealing with more than 80 cooperation topics, having several hundred experts taking part in them, and the figure of several thousand participants at its various events. On a political level, the interest of the new democracies was shown by the transformation of the regional initiative into a *Pentagonale* (with the accession of Czechoslovakia) at the 31 July 1990 summit in Venice, and its expansion into a *Hexagonale* on 27 July 1991 in Dubrovnik, when Poland was admitted. Finally, recognizing the break-up of Czechoslovakia, Yugoslavia and the Soviet Union, Ukraine, too, was accepted. At the Vienna summit on 18 July 1992, the name Central European Initiative (CEI) was assumed. In the following years Macedonia, Bulgaria, Romania and Moldova also joined, increasing the membership into 16. Nominally CEI still exists, but without the countries which joined the European Union in 2004 and 2007 respectively.

The Cracow Summit in October 1991 of the Visegrád Three saw the conclusion of bilateral treaties, and issued an important warning to the international community on the conflict in Yugoslavia, denouncing the war crimes committed. The three countries advocated solutions which respect the right of nations for self-determination, including the formation of independent states, and also the full protection of the rights of national minorities. It took quite some time for the European Community to endorse those very principles. That

did not prevent the three countries signing the "Europe Agreement" with the European Community together on December 16, 1991 in Brussels.
The most recent association in the larger Central European region is called the Three Seas, or Trimarium/Intermarium initiative (in another term BABS: Baltic, Adriatic, Black Sea Initiative). It is a forum of twelve EU states from the Baltic Sea to the Adriatic Sea and the Black Sea. Launched in 2016 in Dubrovnik, the aim is regular regional dialogue for development. It comprises Austria, Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, and Slovenia.

4. How do you evaluate the Visegrad cooperation today? According to you what are the possibilities and the risks involved in the cooperation?

Cooperation never stopped, even when it weakened, due to the attitude of certain leaders. It gained new momentum in 1998, after Orbán and Dzurinda, then both centre-right politicians, were elected Prime Ministers. Cultural cooperation was always very popular, and the creation of the common "Visegrád Fund" mainly for such projects, helped to bring "Visegrád" closer to society, to the ordinary citizens. The Kroměříž Summit in 2004 stated that the key objectives set in the 1991 Visegrád Declaration have been achieved. A declaration was adopted, which expressed the determination to continue the cooperation, now as members of the European Union.
After V. Orbán won the elections of 2010 with a super majority and was reelected in 2014 he was instrumental in giving a stronger, distinct identity to the cooperation vis-à-vis the rest of the European Union. For a while there were regular consultations with the Baltic Three and the Scandinavian Five as well. The V-4 became more visible in the response to the mass migration of 2015, as they categorically refused to admit economic immigrants and possibly even genuine refugees from Africa and Asia. Poland, aware of its weight in Central Europe, started to see itself as a regional leader. In the last few years, however, the Czech Republic, and even more markedly Slovakia, distanced itself from the anti-Brussels rhetoric of Hungary, while Poland, also strongly criticized for its internal policy by the EU, does not approve of Hungary's intimate relations with President Putin's Russia. Hungary is not supported by the Visegrád group in its conflict with Ukraine over the serious curtailing of the educational rights of the Hungarian minority in Trans (or Sub)-Carpathia. During the presidency of Donald Trump in the United States Poland and Hungary ostentatiously showed their sympathy with his policies. So in the last years the solidarity of the V-4 visibly weakened in both foreign and domestic affairs. That, however, can be easily remedied by adjusting the present policies of the four governments.
Visegrád is not only about high politics. In my opinion it should be felt by every citizen as producing tangible results, improving every-day life. In economically difficult times much can be done on the local level, on the level of business, especially small and medium enterprises. Transportation, roads, railways, pipelines between the four should have improved more, trans-border cooperation should develop much faster, restoring old, pre–1914 economic ties. The cultural and other programmes supported by the Visegrád Fund are popular because people see in them the actual working of the Visegrád idea.

5. What do you think about the impact of the Visegrad cooperation in the field of national minority policy? This issue is traditionally very important for Hungary.

The 1991 Declaration contained the following statement: "They emphasize that national, ethnic, religious and linguistic minorities – in accordance with traditional European values and in harmony with internationally recognized documents on human rights – must enjoy all rights in political, social, economic and cultural life, and also in education." The signatories committed themselves to "developing a society where people are tolerant towards local, regional and national communities and are free of hatred, nationalism, xenophobia, and quarrelling with their neighbours." This conviction of the founders was never repudiated, but neither was it followed sincerely by the neighbours of Hungary. At least that is how Hungary and the Hungarian minorities feel it. I sincerely hope, however, that the many advantages shown by positive western examples and models, like South Tyrol, the Aland Islands, Schleswig, Belgium etc. will convince Hungary's neighbours of the wisdom of treating the Hungarian and other minorities fairly, in accordance with their moderate demands and the recommendations and conventions of the Council of Europe and the OSCE. Friendly advice from the EU and NATO would facilitate that.
Having said that the present status and treatment of the Hungarian national minorities still leaves much to be desired, the V-4 deserves recognition as the proof that cooperation is the best way to prevent rivalry and conflict between states, bringing out the common interests of the participants. Visegrád has been a cornerstone for stability since the end of the Cold War, and remains a model to be emulated by other regions.

6. We are witnessing the „political ideologization" of Visegrad. What do you think about this process? How do you see the Visegrad cooperation in the future?

Nowadays in the EU one hears much about infringements of the rule of law and about illiberal policies. In my opinion it would be most regrettable if the V-4 were associated with populism, serious deficiencies of democracy, curtailment of the freedom of the press and the independence of the judiciary. At its foundation the foremost aim was to strengthen democracy, and to rejoin Europe by becoming members of the European integration structure. An anti-EU position, threatening the common budget with a veto and similar steps are repudiating the very idea of Visegrád and represent a most serious threat to its future.
I admit that no veritable past is a guarantee for continued existence, let alone a bright future. This association may wither away if the participating countries fail to see its potential value under the new circumstances. But it should be seen as obvious that separately the V-4 can be overlooked, outvoted, neglected over many issues, but combined they stand for a real major power, larger in population than France, and even its economic strength would be comparable to that of Spain. Central Europeans know and understand better both the East (Russia and Ukraine), and also the Balkans, than our western friends. We have much to say

on the problems related to them, but again if we speak in unison, we'll be better heard.
The V-4 should not focus only on its neighbourhood. Based on the history of the 20th century the four were and should remain strongly committed to Atlanticism, to the continued close collaboration of the United States and Europe, as they showed that during the early years of their association.
In the last thirty years the world has learned the name Visegrád, because those four countries set good examples for other regions struggling with the difficult political and economic legacy of the past. In the so-called migration crisis they became more visible than ever before. In my view they alone still have little chance to convince the rest of the EU to share the opposition of the V-4 to admitting any larger number of fugitive Muslims. But through more dialogue it should be possible to adopt a common European policy of keeping those unfortunate millions away by helping them to settle temporarily in the countries near Syria and Iraq, and to push for common international action to bring about peace in Arabia and thus allowing the refugees to return to their home country.
Apart from playing an active role in the on-going discussions in the EU the V-4 should help the fight against the many phenomena which represent a threat to world peace and stability like terrorism, racism, intolerance against national and religious minorities. All those horrible and repulsive tendencies and crimes had once taken place in Central Europe, too, and the message is unequivocal: they should not occur again anywhere, and that they can be prevented only by joint action.
In a book I published in 2016 on Hungary's neighbourhood policy during the years of the regime change *(Kísérlet a trianoni trauma orvoslására)*. I gave the following forecast about Visegrád: "It was founded by the determined opponents of the communist dictatorship, who were dedicated to a western-type democracy and the common interests of the peoples of Central Europe. Visegrád will last until that way of thinking will remain decisive in these four countries."

7. What is the significance of Visegrad coooperation for Hungarian foreign policy?

Four all the citizens of the four countries the Visegrád Cooperation multiplies their weight and influence. For Hungary specifically, I think there is the additional advantage to work closely together with those peoples with whom the Hungarians used to live together for a thousand years in a common political structure. Having separated and for many decades having quarreled with each other over the borders and the treatment of the Hungarian minorities, now they are together in the V-4, in the European Union and in NATO. That helps to restore many old economic, cultural and intellectual ties between them, and reduces animosities which used to poison so many personal contacts and relationships.
Almost two hundred years ago the great Czech historian and politician František Palacký, in his famous letter to the Frankfurt Parliament of 1848, expressed his view that "if the Austrian State had not existed for ages, it would have been in the interests of Europe and indeed of humanity to endeavor to create it as soon as possible." As it is known, Palacký advocated a kind of federation between the smaller nations living in the basin of the Danube. Indeed,

most of (though not all) the territory of the V-4 coincdes with the erstwhile Habsburg, after 1867 Austro-Hungarian Monarchy. That was a common economic space, with no internal borders, with excellent lines of communications, with a common currency, a common foreign policy, and even with a common army. I do hope that the heart of Central Europe will soon return to that situation, but without the shortcomings of the one-time Habsburg Monarchy, and as members of the union of all the European democracies.

GÉZA JESZENSZKY (Budapest, 1941). Historian, D. Phil. (Eötvös Loránd University, Budapest). Banned from higher education in 1959, acquired a degree in history and English in 1966. Was schoolteacher, then librarian, from 1976 to 2011 taught modern history at what is today Corvinus University of Budapest. Was Fulbright Visiting Professor at UC Santa Barbara in 1984–86. One of the founders of the Hungarian Democartic Forum, was Foreign Minister in the first non-Communist government (1990–94), Ambassador to the United States of America in 1998–2002, and to Norway and Iceland in 2011–14.
He is the author of a large number of scholarly publications and political writings, including *Lost Prestige. The Changing Image of Hungary in Britain, 1894–1918* (Budapest, 1986, 1994, 2020 in Hungarian), in English: Reno, NV: Helena History Press LLC, 2020); *Post-Communist Europe and Its National/Ethnic Problems* (Budapest, 2005, 2009), *July 1944. Deportation of the Jews of Budapest Foiled.* (Ed.) (Reno, NV: Helena History Press LLC, 2018.) His book on Hungary's relations to its neighbours in the years of the regime change *(Kísérlet a trianoni trauma orvoslására. Magyarország szomszédsági politikája a rendszerváltozás éveiben)* came out in 2016. He is co-author of a book on the history of skiing in the Carpathian Basin (2016).

ARTICLES

PRIVATE FOUNDATION IN THE POLISH LEGAL SYSTEM AS A SPECIFIC INSTITUTION OF THE CIVIL SOCIETY

dr Joanna PODGÓRSKA-RYKAŁA
dr Marcin KĘPA

Abstract

The paper is an attempt to analyze the selected features and legal regulations related to foundation's institutions, as defined in Polish law, as the specific institution of the civil society. As Authors, we are trying to follow the path of one of the most important problems regarding the theory on the civil society, taking the form of the question about locating the civil society somewhere between the public and private spheres. These issues can be especially clearly illustrated with an example or foundation's institutions, as listing socially or economically useful goals by the lawmakers determine some scope of essential problems seen (not listed here) that could be expressed in the form of the two questions. Firstly, can a foundation be considered a social organization at all? Secondly, can a foundation perform only business activities, as the lawmakers used the conjunction typical for the non-exclusive disjunction? We think there is no simple answer for questions formed in such a way. The considerations included in this paper are included in the scope of social sciences, with particular attention paid to legal sciences and political and administrative science. This text should be qualified as interdisciplinary, though also oriented mostly to analyze legal, economic and social conditions of the essence of a foundation, as the specific formula within which tasks typical for civil society organizations can be executed.

Keywords

foundation, civil society, foundation as estate

Introduction

According to Edward Shils, "citizenship is acceptance of one's obligation to act (at least to some extent) for the common good, when making decisions related to conflicting interests or ideas, ordering to consider consequences of certain actions performed for common good or society as a whole. Popularization of this civic attitude allows to maintain equilibrium among various competing and conflicting elements of society. Keeping this equilibrium allows society to operate as a coherent unity and not as, for example, a specific

by-product of competition and conflicts among society's groups. A society within which impact of this active civic element is relatively significant, can be considered a civil society."[1] When focusing on specific legal and organizational forms, i.e. official institutions, it is assumed that a civil society is "entirety of non-state civil institutions, organizations and associations acting in the public sphere. These structures are relatively independent from state, emerging as grassroots movements and generally characterized by voluntary membership."[2] Within the Polish foundation-related law we can distinguish the three following types of foundations: private legal foundations, public legal foundations and religious foundations. This paper focuses only on the first type of foundations, i.e. private legal entities, as in Poland they are much more frequent than the two other categories. The foundations and the associations being subject of this paper has been directly qualified by the Polish lawmakers to this type of organizations, that results from the art. 3 sect. 2 clause 2 of the Act of April 24, 2003 on Work for Public Benefit and Voluntary Service.

Even when legally classified as "typical", non-governmental organizations are entities that should be dealt with in the very broad context. These institutions are impossible to be analyzed without consideration of the interdisciplinary perspective. However, as this is a law-related paper, the analysis conducted herein is going to have the definitely legal character. The origins of what we are nowadays calling a foundation are derived from ancient Rome. These institutions, sensu largo, defined as specifically oriented permanent activities of a founder, had their previous, though insufficiently determined types. Primary forms of foundations did not definitely match the legal structure developed by means of positive law in the 19th century in Western Europe, by which we mean the currently immanent features typical for foundations, namely legal personality, considering them as company legal entities, having a goal, assets and respective organizational structure enabling performance of founder's will and executing only goals that are useful socially or economically.[3]

Hubert Izdebski[4] underlines the non-corporate character of a foundation, putting it in contrary to the legal structure of association (association of persons). He also indicates some formal and legal, as well as substantive-law-related similarities, including acting on the basis of a statute, entry to a respective register and legal personality. Indeed, corporate personhood entities, such as cooperatives or associations, are oriented to persons, while foundations, to the contrary, to property. As a consequence of such a legal structure, foundations have their beneficiaries, not members. As a result, one cannot be granted membership in a foundation, but can become its member. On the other hand, a foundation, as being oriented to execution of its goal in the social and economic context and not oriented to persons, is also not a typical "fund".[5]

The indicated features of a foundation emphasize its essence and related evident distinctiveness from other institutions of the civil society in Poland. While dealing with

1 SHILS, Edward: Co to jest społeczeństwo obywatelskie, [in:] K. Michalski (eds.), *Europa i społeczeństwo obywatelskie. Rozmowy w Castel Gandolfo,* Wydawnictwo Znak, Kraków 1994, 11–12.

2 WNUK-LIPIŃSKI, Edmund: *Socjologia życia publicznego,* Warszawa 2005, 119.

3 CIOCH, Henryk: *Prawo fundacyjne,* Kraków 2007, 27–28.

4 IZDEBSKI, Hubert: *Fundacje i stowarzyszenia. Komentarz,* Krasnobród 2004, 20.

5 Funds are separate bank accounts without legal personality, being at disposal of a given minister.

these issues, we discuss the most important aspects related to the essence of a foundation, in particular its assets and certain aspects of foundation's admissibility to conduct business activity, as a foundation is nothing more than personified property and a method of its use is to be determined by a founder in a statute.[6] Execution of foundation's goal is funded either from assets (primary assets, primary accumulation) or incomes they produce.[7] When focusing on such defined issues, this paper is an attempt to analyze the selected features and legal regulations related to foundation's institutions, as defined in Polish law, as the specific institution of the civil society.[8] As Authors, we are trying to follow the path of one of the most important problems regarding the theory on the civil society, taking the form of the question about locating the civil society somewhere between the public and private spheres. These issues can be especially clearly illustrated with an example or foundation's institutions, as listing socially or economically useful goals by the lawmakers determine some scope of essential problems seen (not listed here) that could be expressed in the form of the two questions. Firstly, can a foundation be considered a social organization at all? Referring to a foundation by calling it a social organization is a bit problematic, because in Poland there is no well-established jurisprudence regarding this matter and there are discrepancies between theses included in judicial verdicts and scientific papers. Secondly, can a foundation perform only business activities, as the lawmakers used the conjunction typical for the non-exclusive disjunction? Business activities of a foundation need to be secondary (auxiliary) to the main social goal. We think there is no simple answer for questions formed in such a way. The considerations included in this paper are included in the scope of social sciences, with particular attention paid to legal sciences and political and administrative science. The problems included in this paper should be classified as interdisciplinary and mostly focusing on research on legal, economic and social determinants of the essence of a foundation as a specific form within which goals typical for civil society organizations can be achieved. However, the authors of this paper focused mostly on extension of the legal thread, while the other ones will be investigated in further research on foundations.

6 WRZEŚNIEWSKI, Paweł: *Ustawa o fundacjach. Komentarz praktyczny,* Warszawa 2011, 11.

7 WOLTER, Aleksander: *Prawo cywilne*, Warszawa 1996, 24.

8 The paper builds on previous research conducted by the Authors, whose results were published in the following monograph KĘPA, Marcin, PODGÓRSKA-RYKAŁA, Joanna: *Prawo o fundacjach. Komentarz do ustawy o fundacjach. Działalność fundacji w praktyce. Wzory dokumentów,* C.H. Beck, Warszawa 2020.

Civil society

Civil society is a term that cannot be clearly or finally defined. Its definition is a result of plentiful of approaches related to multidimensionality of this phenomenon and resulting in unabated interest in the term of civil society among various researchers. They represent not only the broadly defined social sciences and humanities,[9] resulting in abundant and multi-faceted literature,[10] that is obvious, because civil society is the sophisticated conglomerate of various philosophical, sociological, historical, anthropological, legal, cultural, esthetical and political-science-related ideas. On the other hand, civil society is the set of specific and dynamic forms of social self-organization, that still go unnoticed by various researchers.[11]

Considering the above, the first step that should be taken in order to define this phenomenon is performance of simplification and identification of civil society, in context of this paper, with formal or informal groups or organizations that express diversified social interests, acting independently from state structures,[12] by achieving social goals and performing public tasks. It is worth noting that the role and importance of such defined civil society organizations in modern societies are shaped by the fact of being located between power and society and is expressed via the intermediary function.[13] Apart from articulation of needs, organizations also take responsibility for execution of tasks from various areas of social life. It seems that the intermediary function between society and market (economy) on the one side and state on the other, regarding provision of social services and achievement of other

9 See, e.g.: ALMOND, Gabriel and VERBA, Sidney: Kultura polityczna, [in:] J. Szczupaczyński (eds.), *Władza i społeczeństwo. Antologia tekstów z zakresu socjologii polityki,* Scholar, Warszawa 1995; BAUMEISTER, Roy F. and BRATSLAVSKY, Ellen and FINKENAUER, Catrin and VOHS, Kathleen D.: Bad is stronger than good, *"Review of General Psychology"*, 2001, no. 5; BURT, Ronald Stuart: *Structural Holes. The Social Structure and Competition,* Harvard University Press, Cambridge 1992; KOTARBIŃSKI, Tadeusz: Witkiewicz: Pojęcia i twierdzenia implikowane przez pojęcie istnienia, *"Przegląd Filozoficzny"*, 1936, no. 2; LAPORTA, Rafael and LOPEZ-DE-SILANES, Florencio and SHLEIFER, Andrei and VISHNY, Robert W.: Trust in large organizations, *"American Economic Review"*, 1997, no. 57; LIN, Nan: *Social Capital. A Theory of Social Structure and Action,* Cambridge University Press, New York 2001; SIDANIUS, Jim and PRATTO, Felicia: *Social dominance: An intergroup theory of social hierarchy and oppression,* Cambridge University Press, New York 1999; SOIN, Maciej: *Filozofia Stanisława Ignacego Witkiewicza,* Ossolineum, Wrocław 2002.

10 Cf., i.a.: OGRODZIŃSKI, Paweł: *Pięć tekstów o społeczeństwie obywatelskim,* Instytut Studiów Politycznych Polskiej Akademii Nauk, Warszawa 1991; HALL, Judith A.: *Civil Society. Theory, History, Comparison,* Polity Press, Cambridge 1995; WITKOWSKA, Marta and WIERZBICKI, Andrzej (eds.), *Społeczeństwo obywatelskie,* Oficyna Wydawnicza ASPRA-JR, Warszawa 2005; SZACKI, Jerzy: *Ani książę, ani kupiec – obywatel: idea społeczeństwa obywatelskiego w myśli współczesnej,* Znak, Kraków 1997; MICHALSKI, Krzysztof (ed.), *Europa i społeczeństwo obywatelskie. Rozmowy w Castel Gandolfo,* Wydawnictwo Znak, Kraków 1994; FERGUSON, Adam: *An Essay on the History of Civil Society,* Edinburgh Univeristy Press, Edinburgh 1966; PIETRZYK-REEVES, Dorota: *Idea społeczeństwa obywatelskiego. Współczesna debata i jej źródła,* FNP, Wrocław 2004; COHEN, Jean and ARATO, Andrew: *Civil Society and Political Theory,* MIT Press, Cambridge Mass. 1994; GÓRSKI, Eugeniusz: *Rozważania o społeczeństwie obywatelskim i inne studia z historii idei,* IFiS PAN, Warszawa 2003; KAVIRAJ, Sudipta and KHILNANI, Sunil: *Civil Socjety: History and Possibilities,* Cambridge 2001.

11 Cf.: PODGÓRSKA-RYKAŁA, Joanna and KĘPA, Marcin: *Współpraca międzysektorowa jednostek samorządu terytorialnego z organizacjami pozarządowymi,* Wydawnictwo Libron, Kraków 2020.

12 *Społeczeństwo obywatelskie,* WITKOWSKA, Marta and WIERZBICKI Andrzej (eds.), Oficyna Wydawnicza ASPRA-JR, Warszawa 2005, 9.

13 OFFE, Claus: Nowe ruchy społeczne. Przekraczanie granic polityki instytucjonalnej, [in:] J. Szczupaczyński (eds.), *Władza i społeczeństwo,* Wydawnictwo Naukowe „Scholar", Warszawa 1995.

goals, constitutes "the source of intense development of the third sector and increase of forms of its institutions and goal achievement methods."[14]

The primary legal act regarding the area of civil society in Poland is the Constitution of the Republic of Poland of April 2, 1997.[15] This basic law refers to civil society organizations in its art. 12 by stating that the Republic of Poland shall ensure freedom for the creation and functioning of trade unions, socio-occupational organizations of farmers, societies, citizens' movements and other voluntary associations and foundations. The art. 13 of the said document states that political parties and organizations whose programmes are based upon totalitarian methods and the modes of activity of Nazism, fascism and communism, as well as those whose programmes or activities sanction racial or national hatred, the application of violence for the purpose of obtaining power or to influence the State policy, or provide for the secrecy of their own structure of membership, shall be prohibited. In turn, the art. 58 sect. 1 of the Constitution shall guarantee to everyone the freedom of association. These regulations form the primary guarantee of freedom of civil society in a democratic state.[16]

Social organizations are one of components of the civil society, however they have not been legally defined in Polish law, thus this definition is being shaped in judicial verdicts. By expounding the art. 12 of the Constitution of the Republic of Poland, the Supreme Administrative Court indicated five common features of social organizations, namely:

(1) organizations consisting of a certain group of people, based on voluntary membership, (2) organizations referenced by specific sets of regulations determining their structure, scope of rights and obligations defining their organizational distinctiveness and independence,

(3) scope of activity and goals of organizations are primarily defined in statues and must be compliant with state goals, (4) members of bodies in these organizations are elected by those who belong to them and (5) organizations are controlled or supervised by public state authorities.[17]

On the other hand, Polish law defines the term of a non-governmental organization. According to the Act of April 24, 2003 on Work for Public Benefit and Voluntary Service,[18] non-governmental organizations in Poland are legal persons or organizational units, including foundations and associations, without legal personality that is granted to them on the basis of the separate act, with the reservation they must not: (1) be units of the public finance sector or entrepreneurs, research institutions, banks and commercial law companies being state or local government legal entities or (2) act with purpose to gain profit. The art. 3 sect. of the said act also indicates the so called other entities that are not included in the definition of a non-governmental organizations, but still conduct work for public benefit. These are: church and religious organizations, associations of local government entities, social cooperatives and sports clubs. In general, Polish law defines three forms of creating and functioning of non-governmental organizations, namely: associations, foundations and organizations acting on the basis of separate acts.

14 GROTKOWSKI, Michał: Trzeci sektor w Polsce - rola i zagrożenia płynące z wypełniania funkcji i zadań administracji publicznej, *"Forum Studiów i Analiz Politycznych"*, 2011, 2.

15 The Constitution of the Republic of Poland of April 2, 1997, Journal of Laws of 1997, 78, 483.

16 Cf.: PODGÓRSKA-RYKAŁA, Joanna and KĘPA, Marcin: *Współpraca międzysektorowa jednostek samorządu terytorialnego z organizacjami pozarządowymi*, Wydawnictwo Libron, Kraków 2020.

17 Resolution of the Polish Supreme Administrative Court of December 12, 2005, II OPS 4/05, Legalis.

18 Act of April 24, 2003 on Work for Public Benefits and Voluntary Service (Journal of Laws of 2018, 450).

Foundations as defined by the currently valid acts

The legal act sufficiently defining the status of Polish foundations is the Act of April 6, 1984 on Foundations.[19] According to its regulations, a foundation can be established for socially or economically useful goals, including health protection, development of economy and science, education and upbringing, culture and arts, care and social assistance, environmental protection and preservation of historical monuments, that will be compliant with the primary interests of the Republic of Poland. As a result of the essence of this organizational form, its initiator is a so called founder or founders who can be natural persons, regardless of citizenship and domicile, or legal persons with registered offices in Poland or abroad. Foundation's headquarters should be located in Poland, with reservation that if a foundation is to operate only in one voivodeship, it should be located therein. In order to establish a foundation a founder needs to present a declaration of will submitted in the form of a notarial act and clearly specifying foundation's goal and assets allocated for its achievement, excluding foundation established on the basis of a last will, when the notarial act form is not required. The lawmakers define assets as money, securities and movable and immovable property given to a foundation to take over. If a foundation is to perform business activity, value of its assets for this purpose must not be lower than 1,000 PLN.

Foundation operates on the basis of a status in which a founder (personally or via natural or legal persons they authorized) specifies its name, registered office and assets, goals, rules, forms and scope of operations, constitution and organization of a management board, method of its assignment and its obligations and rights, as well as its members. The said document can also define, though not obligatorily, issues related to conducting business activity that is permitted, but only within the scope compliant with achievement of foundation's goals. Additionally, a statute can define matters related to admissibility and conditions of possible merger with other foundation, change of goals or amendments in a statute and anticipate establishment of other foundation's bodies, apart from a management board. Only the latter one is the obligatory institution of a foundation and its duties consist in management of its operation and representation before third parties.

In order to operate correctly a foundation is subject to obligatory entry to the Polish National Court Register. A court investigates whether foundation's goal and statute are legal. Upon being entered to NCR a foundation is granted legal personality. Each statute amendment requires a new entry to NCR. Foundation submits an annual report on operations to a respective minister, in compliance with the template specified in an appropriate regulation, in order to check whether foundation's goals specified in its statute are properly executed. The said report is then made publicly accessible. If there are any doubts regarding correctness of foundation operations, certain institutions are authorized to take respective steps. Firstly, a respective minister or poviat starost is authorized to bring a motion before court to revoke a management board resolution being flagrantly inconsistent with foundation's goals or law, they can also file a motion before court to stop execution of a resolution until a verdict is issued. Additionally, the said institutions are entitled to determine a period for removal of defects in the form of a letter

19 Act of April 6, 1984 on Foundations, (Journal of Laws of 2018, 1491).

of formal notice or demand to have foundation's management board be changed, if a management board acts in a way significantly violating the law or foundation's statute. If such an intervention is ineffective, the said institutions are authorized to file a motion before court to have a foundation management board suspended and to appoint compulsory administration. When the goal a foundation was established for is achieved or if its financial assets and property are run out, a foundation becomes subject to liquidation in a way specified in its statute. If a statute does not assume foundation liquidation, a respective minister or poviat starost submits a motion for liquidation before court. Assets of a liquidated foundation are to be disposed of as specified in a statute and if it does not contain respective provisions on this matter, a respective decision is made by court. As it can be concluded from the aforesaid provisions regarding foundations, the lawmakers specified such matters as foundation establishment, legal capacity, capacity to perform legal acts, foundation liquidation and foundation's financial status, while other matters are to be decided in a statute.

It is worth mentioning that the Act on Foundations specifies the legal framework of operations of foundations of private law in Poland in the area of legal and economic transactions. The said act does define operation of non-public foundations, i.e. civil law entities, however from inclusion therein the regulations regarding, for example, supervision over foundations by public institutions (respective minister or poviat starost) and defining this scope and making it related to judicial review (also administrative courts) it can be concluded that the Act on Foundations has a hybrid (mixed) structure with significant domination of civil law regulations over administrative law (public law) ones. The term of "this act" used by the lawmakers in the art. 4 of the Act on Foundations makes it clear that specific acts on foundation law will not be applied for private foundations, in particular acts and laws of a lower level, that determine functioning of public (public law) foundations. Even "respective application" was excluded, for example regarding the matters not regulated in the said act.

Matters not regulated by lawmakers are from time to time defined by statutes of given organizations. A statute is an internal legal act focusing on organizational operations that do not cause direct legal results for entities being in external legal relations with a foundation. However, foundation's status cannot be treated as an agreement, as in case of entities with corporate personhood.[20] A statute is defined by a founder, possibly other natural or legal person they appointed, on the basis of a granted power of attorney, therefore they are not partners who are also founders of a legal person. As a result, a statute is not articles of incorporation and should be treated as a set of objective legal norms.[21]

Foundation as estate

There should be a reasonable equilibrium between foundation's goals and assets. A founder is obligated to secure a finance source with purpose to achieve goals of a foundation, if it is supposed to exist as actual legal existence. It should be noted that foundation is mostly assets and a company legal entity that, in contrary to associations, cannot

20 SUSKI, Paweł: *Stowarzyszenia i fundacje*, Warszawa 2018, 429.

21 NIEMIRKA, Bogusław: *Statut fundacji*, Warszawa 1995, 6.

rely on work of its members. As a result, foundation actions are generally determined by assets secured (assigned, donated) by a founder. The lawmakers did not directly define foundation's initial assets, but they specifically listed some of their elements, namely money, securities and movable and immovable property. Although in judicial verdicts one can find the contradicting opinion on enumerated elements of foundation's assets in articles of incorporation, we find it wrong and unapprovable.[22]

Sufficiency of assets granted to a foundation in terms of achievement of its statutory goals are subject to assessment by registry courts.[23] On the basis of an analysis of judicial verdicts in this field it can be concluded that an amount of initial capital, that is accepted by courts, is from 500 to 1,000 PLN (the upper threshold is clearly related to the situation of conducting business activity by a foundation, as if it is going to do so, the value of assets must not be lower than 1,000 PLN; in general, foundation's assets can by anything transferring or constituting value (e.g. payables on the account of a lease contract).

Although the lawmakers did not clearly explain that they meant only assets, when mentioning foundation's property, considering the specific legal structure of a foundation, it should be concluded they also meant liabilities, because the latter would have made functioning of a foundation and achievement of statute goals impossible. Listing of components of property are the obligatory element of articles of incorporation (apart from foundation's goals) and therefore it is necessary to mention them in a statute, too.

There are no obstacles for primary assets granted by a founder to be multiplied via efficient operations of foundation's management board, if only foundation's goal has not been achieved as a result of consumption of the primary assets, because it is worth noting that achievement of an assumed goal determines the fact of foundation's existence. If an assumed goal is achieved, a foundation is dissolved, despite the fact it can still possess even significant assets that will be disposed of specified in respective regulations, if the said case occurs. In order to avoid such a situation one can define only a general goal,[24] because if a founder defines a detailed goal, for example in a last will, and it is, for instance, renovation of a cultural monument, a foundation becomes dissolved at the moment of achieving this goal in a way specified in its statute, as defined in the art. 15 of the Act on Foundations. A founder can decide on allocation of foundation's assets after its liquidation. The premise related to liquidation is applicable also in case of running out of foundation's financial assets and property.

If allocation of foundation's assets was specified in a statute after foundation's liquidation, they should be spent for purposes mentioned in the art. 1 of the Act on Foundations. The literal interpretation of the art. 5 sect. 4 in relation to the art. 1 of the Act of Foundations leads to the conclusion that, firstly, estate remaining after foundation's liquidation can be spent in particular for such purposes as health protection, development of economy and science, education and upbringing, culture and arts, care and social assistance, environmental protection and preservation of historical monuments, eventually other types of socially or economically useful goals, under the condition that these goals will be compliant with

22 Cf. the verdict of the Polish Supreme Administrative Court of October 13, 1999, IV SA 1349/97, Legalis.

23 Cf. the decision of the Polish Supreme Court of February 12, 2002, I CKN 1388/99, Legalis.

24 It is worth noting that establishment of a foundation "on behalf" is the wrong, though popularized, expression; this problem was already mentioned in the 1990s, cf. STECKI, Leopold: *Fundacja. Część pierwsza*, Toruń 1996, 145.

the primary interests of the Republic of Poland. Secondly, they can be goals different from those realized by a foundation being liquidated and, thirdly, it is permitted to precisely identify an entity achieving goals specified in the art. 1 of the Act on Foundations, on behalf of which the assets of a foundation after its liquidation are supposed to be allocated (for example, other social economy entity).

Conducting business activity by a foundation

The decision to conduct business activity by a foundation is – apart from property-related issues – an equally critical element of a statute. Though it is not a *sine qua non* condition of a statutory act, information on the issue whether a foundation is going to be active in business transactions as an ideal foundation (executing solely a socially useful goal without an accompanying economically useful goal) is crucial, because reference to this matter in a statute during the registering procedure will, even if only rudimentarily, result in specific legal effects after a foundation is liquidated.

Foundations can perform activities in the industrial, trade and service sectors, at their own discretion. Conducting of business activity by foundations is correlated with their statutory goals and, in general, should lead to achievement of a primary (socially useful) goal. Even if the idea of conducting business activity by a foundation emerges later, for example as a result of amendment, transformation or supplementation of statutory goals (like subsidiary goals), a foundation can undertake business activity, if such a possibility was provided for in a statute.

Even failure to undertake business activity at the moment of establishment of a foundation does not constitute a permanent obstacle resulting in expiration of rights within this scope, but a decision on a ban to perform gainful activities is, indeed, such an obstacle. Undertaking business activity not specified in foundation's statute requires a previous amendment in a statute. In turn, an amendment in foundation's statute requires an update of an entry into the Polish National Court Register. According to judicial verdicts, it is prohibited to establish foundations of private law, whose exclusive sphere is to run a company[25] and socially useful activities are a subsidiary goal.[26] Therefore, in Poland we have the mixed model, i.e. the possibility to link the a foundation-related idea with gainful activities.

Foundations can conduct business activity within their own organizational structures (e.g. within unit's/plant's structure by defining its internal organization led by a director) or via other economic entities, for example trading companies. Considering the aforesaid criterion, we can distinguish the indirect and direct form of conducting business activity by foundations. The indirect form occurs, when a foundation defines within its organization a specific group of tangible and intangible assets for conducting business activity, while the direct form occurs, when a foundation decides to conduct business activity beyond its

25 As defined in Polish civil law, an entrepreneur is a natural person, legal person or organizational unit granted legal capacity by the respective act, conducting business activity in their own name (art. 431 of the Civil Code). The content of this provision was repeated in the unaltered form in the *Entrepreneurs' Law* (art. 4 sect. 1), extending the definition of entrepreneurs by partners of civil law partnerships within the scope of business activity performed by them (art. 4 sect. 2).

26 The verdict of the Polish Supreme Court of January 7, 1997, I CKN 16/96, Legalis.

own organizational structure by, for example, establishing for this purpose a commercial law company or investing in a company already existing in such a way that type and extent of foundation's assets being involved make this entity a company dependent on this foundation.

It is worth noting that execution of a socially useful goal does not need to be related to undertaking and conducting business activity by a foundation. The logical and literal interpretation of the differentiation among socially and economically useful goals, specified in the art. 1 of the *Act on Foundations,* leads to the conclusion that an economically useful goal can be also a goal used for support of certain economic initiatives (for example certain economy sector or rather entities conducting business activity within this sector) without participation in an economic undertaking. Nevertheless, it became customary, in theory and practice, to link an economically useful goal with conducting of business activities by foundations. Business activity can be a way of achievement of statutory goals, but it can also be used as a method of acquisition of assets for ongoing statutory activities.[27] In some other legal orders (e.g. in common law states) related business activity constitutes a convenient criterion of distinguishing tax privileges for NGOs. As a result, it acts as a set of practical tools used to deprive of tax privileges those entities that conduct typical business activity under the "disguise" of foundations, etc.

Conclusions

The crucial dilemma regarding the theory of civil society is how to arrange civil society institutions within the legal sphere. Is it the public or the private sphere? The classification problem occurs clearly in the example of foundations of private law and it is difficult to mark any demarcation line in this context. The civil society constitutes "the public sphere and is a product of private and governmental institutions, (…) that can be considered civic institutions, when they perform the normative, regulatory function towards economy and state and (…) private institutions, including natural institutions (…) of the society."[28] This aspect related to distinguishing the civil society from state and economy was highlighted by Benjamin R. Barber who wrote that the civil society, as a civic space, "is an intermediary between the state authority and the private sector."[29] However, in contemporary research contesting the natural dichotomy of "state vs. private" is definitely rejected, because civil society entities are established voluntarily as grassroots movements, i.e. as private initiatives, nevertheless they make effort to act for common good, thus going beyond individual or narrowly defined interests of particular groups. Such understood "specificity of relations occurring between private activities and their public goals, namely that interests are private and goals are public",[30] indisputably defines essence of social organizations, including foundations.

27 DOMINOWSKA, Joanna: *Prowadzenie działalności gospodarczej przez fundacje. Studium prawne*, Warszawa 2017, 158.

28 SHILS, Edward: *Co to jest społeczeństwo obywatelskie,* [in:] K. Michalski (eds.), *Europa i społeczeństwo obywatelskie. Rozmowy w Castel Gandolfo,* Wydawnictwo Znak, Kraków 1994, 10–12.

29 BARBER, Benjamin R.: *Dżihad kontra McŚwiat,* Warszawa 2001, 360–361.

30 BARAŃSKI, Marek: Organizacje pozarządowe w społeczeństwie obywatelskim, [in:] M. Barański (eds.), *Zarządzanie organizacją pozarządową w Unii Europejskiej. Wybrane problemy,* Katowice 2009, 25.

The aforesaid division is directly related to the term of the so called third sector operating apart from the public sector (public policy and public administration) and the market sector (entrepreneurship and commercial exchange of goods). All three sectors are connected with each other by means of the network of dependencies and various similarities, however they differ so distinctively that the indicated differentiation is justified. In contrary to public authorities and similarly to market entities, social organizations are private and established as grassroots movements initiated by their incorporators, but, in contrary to market entities, and similarly to public authorities, they act for public interests, not private ones.[31] It can be concluded that the civil society is rooted in the private sphere, however it develops correctly only when boundaries of this private sphere are crossed.[32]

While summing up the threads discussed in this paper, it should be noted that in spite of granting the seemingly explicit legal structure to foundations of private law, as separate and personified assets, the economic goal must not be foundation's goal itself. This approach is popular in the Polish doctrine[33] and verdicts of Polish courts.[34] Additionally, statutory activities and business activity are two different spheres of foundation's operations and should be clearly distinguished in its statute. Obviously, it does not mean they cannot mesh together, on the contrary, they often do. Moreover, the *Act on Foundations* implements the exemplary catalogue of achievable foundation's goals, including health protection, development of economy and science, education and upbringing, culture and arts, care and social assistance, environmental protection and preservation of historical monuments. As the lawmakers used the term "in particular", it means that this is the exemplary list of possible directions of foundation's activities. In this way the tasks required from state's point of view were indicated, that create the natural space for civil society activities in lawmakers' opinion. However, it does not mean that they should be the only background for achievement of foundation's goals, as foundations can perform every charitable activity, if it is not at odds with founder's will. On the other hand, it should be noted that foundation's management board cannot realize other goals than those defined by a founder, as it is not authorized to change their will, even when goals to be achieved would have been reasonable and socially useful by all means.

Moreover, neither social nor economic usefulness are legal terms. Foundation's business activity should be clearly correlated with its goals, because, in line with the provisions included in the art. 5 sect. 5 of the *Act on Foundations*, a foundation can conduct business activity to the extent used for achievement of its goals. As indicated herein, the economic goal must not be foundation's goal itself, but such an activity should be subsidiary.

It does not change the fact that some economic entities use foundation's formal and legal structure to conduct actual business activity, whose goal is, for example, tax optimization. Unfortunately, "economic usefulness" is one of these blurred terms that causes many

31 WOŹNIAK, Zbigniew: Organizacje pozarządowe w procesie budowy społeczeństwa obywatelskiego, [in:] M. Warowicki, Z. Woźniak (eds.), *Aktywność obywatelska w rozwoju społeczności lokalnej,* Warszawa 2001.

32 SZACKI, Jerzy: Wstęp. Powrót do idei społeczeństwa obywatelskiego, [in:] J. Szacki (eds.), *Ani książę ani kupiec: obywatel. Idea społeczeństwa obywatelskiego w myśli współczesnej,* Kraków 1997, 56.

33 TRZASKOWSKI, Roman: *Działalność statutowa fundacja, a działalność gospodarcza fundacji,* Warszawa 2003, 141.

34 The decision of the Polish Supreme Court of May 7, 2002, I CKN 162/00, Legalis.

interpretation problems, because we can ask ourselves the question what an economically useless activity really is and what institution is authorized to state this fact ex cathedra? Foundations of private law are primary entities of social economy and main legal forms used to implement private and public ideas in Poland. Defining of this idea depends only on a founder and it has the individual character in this context. In extreme situations a founder can act as a sole arbitrator in a foundation they established (they can establish a one-person management board and appoint themselves to serve as chairman of a board for life). This individual construction process of private and public ideas distinguishes foundations from associations that, in fact, execute the same socially useful goals. However, association law *ex lege* imposes elements of discussion, clash of interests, pluralism and agreeing on certain matters, therefore this legal form of social economy entities is more popular in Poland where there are also foundations of public law and religious foundations whose matters are regulated on the basis of specific acts. The common feature of all three types of foundations is the idea related to execute the public function of a goal, therefore all these types, namely foundations of private law, foundations of public law and religious foundations, are elements of the civil society.

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Central Europe Within the European Union

Prof. Iván BÁBA PhD

Abstract

The trauma of World War II led the best European politicians of the postwar era to the insight that future wars in Europe could be avoided through eliminating any potential of military conflict. Seventy years have passed since then, and the world, including Europe, has changed. Currently the Brexit and international migration are a big challenges for Europe. The historical experiences of peoples in Central Europe, the series of events in the past two hundred years fundamentally define the "perception of security" within these communities. This sense of and demand for security in turn have a key role in forging and shaping the international relations of countries within our region. Unsurprisingly, in 1990, the year when communism collapsed in Central Europe, freed from Soviet rule, almost all newly formed democratic governments designated NATO membership as a guarantee of their security. They strove to join a federal system which would allow them to rely on the same guarantees of security as did Western European countries. The member states of the European Union accelerated negotiations on more and more frequently raised issues of a common foreign and security policy. In a geopolitical sense – and in terms of its historical experiences – Central Europe is located within the Berlin – Moscow – Istanbul triangle, which is an unalterable status. Berlin is an ally and our biggest, key economic partner. It is in our interest to have good partnership relations with Moscow, but we must be aware that Russian politics has always been – and will be – driven by imperial interest. As a NATO member, Turkey is also our ally, but the steps it took in recent years, in both domestic and foreign policies, were by no means evidence of a friendly attitude towards and the commitment of an ally to the West. Turkey begins to emerge as one of the leading countries of the Islamic world, gradually leaving behind the domestic policy of a secular state. Therefore Central Europe – forming the eastmost part of the European Union – borders all the eastern and south-eastern regions which carry security risks. The wave of migrants from the south and south-east keeps these regions, Greece and her northern neighbours under constant pressure. Another grave risk factor is the Union's eastern borderland, that is, the region next to the eastern boundary of the Baltics, Poland, Slovakia, Hungary and Romania. As geopolitical factors, Russia, Ukraine and Belarus are not the carriers of democratic stability. Although Central Europe's geopolitical position cannot be changed, common European and Euro-Atlantic security safeguards may guarantee defence in this position.

Keywords

alliance, Central Europe, European Union, international relations, security

"Finalité politique"

The trauma of World War II led the best European politicians of the postwar era – Konrad Adenauer, Robert Schuman and Alcide De Gasperi – to the insight that future wars in Europe could be avoided through eliminating any potential of military conflict. By creating the European Coal and Steel Community (ECSC), French and German coal and steel industries were subjected to community-level, supranational supervision in order to prevent heavy armaments production from being restarted within national frameworks. As the first supranational European institution and a distant precursor of the current European Union, the main function of ECSC was to provide an enduring guarantee of peace and security in Europe. Although apparently ECSC had been created as an economic agreement, it was originally designed to establish political unity.

Seventy years have passed since then, and the world, including Europe, has changed. While Europe succeeded in establishing its internal peace, global risks – ncreasing social inequalities in several parts of the world, nuclear threat, climate change, accelerated population growth and mass migration, difficulties of access to water, food and energy – pose an extremely great challenge for Europe, the most affluent and most secure region in the world. Today it is a question of utmost importance whether Europe will be able to respond to these challenges and, if yes, what kind of response it would be.

In one of his essays, Hungary's former Minister of Foreign Affairs János Martonyi evaluates the current situation as follows:

"We are falling behind in two areas that determine, particularly in the longer term, historical development. These two fields are demography and technology. In the first, we have a shrinking population, in the second, we are lagging. Both are basically dependent on culture, since it is our own choice that determines how we aim to reproduce ourselves, individually and collectively, and we also have to make up our minds if we want to invent new things and, if yes, what we are going to do to this end. Now, culture encompasses and defines our patterns of cognition and behaviour, being inseparable from what we can briefly describe as collective identity.

Hence, we reach the gravest challenge of European integration, which derives from this process itself rather than from the outside: the lack of balance which should exist, on the one hand, between the economic and political dimensions, and these two and the cultural dimension on the other. The initial end goal of integration (finalité politique) was to create political unity, but over time the political dimension and its external representation in the form of common foreign, security and defence policies had been subdued by the otherwise spectacularly successful economic dimension. However, the real trouble was the neglect of the cultural dimension mainly because of insensitivity or, in fact, mistrust towards European identity as the most important form of collective identity, preceded only by national identity. A possible reason for this could be the very ideological aversion to national identity which cast its shadow on other categories of collective identity, among them European identity. By this time it has become obvious that national identity and European identity are interdependent, none of them can be robust without the other. National identity provides the strongest sense of collective self-identity and serves as a basis for European identity. It is a noteworthy phenomenon that, due to historical reasons,

the sense of belonging to Europe or even the European Union is the strongest in countries where the sentiment of nationality is also particularly strong – in Poland and Hungary. Here, in the stormier part of Europe, we had to fight back against external attacks which equally threatened our national and European existence, and the stake of preserving both identities was the persistence, survival of our national community.
Therefore the first and foremost condition of rethinking, and preserving through renewal, European integration is to reinstate the balance among the three major dimensions outlined by the original objectives. The realization of the political goal, also in relation to strengthening, as parts of external action, common foreign, security and defence policies is a task that can be fulfilled in the foreseeable future. External challenges and threats themselves are bound to render this necessary at least in part, this fact has been recognised. It has become clear that the successful provision of peace among member states, the 'peace dividend' does not protect them from external threats and potential attacks; apparently, it is not an enduring solution that Europe has to rely on others to ensure its security. The relative loss of economic and geopolitical ground and especially the demographic decline our continent has suffered further increase external risks and put the issue of security in the focus of the integration process. The habitat of European peoples must be protected, thus the necessary security conditions and defence capabilities must be established. However, territory and its protection do not constitute an end in itself, they mean much more than preserving the resources provided by a specific area. The third, so-called cultural dimension, European identity must also be protected. We have to acknowledge the existence and role of this dimension, and engage in a reasonable debate on its content. This debate will demonstrate that we prioritize different features from among the constitutive elements of European identity. Some of us may deem Greek antiquity, the Renaissance or the Enlightenment to be the most important, for others, it is the Judeo-Christian religious and cultural heritage. Our choices of priority differ, but this does not change the essence of European identity."[1]

Central Europe's security

What is security?

According to the definition given in related literature, the concept of security means the "non-existence" of danger and threat on the one hand, and the capability of fending off danger and threat on the other. Functioning within a system of international relations, a state aims to shape its security environment to its advantage and enforce its interests, while it also prepares for and averts external challenges, emerging risks and threats. The lack of security means that a situation carries threat to existence, whose management requires taking extreme measures.
Literature highlights that, to a significant degree, security is a perceptual issue. What an individual and a community think or believe about their own security is determined by both the objective security situation and subjective sense of security (even of a collective

1 János Martonyi, *Nyitás és identitás – Geopolitika, világkereskedelem, Európa* [Opening and Identity: Geopolitics, World Trade, Europe] (Szeged: Iurisperitus Kiadó, 2018), 15–16.

as a whole) or perception. Different states, nations and other communities quite often have utterly different views or senses of how serious the same threat is. Factors threatening security are usually categorized by their intensity, describing them as a challenge, risk, threat or, in worse cases, crisis, conflict and war.
"Challenge" means a situation or state which may have a lasting and harmful influence on security in general, including, for example, the implications of demographic explosion, the scarcity and unequal distribution of energy sources and water, food and natural resources, as well as environmental problems. "Risk" denotes the potential of a harmful event with predictable outcomes that impact a given community. Whenever such an event occurs, collective interests are hurt and losses may emerge. These phenomena include massive and illegal migration, religious fanaticism, extreme nationalism and illegal arms trafficking. "Threat" is a general term for situations, states and processes that manifest at the highest level of potential danger. The origin, aim and intensity of threat can all be defined. For a state, threat can be, for example, a range of acts related to organized crime and terrorism, rise in violent radicalism or the emergence of a grave political crisis in its neighbourhood.

What are the distinctive features of security perception in Central Europe?

The historical experiences of peoples in Central Europe, the series of events in the past two hundred years fundamentally define the "perception of security" within these communities. This sense of and demand for security in turn have a key role in forging and shaping the international relations of countries within our region.
During the last two hundred years, one of the most shocking collective political experiences for peoples of this region was that they could disappear from the map of Europe at any time as a cumulative result of the interplay among forces that they cannot control and, in fact, that can put an end to their existence as both a state and a nation.

Let us evoke some examples.

- Russia, Prussia and the Habsburg Monarchy gradually partitioned, and eventually divided among themselves, the Polish-Lithuanian Commonwealth in the period between 1772 and 1795. As a result, Poland and Lithuania had been missing from the map of Europe for 124 years.
- During the 1920 peace negotiations in Versailles, the Hungarian delegation had been allowed to sit at the negotiating table only after victorious powers decided on the fate of Hungary.
- On 30 September 1938, driven by the self-deceptive illusion of preserving peace, French Prime Minister Daladier and British Prime Minister Chamberlain made an agreement with Hitler and Mussolini in Munich on letting Germany annex Czechoslovakia's Sudetenland. No Czechoslovakian representative was invited to this negotiation. Czech society was appalled by the treachery of its allies, France and the United Kingdom.
- On 15 March 1939, Hitler marched into Prague and established the Protectorate of Bohemia and Moravia, abolishing Czechoslovakia as a state.

- On 23 August 1939, Soviet-Russian and German Foreign Ministers Molotov and Ribbentrop made an agreement on the division of Central and Eastern Europe into spheres of interest. On 1 September, Germany, followed by the Soviet Union on 17 September, invaded Poland. Within two months, Poland had been erased from the map of Europe. In 1940, Estonia, Latvia and Lithuania also disappeared. Poland's Western allies made no steps to stop these events. French people took to the streets of Paris, protesters shouting, "We will not die for Danzig!"
- During the infamous Yalta Conference, held between 4 and 11 February 1945, representatives of the allied Western powers, British Prime Minister Churchill and US President Roosevelt acknowledged Stalin's claim that the Soviet Union could keep the territories "obtained" through the Molotov-Ribbentrop Pact. They agreed that the Soviet Union could also finalize the occupation of the Baltic states and Bessarabia, as well as Poland's "westward shift" of almost 300 kilometres.
- During the infamous negotiations held in Potsdam between 17 July and 2 August 1945, British Prime Minister Attlee, US President Truman and Stalin decided on Central Europe's fate-entirely in line with Soviet demands.
- In October 1956, exploiting the Soviet Union's assumed difficult situation, the United Kingdom and France triggered the Suez crisis, diverting attention from the victorious Hungarian revolution at a time when Hungary was in great need of the attention and active support of the international political publics.

These and numerous other frustrations and shocks left a deep and everlasting burn in the historical memory of Central European societies. Unsurprisingly, in 1990, the year when communism collapsed in Central Europe, freed from Soviet rule, almost all newly formed democratic governments designated NATO membership as a guarantee of their security. They strove to join a federal system which would allow them to rely on the same guarantees of security as did Western European countries.

However, here again, Central Europe was shocked by surprise. In October 2005 German Chancellor Gerhard Schröder swapped his chair with a single move for the chairmanship in the supervisory board of the consortium Nord Stream AG, majority-owned by Russian Gazprom. The investment project established a pipeline transporting energy directly between Russia and Germany through the Baltic Sea, bypassing Poland and other countries of the region. This action evoked rather bad memories in Polish public opinion, while other Central Europeans asked in a shock: how is it possible? Schröder was the Chancellor of the biggest EU member state and the biggest European country within NATO! Oddly enough, "officially" no-one asked the former German Chancellor what he carried with him, on data storage devices and in his mind, to his new office.

How was Central Europe's demand for security enforced during the political turn?

President Mikhail Gorbachev had profoundly transformed the relationship between the Soviet Union and Central European countries. He made the decision of global strategic significance that the Brezhnev Doctrine-setting as a duty for all socialist countries to mutually provide military assistance-should be abolished and replaced with the basic political principle that socialist countries could identify for themselves the best methods in solving their economic as well as social problems.

Recognizing the danger posed by the then American "Star Wars" Strategic Defence Initiative, Gorbachev fundamentally changed world politics by first initiating, then implementing a considerable reduction of the huge US and Russian nuclear weapons arsenals. His steps derived partly from perceived necessity – that is, the acknowledgement of the fact that the United States was more advanced technologically – and partly from his own principles. For Gorbachev aimed to foster "humanistic relations" in foreign policy as well as in domestic affairs. He honestly believed in the potential "peaceful coexistence" of countries with different regimes, in a balance between cooperation and competition, the avoidability of war and the world-historical chances of socialism. He aimed to forge a balanced relationship with leaders of contemporary world politics – Ronald Reagan, George Bush, Helmut Kohl, Margaret Thatcher and François Mitterand – not because he wanted to introduce the Western social model in the Soviet Union, but because he wanted to save socialism and believed in the partnership of equals.

Caution on the part of then Hungarian politicians was induced by, rather than distrust of Gorbachev, the historical experience that, sooner or later, "radical reformers" were regularly ousted from power by counter-reformers in the Soviet Union. One of the most significant Hungarian promoters of the political turn, Imre Pozsgay, repeatedly cited the worrying question of this period in his memoirs: "Now, what if a Russian general goes wild?" These politicians were afraid of a military coup, the revolt of Russian generals who recognized the weakening of their positions. This revolt actually happened in August 1991 in the form of an attempted coup, but its participants were way too late.

Having been elected in 1990, the democratic leaders of Central Europe arrived in mainstream politics with historical experiences which urged them to take their countries, escaping from a political regime dictated by the Soviet Union, into Western security organizations as soon as possible.

In his government programme of May 1990, Prime Minister József Antall declared the fundamental theses of Hungary's new foreign policy, including "Euro-Atlantic integration," that is, accession to NATO and the European Community.

The fulfilment of such intent was not entirely free of risks, since at that time thousands of hundreds of Soviet soldiers were still stationed in Central Europe. In November 1990, József Antall sent emissaries carrying confidential messages to Warsaw and Prague. These diplomats were assigned to inform, strictly through spoken communication, high-level officials working at the foreign ministries of the receiving countries that "at the meeting of the Warsaw Pact Political Consultative Committee, to be held on 25 February 1991

in Budapest, Hungary will exit the organization. What measures can be expected from Poland/Czechoslovakia then?" The foreign ministries of both countries promised quick responses, to be delivered through diplomatic channels. The responses arrived with content implying cooperation. The governments of Bulgaria and Romania were also informed, again, through diplomatic channels, about this joint intent and, when they declared their intention to exit too, all countries sent their collective message to Gorbachev. At the Budapest meeting of the Warsaw Pact Political Consultative Committee, the document on dissolving the military organization of the alliance had been signed, and on 1 July 1991 the Political Consultative Committee also ceased to exist. Thus the August coup in Moscow could result in a failed attempt only.

After the dissolution of the Warsaw Pact, the question whether Hungary and the rest of Central European countries should choose the road of neutrality, gaining an international status similar to, for instance, that of Austria, could have remained open. But the then dominant political parties and organizations did not propose this path in any of the respective countries. Rather, they decided to follow the road to Western integration, the accession to NATO and the EU. The intention underlying this ambition was clear. Central Europe was seeking a security system and allies ensuring regional security. It had an important, historically determined, common goal: to have a seat at the negotiating table where its fate would be decided. Central Europe wanted to make sure that no-one could decide about it in its absence.

This shared "subjective" demand for security was "objectivized" on 12 March 1999, when the foreign ministers of the first three Central European countries – the Czech Republic, Hungary and Poland – signed the North Atlantic Treaty.

What kind of safeguards does the North Atlantic Treaty offer?

The North Atlantic Treaty Organization (NATO) is a political and military alliance comprised of initially twelve and currently thirty European and North American countries. NATO's aim is to safeguard, by political and military means, the freedom and security of all member states in accordance with the North Atlantic Treaty and the principles of the Charter of the United Nations. The Treaty also defines the transatlantic link by which the security of the United States and Canada is tied to the security of Europe.

According to the Treaty, NATO serves as the basis for Euro-Atlantic security, providing mutual assistance for members of the alliance to counter military aggression, or the threat of such an action, against any member state. The essential basic principle of NATO, the indivisible security of the alliance, rests on shared commitment and cooperation among sovereign states. Solidarity and cohesion within the alliance ensures that none of its members has to face considerable security challenges alone, relying exclusively on its own national efforts.

The key components of the Treaty are:

- Article 3: Member states will continually maintain and develop their individual and collective capacity to resist armed attack, that is, enhance national military capabilities and the ability to conduct joint operations (interoperability).

- Article 4: Members of the alliance will have a collective discussion about a necessary alliance response whenever, in the opinion of any of them, the security of any member is endangered by some external threat (consultation).
- Article 5: An armed attack against any member state shall be considered an attack against all members, and they will, in exercise of the right to individual or collective self-defence recognised by Article 51 of the Charter of the United Nations, take action in concert to protect the attacked member state (collective defence).
- Article 10: Member states may, by unanimous agreement, invite any other European state in a position to contribute to the security of the North Atlantic area (enlargement).

How did the common foreign, security and defence policy of the European Union come to be, and where is it now?

As a result of regime change in Central Europe, the disintegration of the Soviet Union and the Yugoslav wars, that is, the geopolitical transformation of the European region, the member states of the European Union accelerated negotiations on more and more frequently raised issues of a common foreign and security policy.

The starting point for a European foreign, security and defence policy, as articulated in an agreement, manifested in the Maastricht Treaty (effective on 1 November 1993) which, besides establishing an institutionalized common foreign and security policy, envisioned potential European cooperation in the field of defence that pointed towards common defence. According to the treaty, "The common foreign and security policy shall include all questions related to the security of the Union, including the eventual framing of a common defence policy, which might in time lead to a common defence."

The next step was taken at the Franco-British negotiations in St. Malo (3–4 December 1998), producing a joint declaration which set the following objectives:

- The conditions of the European Union's capacity for autonomous action on the international stage must be created through providing for the necessary credible military forces and an effective decision-making mechanism to use them.
- Europe needs strengthened armed forces which can react rapidly to the new risks, and which are supported by a strong and competitive European defence industry and technology.

The Helsinki EU summit of December 1999 formally identified the task of European security and defence policy, defined the size of necessary military capabilities and laid the foundation for an institutional background. Subsequently, operational arrangements which would allow non-EU member European NATO members to participate in European Union operations were determined. It had been declared that, whenever an EU-launched crisis management operation required recourse to NATO assets, non-EU member NATO members and EU candidate countries would be invited to take part. As to cooperation between the EU and NATO, the so-called Berlin Plus agreement, signed on 17 March 2003 in Brussels, constituted a milestone. This agreement aimed to eliminate unnecessary parallelisms in resources by allowing EU access to NATO's operational capabilities. Its arrangements ensured that EU-led operations could rely on NATO's European headquarters

that NATO's defence planning system would be transformed in order to incorporate EU needs. Moreover, procedures for monitoring the use of NATO assets had also been developed.

What is the content of Europe's Common Security and Defence Policy?

We can speak of Common Security and Defence Policy (CSDP) since the adoption of the Lisbon Treaty (13 December 2007). It covers all questions relating to EU security, including the progressive framing of a common defence policy that might lead to a common defence. The defence policy includes means to be used to manage new challenges which emerge in the territories of third countries rather than within the EU's area.
Although the cornerstone of collective defence is NATO, based on the "Mutual Assistance Clause" of the Lisbon Treaty, if an EU member state suffers armed aggression on its territory, the other members have an obligation of aid and assistance by all the means in their power. This clause does not prejudice the specific character of the security and defence policy of neutral member states, and it is consistent with commitments under NATO.
According to the "Solidarity Clause," if an EU member state becomes the object of a terrorist attack or the victim of a natural or man-made disaster, members shall act jointly to provide assistance "in a spirit of solidarity." In such a case, the Union shall mobilize all the instruments at its disposal, including the military resources made available by the member states.
In the framework of the Lisbon Treaty EU members also agreed on the establishment of "Permanent Structured Cooperation" (PESCO), adopted by twenty-five countries, among them Hungary, which took effect on 11 December 2017.
PESCO provides an opportunity, for member states that are willing and able to do so, to develop their defence capabilities and improve the operational capacities and contributions of their armed forces. The Council published, in its resolution establishing PESCO, the list of common commitments that participating countries undertook to fulfil, including a regular increase in the real value of defence expenditure in order to achieve jointly adopted objectives. One of the main objectives of PESCO is to harmonize the military capabilities and resources of participating member states.

Brexit

Why did the United Kingdom leave the European Union?

Divorce is normally dependent on both parties, and the same applies to political relations. As it is known, French politicians – namely, De Gaulle – as long as they could, constantly opposed and obstructed Britain's admission to the European Union, arguing that Brits had never been "whole-hearted" Europeans. They always considered Europe, the Continent, some external entity.

This is by all means true. British political and public thinking retained this mindset, "exceptionalism," even after 1973, during the EU membership of the United Kingdom. To mention but a few examples, the UK stayed outside the European exchange rate mechanism (ERM) in 1979, succeeded in cutting its contributions to the EU budget through a correction mechanism (UK rebate), and opted out of both the Eurozone and the Schengen Area. We cannot ignore the fact that, as a legacy of the era when the UK was one of the leading countries of the world, a kind of superpower mentality survived that constantly prevented deeper involvement in European integration.

However, through political and institutional mistakes made over decades, the European Union and some of its states also contributed to the British departure. The "creeping extension" of European Commission competences, the lack of respect for treaties at EU institutions themselves, the "shifting" of political decision-making from the Council – as well as the European Council – to the Commission, the self-assertiveness and frequent political bias of some institutions, the disregard of national interests and member state jurisdiction drew aversion and objection among the British as well as in Central European member states. This significantly influenced the opinions, stances and, eventually, the decisions of Britain's political elite and, through this elite, of voting citizens.

Despite all of the above, one could ask why the referendum was necessary. Why did they hold a vote on whether the United Kingdom should leave the European Union? Today we know already that the referendum was based on then Prime Minister David Cameron's misperception of the situation. To offset pressure in home affairs, making an utterly unnecessary move in political terms, Cameron promised in 2013 that he would initiate a vote on whether Britain should stay in or leave the European Union if the Conservative Party won the 2015 general elections. As it is known from background conversations, he was convinced that the vote would have a "favourable" outcome, that is, it would bring about a majority of "remainers." During the referendum held on 23 June 2016 with a 72% turnout, 52% of participants voted for "leave" and 48% voted against it. Therefore approximately 38% of eligible voters decided that the United Kingdom must depart from the European Union.

What are the geopolitical implications of the British exit?

The European Union has lost its third most populous country, second largest economy and second largest contributor to its budget. As to security, it has lost one of the two EU nuclear powers, the strongest army and a permanent member of the UN Security Council. (From now on, the European Union is "represented" in the Security Council by France as a sole permanent member).

The geopolitical position of the European Union has changed. Obviously, the political leaders of the United Kingdom did not see through the exit process so that they could continue to conform to EU policies. Thus it is predictable that a new, distinct political pole will emerge on the western frontier of the European Union. This pole will act in its own best interests in terms of both European and global politics. It is a well-known saying, attributed to Lord Palmerston, that "England has no eternal friends … only eternal and perpetual interests." This does not necessarily mean confrontation, but when

it is placed on the "cooperative–competitive–confrontative" scale, used in the 1990s by political analysts to interpret Russian politics, the United Kingdom certainly moves from the cooperative position towards the competitive one, following exclusively its own security, economic and other interests. Consequently, in certain situations it will compete against the European Union.

What kind of impacts and perceptions will Brexit have within the Union?

How will it affect the internal cohesion of the EU? Will it strengthen the sense of union in EU public awareness, implying the need of closing ranks, or will it suggest that other members can leave the EU because "there is life outside the Union"?

With the British exit, our conception of Europe's security goes through a fundamental change. During the past fifty years the European Union experienced the age of continued "widening and deepening." Despite more or less intense internal debates, the history of the Union seemed to be a one-way success story. It was envisioned that the states of Europe would gradually converge in a great economic and political unity, providing peace, security and welfare for its citizens and protecting them from surges of an increasingly chaotic and perplexing world politics – and that this alliance would eventually integrate all Western, Central and Southern European states.

This image is now transformed. The British exit will certainly intensify professional and political debate on the future, operational and value system, internal cohesion and further enlargement of the Union. Proposals for the creation of a "European Federative State" will reappear, including some suggesting that states which do not embrace such proposals should be left behind. On the other side, this may again give rise to the idea that EU treaties should be thoroughly revised and renegotiated in order to reinforce the competences and sovereignty of member states.

Here again, János Martonyi's words should be quoted:

"Apart from structural-institutional consequences, there will be significant changes in the internal economic and geopolitical landscape. It is simple to sum up these changes: a shift eastwards, materializing primarily in a growing German interest in and reliance on Central Europe. This means that the economic and geopolitical weight of Central Europe will be on the rise, which will entail a greater political role as well as more responsibility. (A geopolitical upgrading of the region started well before the referendum, due to the new security risks created by Russia). This might be good news for the region, but non-euro member countries will not have the strongest voice when it comes to defending the interests and rights of the non-euro area, with special regard to the initiatives to use the euro-area as the faultline for an institutional split between the *hard core* and those outside it. … The UK was also a natural ally of Central Europe in defending subsidiarity and national competences against the creeping extension of common competences of some of the EU institutions. A rebalancing between member states and EU institutions, as well as between the institutions themselves, will have to be achieved in the absence of an influential, albeit sometimes excessively self-propelled member state."[2]

2 Martonyi, *Nyitás és identitás,* 128–129. See also János Martonyi, "Brexit. Brexit?" *Hungarian Review,* Volume VIII, Nos. 3 and 4 (17 May and 19 July 2017).

The reappearance of independent British politics on the stage of Europe will inevitably alter the European scenarios proposed so far and, to some extent, the cast of characters too. Brussels and London will constitute two distinct, rival poles-setting the scene for other European and non-European players.
The further development of EU security policy, including its military capabilities, remains an open question. Up to this point, the United Kingdom, arguing for the guarantees provided by NATO, has been the strongest opponent of building a more efficient European security and defence policy. Amidst Europe's shifting balance of power, we can again raise the question whether, within the framework of a Union working under the "strong influence" of Germany and France, an efficient common security and defence system will emerge which can provide EU member states with protection comparable to NATO security safeguards.

Migration

Migration has become an important and resounding issue in European politics, thus we cannot avoid its discussion either.
Being an intricate problem, migration should be scrutinized in a separate volume, and it already has literature that could fill a library. Yet its salience and direct political currency prompts us to outline our views on migration at this point.
In our opinion, migration has two fundamental causes: overpopulation and significant, enduring military conflicts. Mass migration towards Europe arrives, in somewhat simple terms, from three directions: from Africa, the Middle East and Central Asia. The main reason for migration originating in Africa and the Middle East is overpopulation, while inflows from Central Asia can be chiefly attributed to uncertainty, homelessness and life-threatening conditions created by wars.

What does the population explosion in Africa mean?

Demographers began to issue warnings for political analysts and decision-makers about the dangers of demographic explosion, overpopulation in Africa decades ago. Since no notable intervention has been made, developments resulted in the current situation. Today Africa is the singular continent on our globe whose population overgrown in certain territories (habitats) practically exhausted the resources provided by nature and masses of millions moved or still moving towards other rural habitats or metropolitan areas. However, the scarcity of natural resources, primarily water – contrary to public belief – does not derive from a decrease in available water quantities, since no change has been recorded. (Planet Earth does not evaporate water into the universe)! Water scarcity derives from the ratio of the water base in a specific area to the population living in that area, or a change in this ratio. A certain quantity of water was enough for a certain size population over centuries or millennia, but it is not enough if that population goes through a five- or ten-fold growth. The same is applicable to any natural resource, soil or flora and fauna alike.
Another reason for the deterioration of nature is the greed and unscrupulous nature of big "Western" firms, the so-called transnational corporations. While in Europe

or in the "advanced" world an investment usually has to conform to a range of strict construction rules and requirements relating to landscape or environment protection, which are designed to mitigate damages caused by the investment, protect both natural and built environment, and defend the interests of residents, in most countries of Africa these controls are weak, the government or local authorities of the given country have feeble self-defence capabilities, and their leaders are often corrupt. A giant multinational firm may possess much more power to enforce its interests than the self-defence capability of locals, and its aspiration – e.g. in the form of opening oil rigs or mines or large fisheries – often leads to the destruction of the natural environment and the expulsion of local populations from their ancient habitat.

Large-scale migration is a consequence of exhausting or destroying natural resources. In Africa tens of millions of people move, migrate from their traditional habitat to other areas, often to cities, in search of the minimum conditions of survival, of staying alive. However, this mode of "urbanization" obviously cannot help to resolve the problem. On the outskirts of large cities with millions of residents (in 2012 Lagos had 16 million, Kinshasa 13 million, Johannesburg 5.5 million, Dar-es-Salaam 4.3 million residents, respectively) slums emerge under economic, social and sanitary conditions that are unimaginable for a European citizen.

Africa's population is dynamically increasing. According to UN projections, the continent's current population of 1.5 billion can grow to 2.5 billion in 2050, and it may reach 4.3 or even 5.3 billion by 2100!

What are the causes of migration in Asia?

Migration originating in Asia has two distinct causes: chaos and uncertainty induced by armed conflicts and population explosion. A part of the population decimated, tortured and exhausted by armed conflicts, wars and terror attacks in Afghanistan, Iraq and Syria flee their home region in the hope of survival and a chance to start a new life. By contrast, migrants fleeing, for example, Pakistan or Bangladesh are usually driven by tensions that derive from overpopulation.

Therefore migrants depart for Europe from both directions – obviously in an "organized manner." Organization is carried out by human smugglers. Now we can know from personal interviews that smuggling a migrant from Bangladesh to the Mediterranean or from Nigeria to the Libyan coast costs about USD 4,000–5,000. This is somehow paid by the migrants or their families. Thus we can also know that those who reach the gates of Europe are usually not the poorest but people who are able to pay such a significant sum to smugglers. At the coast smugglers make them board large rubber dinghies which are then pushed in the water. From the sea these migrants are rescued by either the ships of well-funded NGOs or the coast guards of Southern European states – thus they can arrive at the European continent.

In today's world of the Internet people living in an Afghan village or an African town can follow the life of the "rich West," and their relatives who had already settled there may as well continue to inform them about their everyday life. The two worlds are not isolated, although the distance between them is great. Since communication is possible, those who remained at home may have the illusion that they too can reach the other world.

Migration as a political and legal issue

Since 2015 the phenomenon of migration gained a peculiar political emphasis, becoming one of the loudest themes of debates in European politics. While Western European, primarily leftist and liberal, political groupings hold that the only right and acceptable political and social behaviour is to take, unconditionally, masses of migrants who arrived at Europe in a way described above – illegally, relying on the services of smugglers, most politicians and societies of Central European countries reject this uncontrolled and massive immigration. None of the various fora of the European Union, the European Parliament or other bodies address the problem of migration through a reasonable and exploratory dialogue, while accusations and stigmatization are quite frequent. Hence, it is by no means superfluous to review the most important effective EU agreements on border crossing, immigration and migration as well the obligations of Member States therein.

The Schengen *acquis* is the body of EU norms, regulations, guidelines, implementation rules and common, harmonized "best practices" which regulate cooperation between states participating in the agreement on the abolition of internal borders and the parallel strict control of external borders. Its key elements are the Schengen Agreement which created the Schengen Area, the Schengen Convention implementing the Agreement, the Schengen Borders Code, the Schengen (Community) Visa Code, and Council Regulation (EC) No. 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement. The "Schengen *acquis*" consists the common rules concerning the abolition of internal borders, ensuring free movement within the Schengen Area and, in order to defend this internal area through efficient and consistent border control, common rules for border surveillance, visa checks and data management and exchange necessary for sharing up-to-date information. To this end, Member States created the Schengen Information System (SIS).

Based on the Schengen Agreement – which was incorporated into the main body of EU law by the 1997 Amsterdam Treaty – a new set of rules regulating cooperation between Member States had been established, including

1. removal of checks on persons at the internal borders;
2. a common set of rules applicable to persons crossing the EU's external borders;
3. harmonization of conditions for entry and the rules of issuing short-stay visa;
4. enhanced police cooperation, including rules applicable to cross-border surveillance and pursuit;
5. stronger judicial cooperation through a faster extradition system and transfer of enforcement of judgments; and
6. establishment of the Schengen Information System.

Regulation (EC) No. 562/2006 of the European Parliament and of the Council[3] established the Schengen Borders Code. This law states that external borders may be crossed only at border crossing points and during their fixed opening hours. On entry and exit, third

3 "Regulation (EC) No. 562/2006 of the European Parliament and of the Council of 15 March 2006," *Official Journal of the European Union* L 105, 13.4.2006, 1–32.

country nationals shall be subject to thorough checks. During these checks the fulfilment of entry conditions is verified through the Visa Information System (VIS). Third-country nationals should

1. be in possession of a valid travel document;
2. be in possession of a valid visa, if necessary;
3. justify the purpose of the intended stay and have sufficient means of subsistence;
4. not be persons for whom an alert has been issued in the Schengen Information System (SIS) for the purposes of refusing entry;
5. not be considered a threat to public policy, internal security, public health or the international relations of any of the Member States.

Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), modified several times, can be considered a set of provisions on implementing the common EU/Schengen visa policy. It defines the common, uniform rules of issuing visas by Member States' consulates, determining the Member State and its respective consulate competent for examining and deciding on visa applications, as well as types of visa, requirements relating to the content and structure of application forms to be used, procedures and guarantees of deciding on applications, local and central cooperation and the exchange of data between Member States.

The issue of asylum is primarily discussed in Council Regulation (EC) No. 343/2003, the so-called "Dublin II Regulation." Among others, this regulation states that if an asylum seeker has irregularly crossed the border into a Member State, then the Member State thus entered shall be responsible for examining the application for asylum. Only one Member State can be designated as responsible for examining the application for asylum.

The Schengen acquis, that is, the system of laws applicable to the Schengen Area, properly regulates the administration of entry to or exit from the Area, and the procedures to be followed in the case of so-called third-country nationals. It also enforces an adequate security system, protecting the interests of Member States and their citizens and preventing illegal entry. In the framework of this system, cooperation and consultation between Members States, allowed by the Visa Code, is an "up-to-date" cooperation.

In 2015 a huge rift was opened on this seal-tight and effective system, developed at a considerable cost, when German Chancellor Angela Merkel declared that, under the sign of *Willkommenskultur,* Germany would take every refugee without checks and screening. As a result of this gesture, hundreds of thousands of alien citizens entered the Schengen Area whose identity remained unchecked, had no travel documents, and no prior data on them were available. Since then, much information and misinformation has been circulating about the success or failure of the arrivals' integration, terror attacks and their explanations.

The legal aspect of this problem is a grave issue. The German Chancellor made her decision without any prior negotiation, and also neglected all of the related EU treaties, listed above, which regulate entry into the Schengen Area. We can conclude that her decision was made in opposition to EU regulations, that is, it ran counter to effective laws. It reflects well the relationships prevailing within the Union that no EU institution put this question, that is, the lawfulness or unlawfulness of allowing masses of migrants to enter,

on its agenda. By contrast, the press and the political arena resounded the question of how the burden of these masses should be distributed among member states, that is, the issue of so-called migrant quotas.
Central European countries unanimously resist this pressure, rejecting, based on principle, the attempt to exclude some countries from decision-making, while they are expected to take their share of this burden.

What is deceptive in the migration debate?

The migration debate gave rise to numerous false, misleading thoughts and arguments, but the gravest among them rests on a false analogy. The politicians of Western European states frequently refer to the ungratefulness of Central European societies, saying that there was a time when they took Eastern European refugees, hundreds of thousands of Hungarians, Poles and Czechs, while now the same societies are not willing to take those in need.
This argumentation and analogy is misleading at a minimum of two points. First, Central European countries have been experiencing an influx of people from neighbouring areas for the last thirty years. Hundreds of thousands of immigrants from Ukraine, Russia, the Balkan countries and even from China arrived in this region with the intent to settle down and adapt. And most of them did manage to fit in. Second, the Central European refugees of the twentieth century had the same intent, to fit in Western European and American societies. They did not claim their rights but sought the opportunity of successful adaptation, strove to adopt the customs, culture and language of the host society, and to return, through their work, the generous gesture of reception. This behaviour fundamentally differed from the attitudes of African and Asian migrants, who now destroy their identification documents, lie to the authorities of receiving countries, have an alien culture and their intention to adapt is dubious.
There is nothing incomprehensible in the fact that Central European societies – which have never been colonizers, thus have no "live" contact with African and Asian societies – are afraid of masses of aliens arriving from these places. Having heard many alarming and horrifying news about terrorist actions and their innocent victims in the big cities of Western Europe as well as political "spins," the citizens of these countries tend to support domestic political leaders who promise firm protection and security in this respect.
For Central Europe, the migration question is a matter of security. These countries do not wish to turn into societies within which ethnic groups and masses with utterly different cultures and civilizations create their enclaves, which in turn facilitate the establishment of a society with a culture and civilization alien to those of Europe, enclaves that are impenetrable for the organs of state and local administration. Over the centuries – living at the eastern and south-eastern periphery of Europe – Central European societies protected, in the course of their different self-defence struggles, their European identity as well as their national identity because the two were essentially identical. For the peoples of Central Europe, European civilization made up of Greek culture, Roman law and Christianity provided a handle or support over centuries of resistance to Mongolian or Turk, Soviet or Nazi threat and occupation. This European identity has been constructed

and reinforced by the best thinkers, artists and statesmen of the region. Therefore European identity is an organic part, rather than the opposite or supplement, of the identity of Central European peoples. Viewed from this perspective, the transformation of Western Europe's societies, the "metamorphosis" of the European value system, heavily guarded and often defended at the price of many lives, its weakening and deterioration do not seem to be an attractive outlook for the peoples of this region.

The strand of thought presented by some authers, namely, a possible way of integrating Muslim communities, raises the particular question of the state's internal sovereignty. Analyzing the nature of Western, secular "society" and traditional Islamic "community," some authors conclude that we should acknowledge, accept the practice that derives from Islamic communities existing in Western European societies, namely, that they settle their legal controversies within their own community, governed by the fundamental principles of Islam, rather than in the framework of the rule of law and institutions of the host state.

As it is known, Islam is a religion, civilization, cultural community, way of life and legal order at the same time. It is a societal order where individuals can be understood only as members of a certain community – the family, which means that they can live only in complete dependence of the family. The Church or religion and the state have not been separated, and only a religion-based legal institution, shariah exists. As far as Western European societies and states accept that Islamic communities settle legal controversies within their own framework, certain areas of the state and society, certain communities being exempt from the jurisdiction of the host state and its authorities, they also accept that the internal sovereignty of the modern state of law is violated and that unlimited internal sovereignty ceases to exist. If we try to envision the outcome of this problem, then we can easily face alarming prospects!

If the political and administrative system of the European Union would function in line with its mission, it had launched an open, structured and considerate debate on the migrant question that has evolved since 2015, the application or breach of the regulations described above, the societal consequences of such breach, the mode of making decisions on this issue, the possibilities and political, moral, financial, security and other conditions of sharing this burden.

Whenever we speak about the security of Europe – and Central Europe, we cannot avoid the question of migration and its reasonable rather than emotional discussion in relation to security.

Central Europe's geopolitical determination

In a geopolitical sense – and in terms of its historical experiences – Central Europe is located within the Berlin–Moscow–Istanbul triangle, which is an unalterable status. However, in a political sense these three reference points are at different distances from us. Berlin is an ally and our biggest, key economic partner. It is in our interest to have good partnership relations with Moscow, but we must be aware that Russian politics has always been – and will be – driven by imperial interest. As a NATO member, Turkey is also our ally, but the steps it took in recent years, in both domestic and foreign policies, were by no

means evidence of a friendly attitude towards and the commitment of an ally to the West. Turkey begins to emerge as one of the leading countries of the Islamic world, gradually leaving behind the domestic policy of a secular state, strictly separated from the Islamic Church, and the West-friendly foreign policy position and road designated by Mustafa Kemal Atatürk.

Therefore Central Europe – forming the eastmost part of the European Union-borders all the eastern and south-eastern regions which carry security risks. The wave of migrants from the south and south-east keeps these regions, Greece and her northern neighbours – Bulgaria, Romania, North Macedonia, Serbia, Hungary and Croatia – under constant pressure. So far – in the last four years – neither the individual member states, nor the institutions of the European Union showed much activity aimed at resolving the Middle Eastern crisis or managing the evolved migration situation. They abandoned Turkey, Greece and the rest of states in the region to cope with this problem alone. In fact, they poured political criticism on Central European politicians who identified the defence of Europe's external borders as a common task and obligation, with reference to the *acquis* cited above. They did this despite the fact that the intensification of the migration tension may give rise to a serious security and political crisis in the south-eastern borderlands of the Union, from the boundaries of Hungary and Croatia down to the Aegean Sea.

Another grave risk factor is the Union's eastern borderland, that is, the region next to the eastern boundary of the Baltics, Poland, Slovakia, Hungary and Romania. As geopolitical factors, Russia, Ukraine and Belarus are not the carriers of democratic stability.

As a both regional and global player, Russia induces enduring worries in her neighbours. The occupation of Crimea and Eastern Ukraine, continued exertion of political and military pressure on Baltic states, imposing direct threat on Poland an Lithuania through the re-militarization of the exclave called the "Kaliningrad Region," the re-incorporation of the ominous symbols of communism into state symbolism, the resuscitation of the cult of Stalin – these are all signs which understandably generate concerns in the countries and societies of the region.

Although Central Europe's geopolitical position cannot be changed, common European and Euro-Atlantic security safeguards may guarantee defence in this position.

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RELATIONSHIP BETWEEN POLITICAL PARTIES AND CHURCHES AS ACTORS OF PUBLIC POLICY IN SLOVAKIA

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Abstract

The political changes of 1989 affected almost all areas of social life in a decisive manner. In the conditions of religiously based Slovakia, religious freedom is objectively considered one of the key achievements of the velvet revolution. In the process of democratization, the subordination of churches and religious societies to the state was removed, thus creating a new quality of relations. So far, however, there has been no separation of state and churches in terms of their funding, which is the subject of public discussion in the long run. Political parties are key actors in the whole process, as they have the political power to bring about concrete changes. In this article, we focus on the relationship between political parties and churches from several perspectives. On the one hand, we evaluate the role of specific political entities in the process of democratization of society, on the other hand, we analyse the current views of parliamentary political parties on the issue of church financing and general separation. Based on the evaluation of the issue in the countries of the Visegrad Group, we identify various models as example for Slovakia. At the same time, we rely on the conducted interviews with representatives of selected political parties, whom we addressed to maximize the outputs of this paper.

Keywords

church, political parties, political actors, reform, funding of churches

Introduction

We rank political parties and churches among the important actors of public policy in Slovakia. A common milestone of development is the year 1989, when the democratization of society was reflected in the qualitative increase of their scope. While the removal of the Communist Party's leading role in society in the case of political parties was reflected in the formation of a pluralistic system in terms of democratic competition, the churches emerged from the rule of the state in terms of direct decision-making. At the same time, the way of financing has been almost maintained reflecting the strengthening of the links between the two types of actors. In this article, we focus on the development of churches in Slovakia after 1989 in terms of the scope of political parties, as well as current evaluations of views on the financial separation of the state and the church. By analyzing the models

in the countries of the Visegrad Group, we present alternative proposals. In addition, we devote to parliamentary political parties, which have the power to submit specific legislative norms. We rely on the conducted interviews with representatives of political parties explaining the attitudes of the entities to the issue of the position of churches in society.

The position of churches in the context of democratization of society

Political changes in 1989 significantly affected individual areas of society. The Communist Party's monopoly on state control was ended by a combination of geopolitical changes and the activation of civil society. On the basis of this, Czechoslovakia managed to break out of the Eastern bloc in cooperation with movements in the surrounding countries, which were also dominated by the Communist Party. Representatives of the power of democratic forces at that time faced the challenging task of defining the setting of processes leading to the creation of a free society in the spirit of advanced democracies. The paramount task was to ensure democratic elections, which are a fundamental building block of the exercise of civil rights. However, democratization was related to a wide range of systemic changes implemented over a longer time horizon. The restoration of religious freedom also began to be linked to the question of the position of churches and religious societies in this entire process. The main attention was paid to the Roman Catholic Church, to which 60.4% of the population of Slovakia reported on the basis of the 1991 census.[1]

During the communist era, the Roman Catholic Church was in a difficult position. The goal of state power was to subordinate this institution in order to pursue their goals without hindrance, because in practice the churches were essentially the only opposition after the elimination of democratic political parties. On this basis, the model of direct financing from state resources was enforced, which was to bring the church under the control of the central power.[2] It was primarily control of the Roman Catholic Church for two reasons. In the first place, the Roman Catholic Church partly represented the heritage of the Slovak state, as Roman Catholic representatives were the leaders of the state. The connection with the people's regime during the war guaranteed the Roman Catholic Church a privileged position in the system of state organizations. In practice, almost a third of the members of the Slovak parliament were priests, and this ratio also applied to the positions of district administrators who were at the head of regional administrative units. The Roman Catholic Church was, in fact, part of the state administration as such.[3]

Any disagreeing opinion of church leaders after 1948 was considered by the communist power as a manifestation of the effort to restore the people's regime. On the other hand, the Communist Party considered the Vatican's influence to be a direct threat because the Holy See opposed the Communist dictatorships, which was reflected in the published encyclicals. In the period of socialism, the model of the supremacy of the state over the churches was enforced based on the adopted legislation. The centralized system

1 STATISTICAL OFFICE OF THE SLOVAK REPUBLIC.

2 PEŠEK, Ján: *Štátnopolitické orgány dozoru nad cirkvami na Slovensku v rokoch 1948-1989*, 518–519.

3 ŠABO, Martin: *Systém vzťahov medzi štátom a cirkvami v Československu pred prijatím zákona č. 218/1949 Zb. o hospodárskom zabezpečení cirkví a náboženských spoločností*, 194.

of church administration by the State Council was ensured through Act no. 217/1949 Coll. At the practical level, this meant completely subordinating the activities of the church to this body located in the hierarchy of power at the level of ministries. Economic subordination was defined by Act no. 218/1949 Coll. According to its wording, the financing of the church passed entirely to the state, while the basic condition for the remuneration of the clergy was to take an oath to the republic. Due to Act no. 218/1949 Coll., the Roman Catholic Church has lost its status as a subject of public law, and at the same time the process of nationalization of property began without the prospect of any compensation.[4]

Although the legislation experienced several amendments until 1989, the basic character of the relationship between the Roman Catholic Church and the state and the leading position of the Communist Party was firmly defined by a hierarchical system of superiority and subordination. At the same time, it is also necessary to state that in the case of Czechoslovakia, it was a stricter church policy compared to the surrounding countries of the Eastern bloc. In Slovakia, this was particularly evident, as it was a more religious part of the common state with the Czechs. This was reflected in a louder expression of the demand for civil liberties, which was caused not only by the strong representation of Catholics in society, but also by the historical interconnectedness of the national movement with the ecclesiastical spheres. In this context, it is necessary to point out the Candle demonstration in Bratislava, which took place on March 25, 1988 on Good Friday. Citizens expressed their opposition to human rights violations in Czechoslovakia by silent candlelight protests, although the state committed to respecting civil rights in the framework of the International Covenant on Civil and Political Rights adopted at the CSCE conference in Helsinki. In practice, it was until then one of the largest public appearances against communist power, which ended in intervention by public security forces. At the same time, however, we can conclude that, despite the violent suppression of the demonstration, the regime has shown its weakness because it has not been able to solve the issue through dialogue and reform.[5]

After 1989, political elites faced the difficult task of optimizing their relations with the churches. Already at the beginning of 1990, Act no. 16/1990 Coll. on the abolition of state supervision over churches was approved. Based on it, state supervision over the church and the appointment of its clergy was abolished. The government thus stopped interfering in the internal affairs of the churches. The first free elections in 1990 became a decisive milestone when citizens confirmed the democratic direction of the state. Christian voters were mainly represented by the political entity KDH (Christian Democratic Movement), which finished in second place behind the VPN (Public Against Violence Movement). However, the formed governing coalition clearly set the goal, which is to ensure the free position of churches and to prepare legal preconditions for the beginning of the process of restoration of stolen property by the previous regime. During the preparation of the legislation, the representatives of KDH were the actors who ensured the achievement of the set goals.[6] The new mechanism was based primarily on Act no. 308/1991 Coll.

4 MULÍK, Peter: *Metódy a formy proticirkevnej politiky v komunistických štátoch strednej a juhovýchodnej Európy a ich zmeny v rokoch 1945–1989*, 249.

5 MARUŠIAK, Juraj: *Sviečková manifestácia v kontexte vzťahov medzi „kresťanským" a „občianským" disentom v rokoch 1988–1989*, 58.

6 MIKUŠ, Dalibor: *Pohľady politických strán na verejnú správu*, 34.

on Freedom of Religion, the Status of Churches and Religious Societies, and Constitutional Act no. 460/1992 Coll. Last but not least, the new Constitution of the Slovak Republic ensuring the plurality of religion, the free existence of churches and religious societies also had its undeniable weight as well.

An important topic was also the restitution of church property, which had the task of returning confiscated church property in the years 1945 to 1989. This was primarily addressed by Act no. 403/1990 Coll. On mitigating the effects of certain property wrongs, Act no. 229/1991 Coll. on the regulation of ownership relations to land and subsequently by Act no. 282/1993 Coll. on the alleviation of certain property wrongs caused to churches and religious societies. However, the adopted legislative changes did not address the complexity of the relationship between the state and the church in terms of the tendency to separate the church from the state completely. It is a paradox that although this demand sounded quite often in the last stage of the existence of the socialist establishment, after the social changes that have created space for it, the idea did not take hold. In the petition of Catholic clergy from 1987 entitled Initiatives of Catholics to solve the situation of believing citizens in the Czechoslovak Socialist Republic, the separation of the state from the church was clearly demanded in an effort to ensure its independent status. After 1989, space was created for the implementation of this step, but it still never took place. First of all, it was because of the absence of political will and agreement with the churches, but above all with the Roman Catholic Church. If we put these aspects in the context of actors in the form of political parties, we can see an interesting fact in the 1990s. Two political parties were interested in acting in the interests of the Roman Catholic Church - the mentioned KDH and HZDS (Movement for Democratic Slovakia), which was created by splitting from the original party VPN. It was the HZDS that was the dominant entity on the political scene from 1992 to 1998, and no deeper reform took place due to the reserved position of the Roman Catholic Church. The position of the Roman Catholic Church was founded on a historical basis and a strong representation of believers according to statistical indicators after 1989. According to Tížik, the Roman Catholic Church was perceived as a leading force in the ideological and moral rebirth of society and its recommendations were like engines of social change.[7] Last but not least, its influence could have been a significant factor in voter decision-making in the electoral process. Aware of this fact, the HZDS implemented a policy of cooperation with the Roman Catholic Church, which was already reflected in the aforementioned restitutions. In 1997, party chairman Vladimír Mečiar publicly declared that the church had the right to actively intervene in public events. He argued that the church must have an influence on political decision-making in accordance with the principles of faith.[8] Based on these statements, the Roman Catholic Church acted as a partner of state power, although according to the Constitution of the Slovak Republic, Slovakia is not bound by any ideology. The 1998 parliamentary elections marked a significant milestone because, according to several political analysts, it was a struggle for the country's character. The main topic of the elections was the figure of the Prime Minister, above mentioned V. Mečiar, who significantly polarized society. Citizens should have made it clear whether they agree with the policy of the incumbent Prime Minister, which places Slovakia in international isolation.

7 TÍŽIK, Miroslav: *Náboženstvo vo verejnom živote na Slovensku*, 128.

8 MIKUŠ, Dalibor: *Pohľady politických strán na verejnú správu*, 37.

The Roman Catholic Church was also an important player on this issue, but it did not speak with one voice. According to Marušiak, most clergy tended to KDH, but there was also the support of HZDS and V. Mečiar, but this was particularly the case of specific or individual cases. However, this relationship could lead to the politicization of the church with negative consequences in the form of the loss of believers.[9] Eventually, the Roman Catholic Church became an important player in the process of removing Vladimír Mečiar from the leading positions, which was confirmed by the results of the parliamentary elections.
Under the cabinet of Mikuláš Dzurinda, also backed by members of the KDH, the Roman Catholic Church supported the conclusion of a bilateral treaty with the Vatican, which was reached in 2000. The basic treaty between the Holy See and Slovakia regulated relations between the two entities under international law. The treaty was drafted in the form of a framework contract conditional on the adoption of four further implementing contracts. However, the treaty was legally unbalanced in nature, as obligations arose for only one party. It declared the strengthened position of the Roman Catholic Church in Slovakia, while specific points were already the subject of the implementation of the contracts. The first of them was contract no. 648/2002 on the spiritual service of Catholic believers in the armed forces and in the armed corps, which established the conditions for the performance of service also in the Police Force, the Railway Police or the Prison and Judicial Guard Corps. Subsequently, there was a contract no. 394/2004 Coll. on Catholic education and the declaration of equality for church schools, including the teaching of religion in public schools. Significant political tensions were caused by the contract on the right to conscientious objection, which was negotiated in 2005 and 2006. The Roman Catholic Church supported the adoption of the contract, whereas KDH, as one of the governing parties, made the adoption of this conscientious objection conditional on its remaining in the governing coalition. In terms of content, the draft agreement allowed healthcare professionals to refuse to participate in abortions, artificial insemination, sterilization or experiments with human organs. In addition, workers would have the right to refuse work on Sundays, and teachers were free to decide whether or not to teach sex education. However, the other parties of the coalition, SDKÚ-DS (Slovak Democratic and Christian Union – Democratic Party) and the party representing the interests of the Hungarian national minority SMK (Hungarian Coalition Party) proposed to amend the points of this contract. However, the KDH, as an extended arm of the Roman Catholic Church, was in principle in favour of accepting the original proposal only. The non-approval of the contract resulted in the withdrawal of the party from the government coalition and the announcement of early elections in 2006, 3 months before the due date was set.[10] Based on the analysis of the political scene, we can state that it was largely a political calculus in terms of value and efforts to maximize profits in the parliamentary elections after eight years of participation in the governing coalition. However, we clearly managed to identify the connection between the Roman Catholic Church and the political entity KDH in an effort to enforce a specific legal norm.

9 MARUŠIAK Juraj: *Sviečková manifestácia v kontexte vzťahov medzi „kresťanským" a „občianským" disentom v rokoch 1988–1989*, 63.

10 JUST, Petr: *Nad Tatrou sa blýska – strany, vlády a koalice na Slovensku v letech 2006 až 2016*, 114.

Evaluation of the current position of parliamentary political parties in relation to churches

From the point of view of the relationship between the state and the churches, the primary problem at present seems to be the establishment of a new model of church financing, which is the subject of long-term discussions. As mentioned above, on the one hand, after the political changes in 1989, a model of internal self-government of churches and religious societies was created, but on the other hand, economic connections to the state were not removed and thus the discussed separation of the church from the state did not take place. Representatives of the state power amended only the original law no. 218/1949 Coll. on the economic security of churches and religious societies, negating the direct supervision of the state over individual church activities. At the same time, however, the paternalistic principle in the relationship between the state and the churches has been preserved. Amendment to Act no. 522/1992 Coll. declared the provision of a salary to the clergy, if so requested by a particular registered church. On this basis, the funds were paid out in accordance with the salary tables which were regulated by the Regulation of the Government of the Slovak Republic. This made the priests civil servants. In addition, the role of the state was to contribute to the maintenance of sacred monuments. In practice, a separate chapter of the state budget was created, while the allocated funds were subject to the administration of the Ministry of Culture of the Slovak Republic. Subsequently, the funds were distributed through the relevant church departments. The financing system thus to a large extent maintained the connection between the state and the churches in terms of the transfer of financial contributions from the state budget.

An important factor for the implementation of changes is the comparison with the models in other countries of the Visegrad Group. The Czech Republic as the part of the former Czechoslovakia had the same legislation as Slovakia in 1993. Churches were funded by the state despite the declining number of believers. According to statistics, the largest Roman Catholic Church recorded a decline in believers from 39.03% in 1991 to 10.37% in 2011. However, any changes were limited by the absence of political will. The 2010 legislative election was the main impetus for making the reform. The new governing coalition formed by the Civic Democratic Party (ODS) along with the liberal-conservative TOP 09 and Public Affairs (VV) pushed for a new system of church funding to cut off state contributions. Based on the legislation adopted in 2012, a system of gradual reduction of contributions in the longer term was established. Since 2013, the applied model has reduced state contributions by 5% each year. Therefore, state funding of churches will end in 2030. On the other hand, the model is associated with the payment of damages through the return of property to the church. Political parties and churches have been able to find a compromise and adopt a rational solution.[11]

Poland is a specific case with the Roman Catholic Church as an important actor. According to 2015 demographics, 92.9% of Poland's population is part of this church. At the same time, it is necessary to emphasize the significant role of the Roman Catholic Church

11 PŘIBYL, Stanislav: *Problémy spjaté s utvářením nového modelu financování cirkví v České republice*, 126.

in the process of the fall of the communist regime. Nevertheless, the separation of church and state took place in 2014. The same as in the case of Czech Republic, the parliamentary elections in 2011 were a decisive factor. The Civic Platform (PO) as a centre-right and liberal party headed by Donald Tusk managed to win and form the government in the years 2011–2015. Following the example of Western European countries such as Germany and Italy, it has pushed for the adoption of new legislation introducing a church tax. Every citizen has the right to support the church in the amount to 0.5 % of the total income tax.[12] The original church fund subsidized by the state was replaced by a system of individual decision-making of each citizen. Although the conservative political party the Law and Justice (PiS) has played a key role in Poland since 2015, the voluntary mechanism has been maintained.

The issue of financing churches in Hungary began to be addressed in the 1990s. Under the government headed by the Hungarian Socialist Party (MSZP), an assignment tax model was introduced. Citizens can give 1 % of their income tax to one of the churches. However, the applied system has the character of combined financing because the state provides funds for churches as well.[13] After Viktor Orbán gained power with FIDESZ, new legislation on churches was adopted in 2012. There were new conditions for the recognition of churches, such as the existence of 100 years or 20 years of activity in Hungary. The original 360 state-recognized churches were reduced to 32.[14] By summarizing the individual cases of Visegrad Group, Slovakia remains the only country without addressing this issue.

Eyeing at developments over the last three decades, individual government groups have applied two unwritten rules. The change will primarily be accepted only on the basis of a broad consensus of political parties and individual churches, and at the same time the right of churches to contributions from the state budget will be respected. Political parties considered the opening of this Pandora's box a sensitive area, also given the high percentage of believers and historical tradition. However, changing social conditions exerted some pressure to change the setting, which was still based on legislation passed in 1949. It was not until almost seventy years later that political parties and church leaders finally agreed to push for reform. Specifically, it is Act no. 370/2019 Coll. on financial support for the activities of churches and religious societies, submitted by the Ministry of Culture of the Slovak Republic during the reign of Peter Pellegrini. If we look at the specific results of the vote of the National Council of the Slovak Republic on 16 October 2019, we identify a high degree of political agreement across the governing coalition and the opposition. Of the 141 votes in total, 115 deputies voted in favour of the Act, while in addition to government deputies for SMER-SD, SNS and MOST-HÍD, deputies from opposition entities from OĽANO, SME RODINA and ĽSNS also voted in favour of the proposal. Only members of the opposition SaS refused to express a practically positive opinion procedurally, where none of the 20 members of the parliamentary group voted in favour of the proposal.[15] In this case, we can mention that it is a liberal entity that has long promoted the separation of the state from the church. According to its deputy Alojz Baránik, the proposed legislation

12 WADOWSKI, Dariusz: *Religion and Religiosity in Contemporary Poland*, 44.

13 SCHANDA, Balázs: *Financovanie cirkví a náboženských spoločností v Maďarsku*, 84.

14 ŠABO, Martin: *Moderné spôsoby priamej podpory štátu cirkvám a náboženským spoločnostiam vo svete*, 102.

15 NATIONAL COUNCIL OF THE SLOVAK REPUBLIC: Details of Act no. 370/2019 Coll. on financial support for the activities of churches and religious societies.

does not change the essence of the functioning of the system. If we look at the specific points of this law, it maintained primarily state contributions to the church. However, a specific key has been introduced according to which funds would be distributed. The church was still entitled to state contributions, but compared to the previous situation there was a change. In the past, the finance minister could stop funding at any time, although no minister has ever exercised this right. Under the new conditions, however, a clearly defined formula based on several variables began to be applied. An important indicator was the number of believers, which critics described as a support point for the largest Roman Catholic Church. The principle of solidarity and indexation was also automatically incorporated, taking into account inflation and wage growth in public administration. At the same time, the self-government of churches was also strengthened in relation to the use of funds, as churches were no longer limited by obligatory allocation. An example is the abolition of the salary tables of clergy, on the basis of which funds no longer had to be allocated exclusively to the salaries of clergy.

If we emphasized the element of a broad consensus of political parties and church leaders, in this case there was a great deal of agreement. We can demonstrate this not only in the results of the vote in Parliament itself, but also in the overall timeframe for the adoption of this change. We consider the establishment of an expert commission within the Ministry of Culture of the Slovak Republic in 2011 to be a prerequisite when the ministry was in the hands of the SaS political party. After the premature fall of the entire government of Iveta Radičová and the accession of Marek Maďarič to the ministerial chair as the nominee of SMER-SD, he continued the work of his predecessor by establishing a church department under the leadership of Ján Jurán. As a result, the discussion with the churches was taken to a higher level and individual stakeholders were allowed to submit their comments. At this stage, the tax allocation model was rejected because it met with opposition from representatives of smaller churches with the argument of creating competition for non-profit organizations. In addition, the model of tax allocation was not supported by the representatives of political parties either, as this proposal was supported only by the SaS from the position of an opposition entity. The Ministry of Culture of the Slovak Republic decided on the preparation of a law that modified the applied system by including a specific mechanism. If we look at specific numbers, we can observe an increase in the income of the largest churches.[16]

16 MIKUŠ, Dalibor: *Pohľady politických strán na verejnú správu*, 67.

Table 1 Financial contributions for churches and religious societies

Churches	Percentage of church members	State contribution in 2019	State contribution in 2020
Roman Catholic Church	62,02 %	31 191 337 eur	34 538 722 eur
Evangelical Church	5,86 %	4 858 489 eur	5 174 749 eur
Greek Catholic Church	3,83 %	4 900 043 eur	5 106 921 eur
Reformed Church	1,83 %	2 653 763 eur	2 752 563 eur
Orthodox Church	0,91 %	2 029 714 eur	2 078 849 eur

Source: Ministry of Culture of the Slovak Republic

Based on the data in the table, it is necessary to emphasize that the share of believers is founded on the last census in 2011. Looking at the political scene, we add that several political parties perceive the adoption of Act no. 370/2019 Coll. on financial support for the activities of churches and religious societies only as a first step towards a comprehensive change, not as a final state. Based on this, we focused on the evaluation of the opinions of individual parliamentary political parties, their classification according to the traditional division into coalition and opposition political parties.

Coalition political parties

Looking at the current governing coalition, we can identify diversity in terms of access to value issues. On the one hand, we have more conservative entities such as OĽANO and ZA ĽUDÍ, on the other hand, there is liberal SaS as well. However, the very definition of the political orientation of the dominant political entity OĽANO, which won more than 25 % of the votes in the 2020 parliamentary elections, is problematic. In essence, it is not a classical political party as it does not have precisely defined internal structures. In terms of ideological focus, it is rather a broad-spectrum grouping with a strong wing of conservatives. If we look at the OĽANO election program, it does not contain the problems of changes in the financing of churches. We also observe this element in the case of the government program. The main reason is the inconsistent approach of political parties to value issues, which could provoke conflicts. According to the Minister of Culture Natália Milanová, the current state of funding for churches is not ideal, but on the other hand there is no political will to make a change. She does not consider it right to put this issue at the forefront, as this could lead to contradictions in the governing coalition. Value issues were excluded from the coalition agreement and left to individual decisions of deputies.

This position is understandable, as the coalition includes the SaS party, which won 6.22 % of the vote in the parliamentary elections. It has long established itself as a liberal entity that defends the individual rights of the individual and advocates for equality. As early as 2010,

during its first participation in the governing coalition, the party proposed the introduction of an assignment tax modelled on Germany, in which every citizen would decide whether to provide funding to a particular church or not. SaS justified this with arguments that in the set system there is no complete independence of churches tied to state contributions. However, as we have said, this proposal has not received wider political support. At the same time, the SaS is a critic of the adopted Vatican Treaty, which it considers to be a unique case of a legal act in European conditions governing a wide range of competencies. SaS even initiated proceedings before the Constitutional Court of the Slovak Republic for violation of the equality of two international entities. While Slovakia has only obligations under this treaty, the Vatican has only rights. The contract also does not contain a termination section, allowing only changes by agreement of both parties. The long-term development of the SaS party clearly shows the agenda of the department of the state and the church. However, due to differing views on this issue, the SaS did not insist on the inclusion of this issue in the government's program statement. However, the approach of this party can be considered the most radical approach in terms of implementing concrete changes towards the church among all political actors.

In the case of the other two political parties in the governing coalition, we do not identify an increased interest in this issue. The SME RODINA movement,. the second strongest government party with the election result of 8.24 %, does not profile itself in the conservative-liberal division, and considers such a division of parties to be overcome. Depending on this, the election program did not address the issue of financing churches and their overall position in society. According to the statement of the chairman Boris Kollár, legislative changes are already implemented within the framework of Act no. 370/2019 Coll. on financial support for the activities of churches and religious societies, for which all representatives of the SME RODINA parliamentary group voted in the 2016–2020 election period.[17] The smallest member of the governing coalition is ZA ĽUDÍ with a gain of 5.77 % of the vote. Although the group profiled itself as a conservative entity, the election program did not contain specific mentions of the position of churches in society and the method of financing. According to their leader Veronika Remišová, churches are important actors in the democratization of society after 1989 and at present it is not appropriate to raise the sensitive issue of their financing.

Opposition political parties

In assessing the current opposition, its diversity needs to be emphasized. On the one hand, it is represented by SMER-SD as a left-wing political entity operating on the political scene since 1999, on the other hand, the ĽSNS, which is considered to be a far-right political entity according to analysts. In this context, it is desirable to say that both these political entities have recently experienced the break-up of the party. SMER-SD has long avoided the issue of separation of state and church. We have been seeing this approach practically since the first parliamentary elections in 2002, in which the party took part for the very first time. They rejected any indications of reforms on the grounds that Slovakia was not prepared for the conservative nature of society and its specific history. This issue was not

17 MOVEMENT WE ARE FAMILY, 2020.

opened until the second government of Robert Fico through the Minister of Culture Marek Maďarič. In the proposals of the Ministry, three alternatives were submitted for discussion. The first spoke about allocation tax models according to the model of Western European countries, the second about changes in state funding depending on the number of members of individual churches, and the third proposed to leave the matter in the status quo. We have assessed above why the second option finally won, albeit only in 2019. If we focus on the SMER-SD election program in the last parliamentary elections, this topic was not part of their 25-point document. According to the representatives of SMER-SD, the change of financing by the adoption of a modified model on the basis of Act no. 370/2019 Coll. on financial support for the activities of churches and religious societies was the optimal solution based on the specifics of Slovak society, thus the issue is already resolved and closed. The second parliamentary opposition body, the ĽSNS, placed the Christian character of Slovakia at the forefront of the election program. Although the protection of these values is emphasized in several parts of the document, it does not deal specifically with the relationship between the state and the churches.[18]

Conclusion

Political parties are important actors in the process of changing the position of churches after 1989. The connection with political parties could be identified mainly in the cases of KDH and HZDS, which we demonstrated on specific examples. During the government of Mikuláš Dzurinda, the basic framework of the Vatican Treaty was signed. It was reflected in the instability of the governing coalition. Ultimately, differing views of political parties led to early parliamentary elections in 2006 and creation of new government under Róbert Fico. In assessing the current development, we have clearly focused on the approaches of political parties to the issue of financial separation of state and churches according to the models of foreign countries. However, the official election programs in 2020 did not go into this topic in depth at all, for several reasons. In the first place, it was a relatively tricky topic for political parties, as a larger percentage of the population of Slovakia is in favour of conservative values. Fear of losing voters has become crucial. Neither political party of the current governing coalition dealt with the modification of the applied model or creating a completely new system. In the case of some political parties such as OĽANO, we perceive party fragmentation very strongly, as there are no unified positions towards these issues.

18 PEOPLE'S PARTY OUR SLOVAKIA, 2020.

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„TROLLEYOLOGY" AND AUTONOMOUS VEHICLES – MORAL AND LEGAL QUESTIONS ON THE APPLICATION OF THE DOCTRINE OF DOUBLE EFFECT[1]

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Abstract

The paper focuses on a classical problem of ethics and law: the doctrine of double effect (DDE). Nowadays the doctrine is more and more popular since AI-technology and super-intelligent machines have been developing rapidly. Maybe autonomous vehicles' most difficult dilemma is the following scenario: an autonomous car gets into an extreme road accident (collision) and the software should "decide" which direction-alternative to choose, but all of those possibilities end with death of human(s). This is a problem which requires a morally and legally justified answer. The principle emphasizes how to achieve a moral justification, what can be the classical cases of DDE and how to solve the most famous classical case, the trolley problem – which can be analogous to autonomous cars' collision-case. The paper also higlights whether the doctrine is relevant from the perspective of legal justification and legal solutions, too.

Keywords

autonomous vehicles, doctrine of double effect, law and morals, moral decisionmaking, moral justification of acts, intention

Introduction

This paper focuses on a classical problem of ethics and law: the doctrine of double effect (DDE). The main cause of this excursus is modern technology, namely: the autonomous vehicles. Modern technology can help everyday life in a lot of way, but there are some risks which we have to face day by day: endangerment of human life, health, body and property.[3] In these dangerous situations, law has usually proved to be a very useful device to safe

1 This essay is a part and a result of a Hungarian research project: Széchenyi István University Deák Ferenc Faculty of Law, GINOP-2.3.4-15-2016-00003.

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3 BALOGH, Ágnes: A kettős hatás elve a büntetőjogban, in: KOVÁCS, Gusztáv – VARGA, Krisztina – VÉRTESI, Lázár (eds.): *Kettős hatás. Helyettesíthető-e az etika matematikával.* Pécsi Hittudományi Főiskola, Pécs 2015, 65–75.

humans and their property, but legal solutions are not really satisfying in every case. In connection with autonomous vehicles, moral aspects are always coming into question. We can also say that artificial intelligence (AI) belongs to a sphere which is the common part of law and morals. This is why regulation of autonomous cars requires a complex answer – but currently, it seems to be rather problematic not calming. If a question concerns the edge of law and morals, it can easily takes its place in the focus of academic attention. The relevance and the actuality of analysing DDE should be explained briefly. The first question: what is the basic problem in connection with moral decisionmaking in transportation? A thought-experiment helps us to imagine the following scenario: there is an autonomous car, which gets into an extreme road accident. Just a second before the collision-moment, the software should "decide" which direction-alternative to choose, but all of them ends with serious loss, especially death of human(s).[4] Whether there is an existing right answer-alternative to calculate death as an acceptable consequence or not? The driver's power is assigned to the machine, namely to a software, so this entity will "decide" from case to case. Of course, technology can presume a lot of scenarios with different resulsts and these moral dilemmas will be „decided" in advance. Can we imagine the future transportation in this way?
So, this paper's aim is to demonstrate what is the good of DDE, how this theory could be used in moral dilemmas and the most interesting question: could it be an adequate and useful way to solve extreme moral situations caused by autonomous vehicles or not? Does the doctrine may be relevant from the perspective of law?

Viewpoint of technology

At first, it is important to explain why representatives of technology and industry believe that autonomous vehicles do not raise any moral quaestion[5] – in other words, this point of view is called Amoral Machine-thesis.[6] Lawyers and technicians usually disagree when arguing about interdisciplinary relevant problems and this discrepancy is pretty much eye-catching in connection with this essay's subject. According to technicians, the dilemma is analogous to some old and eternal problems which has not been solved yet nor by philosophers, jurists or anyone. That is the cause why there is no morally right decision to the extreme collision-problem, so the moral aspect should be simply blocked.[7] As Héder writes: "(…) industry should (…) simply make proposals and ask for a compromise rather than chasing moral truths."[8]

4 See the exciting moral decisions and empirical results of the famous Moral Machine-platform: https://www.moralmachine.net/ Furthermore, an interesting survey is also available which demonstrates the worldwide results of Moral Machine; the online test has already been completed by millions of people from all over the world. See Awad – Dsouza – Kim et al., 2018.

5 Goodall asserts that the question of „right decision" is morally and legally ambigous and there is disagreement among the experts. In an essay, he lists nine reasons why autonomous cars do not need a „machine ethics" at all. Goodall, 2014, 93–102.

6 Wendel, 2018, 133.

7 Wiseman and Grinberg, representatives of computer science, offer a trolley problem version to autonomous cars. See Wiseman – Grinberg, 2018, 105–113.

8 Héder, 2019, 46.

Transportation is based on a consensus made by society. It seems to be evident but people have forgotten about this because new types of machines have not been appeared for some time past – but a change would have called for a revision of the consensus. However, autonomous technology is something strange, something new, so sooner or later society should re-write this consensus. It means the following: reallocation of responsibility among manufacturers, designers, governments, owners of the vehicles and participants of transportation. So, the problem is based rather on calculation and not morals. All in all, industry's expectation is a much safer transportation, but first, pedestrians and other participants should accept the limitations of autonomous cars (for example eye-contact will be unnecessary to see into the "driver's" actions because intelligent vehicles do not understand this type of contact – even they do not have eyes). Algorithms are more intelligent than human drivers' brain: algorithms can calculate various scenarious and various results in advance, can make lots of plans and they also can "communicate" but in a different, newer way.[9] Of course, the ideal ambition would be to programize autonomous vehicles like this: vehicles should be constantly able to minimize the harm and number of deaths and to save the life of passengers, pedestrians and every living creature on the roads. Would it be a solvable expectation?[10]

Of course, the essay does not accept this theory because we want to discover the nature of moral problems. That is why we should elaborate DDE's classical and modern readings and then we may realize how it could help (or not?) industry and legal regulation methods as well.

Traditional and modern readings of DDE. The birth of "trolleyology"

When a problem (like the one described above) proposes a choice between human lives, it can sometimes be morally solved by double effect-theory[11] – if the human act/decision is well tested with DDE, the act/decision may have a morally justified solution. The doctrine of double effect is quite intriguing as it supposes a flabbergasting idea: an act causing serious harm (death of – at least! – one human being) could be permissible as this harm is just the act's side effect and the agent's original aim is to achieve some good end. So the act has two effects: the good result is the intended effect and the harm is the side effect and is inevitable. There are a lot of occasions when a choice with double effect could be the only one possibility in a serious dilemma. The agent does not want to cause harm, but unfortunately she cannot avoid it.[12]

9 Héder, 2020, 154–155.

10 Nyholm– Smids, 2016, 1275.

11 The doctrine has psychological origins as well, so the human moral judgement can be described with a psychological aspect. If we are critic with this view, we can say: this aspect is an accidental byproduct of cognitive architecture. See more in Cushman's great essay: Cushman, 2014, 1–14.

12 McIntyre, 2014.

The doctrine also demonstrates how clash of moral and legal questions occurs. Originally, DDE is a principle of moral theology and was invented by Thomas Aquinas[13] in his famous work, Summa Theologiae.[14] Aquinas played a leading role in defining moral theology's main function and its dogmatics.[15] Generally, as he emphasized, human acts have a "golden rule": „Bonum ex integra causa, malum ex quovis defectu."[16] Besides this, the philosopher also concentrated on situations where there is no right answer as the problem always causes something wrong which is unavoidable.[17] At Aquinas, the original idea of DDE refers to the following case: killing in self-defense is sometimes permitted, more precisely, killing one's assailant is justified. This act is special because it has two effects, a prima facie good and a prima facie evil effect: one which the agent intents (saving his own life) and one which is not intended but inevitable – after Aquinas, we can also say "praeter intentionem" (killing the attacker).[18] Of course, " (…) if a man, in self-defense, uses more than necessary violence, it will be unlawful: whereas if he repel force with moderation his defense will be lawful, because according to the jurists (…), 'it is lawful to repel force by force, provided one does not exceed the limits of a blameless defense."[19] According to moral theology, the application of the principle has four conditions:

1. "the act itself must be morally good or at least indifferent;
2. the good effect and not the evil effect be intended;
3. the good effect be not produced by means of the evil effect;
4. there be a proportionately grave reason for permitting the evil effect."[20]

These four conditions form a moral "test" and suppose that there are empirical examples which could be analysed with these conditions. In other words: casuistry means the practical aspect of theoretical dilemmas. Casuistry's[21] subjects are moral dilemmas, more precisely cases of conscience – it seems casuistry elaborated the practical side of moral questions. These kind of problems were also analysed by Aristotle and catholic theorists like Aquinas. Casuistry's vital questions are usually dilemmas connected to life and death, such as abortion or euthanasia.[22]

13 Next to Aquinas, Aristotle can be an other theorist of double effect. According to Di Nucci, the ancient philosopher wrote about various kinds of actions in Nicomachean Ethics. One of them, mixed action is voluntary and involuntary as well. There are external circumstances which force the agent to do something and she cannot avoid the act's bad consequences. Di Nucci, 2014a, 22–23. Aristotle brings two examples which – we can say – lookalike double effect: „the case of a tyrant" (somebody should obey the tyrant's rules because if he does not do this, his family would be put to death) and „the case of storm" (people are staying on a boat during a heavy storm; if they do not throw the goods into the water, they would die). Aristotle, 1987, 1110a9–20.

14 In book II, under question 64, Aquinas examines seven questions (objections and possible answers, too): Is it a sin to kill dumb animals or even plants? Is it lawful to kill a sinner? Is this lawful to a private individual, or to a public person or to a cleric? Is it lawful to kill oneself? Is it lawful to kill a just man? Is it lawful to kill a man in self-defense? Is accidental homicide a mortal sin? Aquinas, Thomas, Book II, q. 64.

15 Deák, 2004, 322–329.

16 Aquinas, Thomas, Book I, 18. q. 2. a. ad 3.

17 Aquinas's principle is quite interesting because catholic church emphasizes that people should pursue the good and avoid the evil. Cathcart, 2013, 67.

18 Aquinas, Thomas, Book II, q. 64.; Cavanaugh, 1997.

19 Aquinas, Thomas, Book II, q. 64. 7.

20 Mangan, 1949, 43.

21 The expression comes from the latin word „casus", meaning „case".

22 Szabó, 2017, 317–321.

The principle became popular in ethics and was adopted into philosophical mainstream as well.[23] What is more, it has some famous paradigmatic cases which are challenging for lawyers not just for philosophers. All of these cases show a serious problem: killing innocents. We can also say that the human act's non intended effect is other person's death. DDE has classical examples, more precisely paradigmatic cases, which are the following: killing in self-defense, abortion, euthanasia, bombing and the trolley problem.[24] Besides killing, the cases have one more thing in common: death could be morally (and legally) justified somehow in these extraordinary situations and death is the evil effect which is not intended at all but unavoidable. In literature, theorists elaborated the justified and non justified versions of these paradigmatic cases and have been arguing about "killing" and "letting die" for decades. I would like to demonstrate the brief descriptions and solutions of these cases in a tablet – it summarizes practicably and concisely the ethical, philosophical and legal aspects as well:[25]

CASE	GOOD EFFECT	BAD EFFECT	JUSTIFIED VERSION	NON JUSTIFIED VERSION
Self-defense	The agent is saved	Attacker is killed	Killing in self-defense	Intended killing
Abortion	Mother is saved	Foetus is killed	Hysterectomy	Craniotomy (?)
Euthanasia	Pain relief	Death is hastened	Pain-alleviation	Intended killing
Bombing	Factory is destroyed	Innocents are killed	Strategic bombing	Terror bombing
Trolley Problem	Five individuals are saved	One person is killed	„Spur"-variant	„Fat man" -variant
Trolley Problem with Autonomous Cars	Avoiding death (or damage in property)	Death of innocent people	???	???

Development of AI calls attention again to the application of double effect, namely the new formulation of the trolley problem.[26] Trolley cases are known in a lot of versions and all of them have an important feature: to decide between two acts (between a good and a bad

23 Cusham, 2014, 2.

24 McIntyre, 2014.

25 Di Nucci also created tablets to show the common point of DDE-cases. I used Di Nucci's tablets and completed them with my own aspects. See Di Nucci's original tablets: Di Nucci, 2014a, 29, 31.

26 Nowadays it is still difficult to imagine a trolley problem-scenario with autonomous cars, because it is not a real dilemma for the majority of manual drivers. Johansson and Nilsson try to prove that the trolley-case could be interesting from the perspective of manual drivers, too. Johansson – Nilsson, 2016.

one), three conditions must be met to consider the case as a trolley case. These conditions are: "First, in trolley cases a collision is imminent and unavoidable. Second, the agent is able to choose how to distribute the harms that ensue as a result of this collision. Third, the decision situation is one of certainty. Actions carry no risk so that the agent can choose between outcomes."[27]

Trolley problem is usually labelled as a thought-experiment invented by philosopher Philippa Foot in 1967, in her famous essay, The Problem of Abortion and the Doctrine of Double Effect. Otherwise, thought-experiments are quite popular in speculative theory-making, because they are cheap and with them, scientists can prepare for future problem-solving (through answering "what if…" questions) and can elaborate various answer-alternatives.[28] Here are the basic thoughts of DDE and trolley problem by Foot, whose work means the birth of "trolleyology". Foot was arguing with Herbert Hart and they discussed the problem of abortion through the double effect-theory.[29] Foot believed that people could not use DDE to criticize abortion.[30] As Aquinas, she also made a distinction between twin effects: the one is aimed, the other is foreseen but not intended; in law, they are called direct intention and oblique intention. Her original example was about a fat man stuck in a cave. "A party of potholers have imprudently allowed the fat man to lead them as they make their way out of the cave, and he gets stuck, trapping the others behind him. Obviously the right thing to do is to sit down and wait until the fat man grows thin; but philosophers have arranged that flood waters should be rising within the cave. Luckily (luckily?) the trapped party have with them a stick of dynamite with which they can blast the fat man out of the mouth of the cave. Either they use the dynamite or they drown. (…) Problem: may they use the dynamite or not?"[31]

She also writes (but briefly) about the famous trolley-scenario: imagine that " (…) a driver of a runaway tram which he can only steer from one narrow track onto another; five men are working on one track and one man on the other; anyone on the track he enters is bound to be killed. (…) why we should say, without hesitation, that the driver should steer for the less occupied track (…)?"[32] This so-called basic scenario is "Spur", as quoted in literature of philosophy. Foot has many other cases, and one of them, the „Transplant Case" is also very relevant. There are five patients who need organs and they will die if nothing happens. One day, a healthy and young man comes into the hospital; can the doctors sacrifice him as a donor to save five patients or not? The most troubling question is "why our moral reactions differ in these two kinds of cases – cases such as "Spur", where it seems morally acceptable to take a life to save five lives, and cases such as "Transplant", where it doesn't."[33] Here it is the answer: in "Spur", somebody is redirecting an already

27 Himmelreich, 2018, 671.

28 Kovács, 2015, 85-86, 90.

29 From this view, topic of abortion is quite interesting. Foot, the English philosopher, published her essay in 1967, and in Britain, abortion was legalized by parliament in October 1967. Things were not the same in the U. S. where in 1973 a landmark case, Roe v. Wade made the same change as in Britain. Edmonds, 2014, 25.

30 Černý, 2020, 89.

31 Foot, 2013, 537.

32 Foot, 2013, 538.

33 Edmonds, 2014, 33.

existing threat, but in "Transplant", sacrificing the innocent man's life is a means to save five individuals.[34]

Next to Foot, Judith Jarvis Thomson also explained the trolley case and she has more and more examples, indeed. The most famous one is the variant of the fat man case. Imagine the scenario: "George is on a footbridge over the trolley tracks (…) and can see a trolley approaching the bridge is out of control. On the track back of the bridge there are five people; the banks are so steep that they will not be able to get off the track in time. (...) the only way to stop the out-of-control trolley is to drop a very heavy weight into its path. But the only available, sufficiently heavy weight is a fat man, also watching the trolley from the footbridge. George can shove the fat man onto the track in the path of the trolley, killing the fat man; or he can refrain from doing this, letting the five die."[35]

And to mention one more fat man-example, here it is „Loop": " (…) the trolley is heading toward five men who are all skinny. If the trolley were to collide into them they would die, but their combined bulk would stop the train. You could instead turn the trolley onto a loop. One fat man is tied onto the loop. His weight alone will stop the trolley, preventing it from continuing around the loop and killing the five. Should you turn the trolley down the loop?"[36]

Philosophers say that nowadays we should imagine the classical thought-experiment not with trolleys, but with autonomous cars. The main quaestion is constant: what is the right thing to do? The difference between intelligent vehicles and traditional vehicles is that autonomous cars do not have to cooperate with humans, the machine „decides" on its own (in a way we can say: it "decides" in advance), according to algorhytms. When answering the problem, two main viewpoints are outlined: the consequentialist and the non-consequentialist approach. The first one dictates that the less fatal end is better than the more; for example, if the car kills one person instead of five, this "decision" is okay. The other approach asserts that there is a moral distinction between killing and letting die, or as Foot said: negative duties and positive duties.[37] As for the problem of moral responsibility, letting die is somehow better than killing because it is a passive act.[38] By the way, these two viewpoints are inhered in the classical literature of trolley cases.

How to test autonomous cars's "action" through DDE? What we should do is to explain the legal answer to the trolley cases: why is it allowed to sacrifice (kill) someone in these paradigmatic cases?

Some of the paradigmatic cases of double effect are known in legal theory and legal practice as well. In a way, medical activity (such as abortion, euthanasia), transportation or war could be the rare "exceptions" of life-saving obligation of the states. Especially medical activity and transportation do not mean social danger in a proper sense (of course we know, killing counts as a criminal act). Human life and right to life is a supreme value in every legal system, which means that it must not be illimitable because life is an absolute

34 Edmond, 2014, 34.

35 Thomson, 2013, 545.

36 Edmonds, 2014, 41. Critics say, „Loop case" is a very discriminating case-variant as it distinghuishes innocent people according to their size (fat or skinny), so decisions could not be proper and right in this example.

37 Černý, 2020, 94.

38 Lin, 2016, 79.

value. But there are some cases when states turn a blind eye to killing – legal systems have special and divergent rules regarding these cases.[39] As for trolley dilemma (whether a trolley or an autonomous car we face with), it is not an exception yet but can be in the near future. Perharps everything depends on representatives of technology (designers, manufacturers, programmers), of industry and legislators.

Trolley problem – pro and contra and its application in legal dilemmas

In literature, there are a lot of different positions in connection with autonomous cars' trolley cases. In this section, I would like to summarize these viewpoints. Of course, theorists form two groups: lots of experts admit that trolley case is a good analogy and others think that is kind of a "dead end". Now, what we know is not much: trolley case is not a regulated exception of killing, so it would be interesting to analyze whether DDE (as a moral aspect) could help the legal solution-searching? What can we utilise from the application of the principle?

At first, I would like to mention Di Nucci's position, who is a well-known theorist of double effect doctrine, and who offers eight general arguments against DDE. Originally, the doctrine wanted to show the difference between intended means and merely foreseen side effects, but it failed this task. The test pays attention to an unrealistic scenario where only bad effects are taken into account and there is no real good end at all. Moreover, Di Nucci made an empirical research; he wondered how people think about the trolley dilemma? Results were surprising: most of the participants did not opt to kill the one person to save five innocents – althought people usually sympathize with the utilitarist approach! There is a dilemma with the closeness problem as well because in fact, the distinction between intending and merely foreseen harm is unworkable. Fifth, Di Nucci argues with the example "Loop Variant" to prove that means are not necessarily intended. As we have seen above in the tablet, the bombing-case is a paradigmatic case and it has two versions: the terror bomber and the strategic bomber. This distinction highlights that there is no moral difference between these cases, but DDE wants to show a normative distinction with these examples. Furthermore, the doctrine is just a useless moral principle and unfortunately we will not know how to act morally right or morally permissibly. And last but not least, there is one more relevant comment from Di Nucci: people should be responsible for their non-intended acts such as their intended ones – and DDE may efface this essential obligation. [40]

Regarding Di Nucci's arguments, we can also add some general objections againts the doctrine. It cannot be an appropriate solution in legal context, because it is a weak test as it is like an easy "geometrical test" and not more. Besides this counterargument, the principle is too formal and too abstract, therefore it ignores cases' uniqueness; just works as a hypotesis and that is why it can eliminate uncertainty so easily.[41] Actually, the circumstances do not exist in reality and sometimes are too extreme and unimaginable.

39 To check this statment, it is important to see and read states' regulations on abortion, euthanasia or war.

40 Di Nucci, 2014b, 6–12.

41 Sandel, 2009, 36–39.

From ethics's viewpoint, DDE would answer the problem of verifiability but from the perspective of law, it lacks of authorisation.[42]
We can admit: these arguments are rationale.
Hevelke and Nida-Rümelin assert that autonomous cars' extreme road accidents are differ from the paradigmatic trolley case. According to them, when autonomous vehicles come into question, we should not focus on the damage which appears in the end, "(…) when we try to determine if a decision in favour of autonomous vehicles is in the interest of one of the affected parties."[43]
Nyholm and Smids summarize five points where the classical trolley cases and autonomous cars' trolley case differ. At first, we discuss the classical trolley problem's main features: 1) one single individual is faced by the decision; 2) the decision is an immadiate one, we can say a „here and now" decision; 3) answer-alternatives are restricted to a small number of considerations; 4) moral and legal responsibility not really matter, nor legal, nor moral responsibility is taken into account; 5) as for the modality of knowledge, the facts of the scenario are certain and unknown at the same time. If we imagine the traditional trolley-scenario with autonomous vehicles, the following factors are coming into question: 1) instead of only one person, groups of individuals face with the burden of moral decisionmaking; 2) decision-alternatives are "decided" in advance because the software is programmed with various outcomes; 3) consequently, the number of considerations is not limited; 4) both moral and legal responsibility matters; and 5) the software's „knowledge" is characterized by risk-estimation.[44]
After pro and contra aspects, it would be useful to see how does law really think about the application of DDE. When law is coming to question, it is important to understand how does it see this problem. I have already mention that in some borderline cases killing could be justified. We can add: besides the paradigmatic cases, killing is also allowed when it is committed during self-defense and necessity – these are the special causes of decriminalization. As for killing, the statement of facts is rather simple and abstract in the criminal statutes – that is because the result of the act is the relevant fact. Sometimes the need of a criterion of killing come into view – usually when something extraordinary happens and there is no appropriate or right legal (and moral) solution. I can also mention some famous cases ("hard cases") as good examples: Regina vs Dudley and Stephens, Fuller's case of speluncean explorers, cases in connection with abortion, euthanasia or separation of siamese twins (Re A – conjoined twins case). States should not decide which are the so-called certain cases of killing, but in borderline cases states can "allow" the taking away of lives and of course there are situations where risking of life, offence of right to life can arise, too (think of abortion, euthanasia or usage of guns). Moreover, in these cases, law knows very well that agents (for example doctors) do not want to „kill" somebody – but death is an unavoidable scenario. And what to do with autonomous vehicles? Can these be borderline cases like the other classical paradigmatic cases? I think this question should be solved in the near future such as more moral dilemmas in connection with AI technology (for example the question about their "legal entity"). But now, I would like to discuss some

42 Keenan, 2015, 16, 28.

43 Hevelke – Nida-Rümelin, 2015, 622.

44 Nyholm – Smids, 2016, 1287.

legal solutions as propositions on how to solve the question right. Probably, these answers could help a little to understand what kind of challenge legal systems have to face with.
In fact, law does not apply DDE in the traditional reading. In the XXth century, there was an intense interest from legal theorists, especially from Herbert Hart who concentrated on the principle of double effect and critisized it. Some consequences of an action is so firmly linked to the action that is immediately and invariably accompanies it. Here Hart touches on a problem known thanks to Foot as the closeness problem.[45] The gist: there are cases where "(…) there is a non-contingent relationship between the action and its effect. In connection with the closeness problem the question is also discussed in ethics and bioethics whether an agent can legitimately claim that he did not intend a certain consequence of an action (death), althought he did intend something that is necessarily associated with it. Theorists of law frequently distinguish between direct intention and oblique intention. In Hart's view this distinction between that which is directly intended and that which is merely foreseen as a concomitant consequence of an action is inadequately employed in the traditional doctrine of the principle of double effect."[46]
What is the problem with autonomous cars? They do not have responsibility or legal entity or cannot "decide" like a human being in the traditional reading, so now we cannot discuss their "intended and non intended decisions and actions". So what do we have? In a figurative sense, we can imagine a trolley-scenario with intelligent cars, but not a human being will drive it or decide – instead, a machine, more precisely, algorhytms will drive and "decide". The software will understand no end of inputs and outputs, but these "questions and answers" will definitely contain new formulations of intention – it may be called the "intention-doctrine of autonomous vehicles". Unfortunately, no one knows details of this new doctrine, so we should solve the trolley dilemma with our actual and well-known solutions (and with some new theories).
There are theorists who suggest necessity as a good direction. Personally I doubt in it; as we know it was not applicable in Regina vs Dudley and Stephens because of an important cause: necessity could not be a shelter of accused (who killed innocent people). And of course, necessity is always imagined as an extenuative, or as a last resort of human beings, not machines.
Philippo Santoni de Sio emphasizes that some cases are not so complex as we think. For example, we know that human life is a supreme value, consequently it would be defended better than damage in property or loss of animals. Of coure, human life is incommensurable with an other human life, and when matching lives comes into question, it can be solved by a consensus which is made among manufacturers and designers. Santoni de Sio concentrates on a contractarian variant where all sort of damage have a type of compensation. It seems our question is rather a contractarian problem, not of a criminal one.[47]

45 Hart's meaningful example: „If a man struck a glass violently with a hammer, knowing that the blow would break it, he would be said to have broken the glass intentionally (though not, perhaps, to have intentionally broken the glass), even if he merely wanted the noise of the hammer making contact with the glass to attract attention." Hart, 2008, 120.

46 Černý, 2020, 86.

47 Santoni de Sio, 2017, 426–428.

Geoff Keeling elaborated a system called moral-design problem: it would be able to solve legally and morally complex situations. He criticizes Santonio de Sio, and represents a kind of utilitarian-economical approach called restriced Pareto-principle (RPP). "In collisions where 1) harm to at least one person is unavoidable and 2) a choice about how to allocate harm between different persons is required, then if there exists a unique Pareto efficient allocation of harm across different persons, then other things being equal, programming a driverless car to bring about the Pareto efficient allocation of harm is justified."[48] In a way, RPP can be a plausible reading of necessity as well, moreover, according to the theorist, RPP is a special decision-rule which can be acceptable at least three moral theories (these three are: utilitarianism, contractualism and deontological aspect).[49]

Conclusion

In this short essay I tried to represent our near future's most interesting problem. In a way, the dilemma is a classical one, because "morals vs law" question is an old and eternal topic – and autonomous vehicles provide a new reading. The new trolley problem should have a satisfying solution which should be accepted both by industry and jurisprudence. Regarding the nature of the dilemma, it seems like our thought-experiment is restricted to a "mathematical example" because the question will be answered with algorithms – but of course, it is not just an easy, mechanical question, because it raises very serious moral and legal aspects and nothing is black or white, but "grey".[50] I think this problem is in connection with the idea of law. Since thousands of years, philosophers and theorists of law have been arguing about whether mathematics or argumentation could be the most appropriate one. In the past few decades, argumentation was the greater value, but in the era of AI, mathematics may occupy again its throne. What if this old-new "legal trend" will not really think of the problem's moral aspect? How will law regulate these serious problems without ethics?

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48 Keeling, 2018, 422.

49 Keeling, 2018, 425.

50 Orbán, 2019, 158, 163.

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SOCIAL JUSTICE AND VALORISATION OF OLD AGE PENSIONS IN THE SLOVAK REPUBLIC 2012-2021[1]

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Abstract

Social justice, as one of the key principles of social policy, is the essence of (re)distribution of society's resources in the state. How it is understood and implemented in socio-political and economic practice depends on the axiological orientation of subjects who interpret and implement it. The aim of this paper is to examine how social justice is understood by government groups in the Slovak Republic by means of the valorisation mechanisms for old age pensions over the period 2012–2021.

Keywords

Old Age Pensions, the Slovak Republic, Social Justice, Political Subjects

Introduction

Justice in mutual human coexistence is the most important moral virtue. It is defined as a firm and unchanging will to give everyone what they deserve (Sutor, 1996). Social justice is one of the fundamental principles of social policy and, it can be said, also of politics in general. Although it is part of every policy, how it is interpreted and applied varies from place to place and time to time. Differences in the understanding of social justice are rooted in historical as well as axiological contexts. In the span of Western civilization, which is identified by the boundaries of the three basic systems – system approach and value legacy of ancient Greece, Christianity; Christian social teaching, modern, postmodern and metamodern political ideologies, social justice has always been understood differently, often diametrically so. Its identification is in direct relation to the form of the state, the type of political system, social structure of society, macro- and micro-economic indicators, customs, traditions, culture, religion, or other form of worldview.

Justice is the opposite of injustice. As a measure of interpersonal relations, it is a fundamental social, religious and moral value, the basis of the rule of law, and also the essence of economic redistribution. It has a broader context in social policy than "only" distributive

1 *This paper is part of the solution of the VEGA project 1/0290/20 Social Justice and Old-Age Pension Savings in the Slovak Republic.*

justice.[2] The two poles of the interpretation and application (primarily in economic practice) are determined by a legal and social framework on the basis of mutual complementarity. A unifying fundamental element is the axiological system of subjects and objects that interpret it in theory and apply it in practice. At the social level, it is defined by the way of redistribution – social welfare. Legal norms are created by people who imprint their own value seal on them. In their understanding, justice is present in time and space. Even in the line of Western civilisation, there is no generally accepted definition of social justice. In a democratic political system, the boundaries of the definition of its meaning can be tied to the value systems of entities exercising political power. From the aspect of the hierarchical level of the place of implementation, this may be at the supranational, national, regional or local level. The value orientation remains relatively stable at all these levels. As for the evaluation of the social status of an individual or a monitored social group, this situation can be understood as fair because it is given by fate, god, inheritance of social status, work performance. The current social status of objects and subjects is always given by a synthesis of several factors. In reflecting social justice from subjects to objects, three basic (but not the only) streams of values can be defined in a democracy. On the one hand, there is the complex of conservative – liberal streams; right-wing values, in which state intervention in the redistribution of resources is minimal. If it does intervene, so then it does so only indirectly, leaving this primarily to the market and its tools. The opposite is a complex of socialist and social-democratic values, in which the state is the dominant entity that significantly intervenes in the redistribution of resources. The essence of the third so-called "middle system" of values lies in balancing state and market interventions in the redistribution of economic resources. This approach is not applicable to political systems that are characterised by extreme value systems on the right wing – left-wing scale, for example communism, or libertarianism.

Social justice and harmony are fundamental to the legality and legitimacy of government. Each political party (political entity)[3] declares that society should be organised, structured and managed on the basis of the principle of social justice. Social justice and social inequalities have a strong normative content. The question "how is it divided, who gets or does not get what, and for what" raises the question "what they should get and why"[4] – the normative criterion, which means that the perception of social justice and social inequalities is exposed to the influence of both internal and external circumstances. At the axiological level, social

2 The philosophical value tradition of Western civilisation distinguishes *three specific forms of justice,* which correspond to the three basic relationships necessary for human existence. *Commutative justice* – Justice of exchange or social relations, also called justice of contractual arrangements, which concerns the relations of groups and persons with one other. *Legal justice* – The justice of laws relates to the ratio of persons and groups to the social whole. *Distributive justice* – the justice of distribution or allocation concerns the whole, or its representatives to individuals and groups, for detail see SUTOR, Bernard: Political Ethics. OIKOYMENH, Prague 1996, 384.

3 The past decade saw a fundamental developmental change occurring in political actors on the morphing political scene of the states of Western civilisation. Classical political parties are today in most cases being replaced by other political entities. These do not fulfil even the basic features characteristic of political parties. In this sense, it may be said that there is a gradual replacement of patronage with a new model of the political system.

4 In life as well as in politics, there is always a difference between what is and what should be. What is, only exceptionally, is what should be. We should strive to achieve what should be.

justice is a popular part of the political agenda of every political entity, but, quite naturally, it is interpreted differently. In connection with this, the state, as the basic subject of social policy, is perceived by the left as a socially just policy based on a broad redistribution of public resources, in comparison with the liberal-conservative centre-right political span, which puts this phenomenon more on a level based on individual merit in economic processes, while weakening the influence of the state at the level of redistribution. A fundamental question arises here as regards how to understand the efficiency and effectiveness of social justice interpreted in these different ways. It might seem that a shift in language on the state and market scale leads to a weakening of the phenomenon of social justice in terms of its impacts on individuals and target social groups. But is this really true? In social policy, equally as in other policy areas, the feedback effect is at work. A stricter understanding of redistribution can positively strengthen the functioning of economic processes, which in turn beneficially may be expressed in a growing standard of living for the population, increasing motivation.

Every model of social policy contains a certain understanding of social justice. The mechanisms, methods and degree of ensuring social and economic rights are always an important moment. The concept of social citizenship is the core of the welfare state.[5] In Western civilisation, one can start from the basic typology of social policy by R. Titmuss, which is reflected in all social events. It is identified on the basis of the degree of state involvement in social policy and in enabling the participation of private entities. These are redistributive, corporate and residual models. In terms of valorisation of old age pensions, three limit models of the mechanism for their valorisation may also be considered. In the first case, this is an across-the-board increase in the set amount of the old age pension, preferred by the centre-left political representation. This model of valorisation in the understanding of social justice can be supplemented/ combined by a declining fixed amount with an increasing amount of the old age pension. The second model is characterised by a percentage increase in the amount of the old age pension, which is based on performance, i.e. Merit or service, taking account of the lifelong effort and responsibility of the social object in relation to the old age pension ex ante. This model is preferred by political entities positioned in the centre right of the political spectrum. The third model is a combination of the first two, where the amount of the old age pension is valorised partly by a fixed amount and partly by a percentage (according to the advantageousness for the basic object – the old age pensioner, but also the subject, and thus also the state). These models are a result of the implementation of the understanding of social justice in the old age pension system of Western civilisation. They are always only models, which in reality are never implemented in an absolute form. At the same time, it can be stated that even in this case, each state implements its own model, which is the result of several factors, such as economic indicators, historical development, traditions, culture, religion, mentality of the population, etc. Real pension systems change and develop in different places over time. In today's globalised world, both monetary and fiscal are also interconnected.

A number of authors are focusing on the systematic study of social justice in the current globalised world. In the context of building, but also reforming, the old age pension system, for the demographic and related economic, social and humanitarian reasons outlined above,

5 RADIČOVÁ, Iveta: *Sociálna politika na Slovensku*, SPACE 1998, 244.

we can mention, for example, the authors and their works: Heikki Oksanen (2002) "Pension reforms: key issues illustrated with an actuarial model", Erik Schokkaert and Philippe Van Parijs (2003) "Debate on Social Justice and Pension Reform: Social Justice and the Reform of Europe's Pension Systems", Alan Walker (2003) "The Policy Challenges of Population Ageing", David Willetts (2003) "Old Europe? Demographic change and pension reform", Grégory Ponthière (2020) "Pensions and social justice. From standard retirement to reverse retirement." The fact that this is a global, not just local, problem we are permanently dealing with adequately or inadequately in Western civilisation is proven by a spectrum of authors focusing on this issue in all parts of the world. Patrik Marier and Jean. F. Mayer (2007) "Welfare Retrenchment as Social Justice: Pension Reform in Mexico", M. R. Narayana (2019) "Old Age Pension Scheme in India: Distributional Impacts", Paul-Sewa Thovoethin, Jobson O. Ewalefoh (2018) "Universal old-age pension: Can Africa overcome it's challenges?", Evelyne Huber, John D. Stephens (2000) "The Political Economy of Pension Reform: Latin America in Comparative Perspective", Mesa-Lago Carmelo (2014) "Reversing pension privatization. The experience of Argentina, Bolivia, Chile and Hungary."

It is also necessary to mention the fact that, according to ILO statistics, only 85% of the world's population currently has social security. Despite this, the efforts of international communities at various levels and from various platforms dealing with this issue over the long term can be commended, as evidenced by the outputs of, for example, the UN: Fernando Filgueira and Pilar Manzi (2017) "Pensions and income transfers for old age. Inter- and intra-generational distribution in comparative perspective", or the ILO documents: (2014) "Social policy for older people: Key policy trends and statistics", Camila Arza from UN Woman (2015) "The gender dimensions of gender systems. Policies and constraints for the protection of older women."

The field of the Slovak old age pension system, its necessary reform in a rapidly changing world in the context of individual disciplines, but also in terms of understanding the social justice of its objects in a broader or narrower sense is mapped by the works of several authors, such as: Kenichi Hirose (2011) "Pension reform in Central and Eastern Europe. In time of crisis, austerity and beyond", Ivan Lesay (2006) "Pension reform in Slovakia, the context of economic globalization", Bačová, V., Dudeková, K., Kostovičová, L., Baláž., V. (2017) "Financial Planning for Retirement in Young Adults: Interaction of Professional Experience", Bačová, V. and Kostovičová, L. (2018) "Too Far Away to Care About? Predicting Psychological Preparedness for Retirement Financial Planning among Young Employed Adults", Baláž, V. (2012) "Financial literacy in the context of active aging – survey results", Košta, J. (2017) "Možnosti riešenia rizík vo financovaní dôchodkového systému s ohľadom na príjmové nerovnosti", or Kusá, Z. (2016) "Predstavy o spravodlivej spoločnosti. Prvý pohľad na zistenia fókusových skupín k Výskumu európskych hodnôt EVS 2017 – Slovensko", etc.. On the issue of social justice in the old age pension system in the axiological context in the relationship between political subjects – models of social policy, the space for further theoretical and empirical analyses remains permanently open.

Social justice in the old age pension system of the Slovak Republic

With regard to the perception of social justice in application to political representation in the Slovak Republic over the observed period 2012–2021, this can be schematically captured and monitored via a mechanism of valorisation (or indexation) of old age pensions. As indicated, each political representation, the governing coalition, implements its own line of economic and social policy.[6] During the observed period, three or four government representations alternated in the government of the Slovak Republic. The results of the parliamentary elections and the composition of each Slovak government are described in greater detail in table 1.

6 The paper follows one of the main principles of social policy, but this is always utilitaristically connected with economic policy. It represents the creation of resources by which subjects deal with social events through redistribution.

Table 1 SR Governments 2012–2021

Term of office	Governing coalition subjects	Votes %	Seats SR Parliament	Coalition seats total	value orientation of subject political spectrum
2012-2016 (10.03.2012)	SMER-SD	44.41	83	83	social democracy, political left, strong standing of state
2016-2020[7] **(05.03.2016) 2018-2020**[8] **(05.03.2016)**	SMER-SD	28.28	49	85	social democracy, political left, strong standing of state
	SNS	8.64	15		Social right to far right Economically – centre-left, national conservatism
	MOST-HÍD	6.50	11		Centre-right, national conservatism
	#SIEŤ[9]	5.60	10		Centrism, liberal conservatism
2020-2024 (29.02.2020)	OĽANO	25.02	53	95	a broad people's political entity, conservatism
	SME RODINA	8.24	17		national conservatism, social conservatism
	SaS	6.22	13		right-wing, national liberalism, classical liberalism
	ZA ĽUDÍ	5.77	12		centrism, conservative liberalism

Source: SR Statistical Office 2012–2020.[10] *Election programmes of political entities 2012–2020.*

7 The government, which emerged from the elections in 2016, resigned on 15 March 2018, see: The President accepted the resignation of the Prime Minister and appointed Peter Pellegrini, online: https://www.prezident.sk/article/prezident-prijal-demisiu-predsedu-vlady/ (Downloaded 23. March 2021).

8 The new reconstructed government received the support of the SR Parliament on 26 March 2018, see: NR SR: Mr Pellegrini's government one vote of confidence, supported by 81 deputies. online: https://www.nrsr.sk/web/Default.aspx?sid=udalosti/udalost&MasterID=54596 (Downloaded 24 March 2021).

9 The political entity #SIEŤ broke up back in 2016; the majority of parliamentary deputies joined the MOST-HÍD club.

10 Elections and referendums, online: https://volby.statistics.sk/ (Downloaded 23. March 2021).

Valorisation[11] of old age pensions is an economic instrument conducted in the Slovak Republic on 1 January of the calendar year. Its preparation is related to the preparation of the state budget for the following calendar year.

In the period from 2012 to 2016, the single-colour government of the political party SMER-SD seized political power in the Slovak Republic,[12] which unusually in the system of parliamentary democracy in the multi-party political system, gained 44.41% of votes in the elections to the SR Parliament, meaning 83 seats. The single-colour government enabled this political entity to fully implement its understanding of social policy also in the field of the valorisation of old age pensions. This political entity, in terms of its values, represents the political left, which prefers dominance of the state over the private sector. The centre-left understanding of social justice, with the state holding a dominant position in dealing with social events was also fully reflected in the mechanism for valorisation of old age pensions. With effect from 1 January 2013, the flat-rate method of valorisation of old age pensions by a fixed amount was applied, on the basis of Act of Parliament no. 461/2003 Coll. on social insurance and on the amendment of certain acts. According to the data of the Social Insurance Agency in the period from 2013 to 2017, pension benefits increased by a fixed amount. The fixed amount of the increase in pension benefits depended on the year-on-year growth in consumer prices, and the year-on-year growth in the average wage in the Slovak economy. These were reported by the Statistical Office of the Slovak Republic for the first half of the calendar year preceding the calendar year for which the pension benefits were increased and from the average monthly amount of individual pension benefits reported by the Social Insurance Agency on 30 June of the calendar year preceding the calendar year for which the pension benefits were increased. The fixed amounts of the increase in pension benefits and the fixed amounts of the increase in pension benefits paid out in the amount of one half for reason of the overlapping entitlements to payment of pension benefits, were set out in 2013–2017 as follows:

11 Valorisation is distinct from indexation. Valorisation represents an increase in the real value of the monetary benefit, while indexation is an increase in the nominal value of the monetary benefit, for more see: GEFFERT, Richard: *Sociálna politika a jej axiologické orientácie,* Košice 2014, 158.

12 For a comparison of the value systems in the area of models of the old age pension system, it is useful to note also the government coalition, which held government in the Slovak Republic up to 2012. This was a coalition (2010 – 2012) of centre-right political entities: SDKÚ-DS, SAS, KDH and MOST-HÍD, see: Elections and referendums, online: https://volby.statistics.sk/ (Downloaded 24. March 2021).

Table 2 Valorisation of old age pensions in the Slovak Republic 2013–2017

Year valorisation	2013[13]	2014[14]	2015[15]	2016[16]	2017[17]
old age pension	11.20€	8.80€	5.20€	1.90€	8.40€
early old-age pension	11.50€	8.90€	5.30€	1.90€	8.20€
the old age pension/1/2	3.50€	2.70€	1.60€	0.60€	2.60€
early old-age pension 1/2	4.10€	3.30€	1.90€	0.70€	€3.00

Source: Social Insurance Agency 2013–2017.

As regards 2017[18], according to an amendment to Act 461/2003 Coll. on social insurance, from 1 January 2017, old age pensions were increased by an amount calculated as 2% of the average old age pension, i. e. in the range from €8.20 to €8.40.
The parliamentary elections in the Slovak Republic in 2016 meant the redistribution of power from the one-color government of the SMER-SD party, as a representative of the political left to the new government four-party coalition consisting of SMER-SD, SNS, MOST-HÍD and #SIEŤ. The three new governing political entities can be characterised at the axiological level on the basis of an analysis of their political programmes as centre-right. In the range of values from centre to right, they can be arranged as follows from the centre – MOST-HÍD, #SIEŤ and SNS. The value orientation of the monitored entities in the right part of the political spectrum was clearly reflected in the understanding of the position of the state and the private sector in the implementation of old age pension valorisation mechanisms. In addition to addressing other social events in the area

13 The head office of the Social Insurance Agency provides the information online: https://www.socpoist.sk/aktuality/54309c (Downloaded 24 March 2021).

14 The head office of the Social Insurance Agency provides the information online: https://www.socpoist.sk/aktuality/56314c (Downloaded 24 March 2021).

15 The head office of the Social Insurance Agency provides the information online: https://www.socpoist.sk/aktuality/59205c (Downloaded 24 March 2021).

16 The head office of the Social Insurance Agency provides the information online: https://www.socpoist.sk/aktuality-ako-sa-zvysia-dochodky-v-roku-2016--o-zvysenie-netreba-ziadat/ (Downloaded 24 March 2021).

17 The head office of the Social Insurance Agency provides the information, online: https://www.socpoist.sk/aktuality-ako-sa-zvysia-dochodky-v-roku-2016--o-zvysenie-netreba-ziadat/ (Downloaded 24 March 2021).

18 The head office of the Social Insurance Agency provides the information online: https://www.socpoist.sk/aktuality/54309c (Downloaded 24 March 2021).

of old age pensions, a new valorisation mechanism was applied, entailing a weakening of the state, in the sense of an across-the-board increase in pension benefits to increase personal responsibility of entities during one's economically active life in relation ex-ante to old age pensions. In 2018[19] the valorisation method for old age pensions (as well as other benefits) was significantly changed. The new mechanism of increasing pensions results from an amendment to Act 461/2003 Coll. on social insurance, passed by the SR Parliament on 19 October 2017. From 1 January 2018, old age pensions increased by 0.8% of the monthly amount of pensions, but at least by a fixed amount (listed in the table below by type of pension), which is determined as 2 percent of the average monthly amount of pensions reported by the Social Insurance Agency as at 30 June 2017.[20]

Table 3 Valorisation of old age pensions in the Slovak Republic at least by a fixed sum 2018–2021.

Year valorisation	2018[21]	2019[22]	2020[23]	2021[24]
old age pension	8.40€	8.70€	9.00€	9.40€
early old-age pension	8.20€	8.30€	8.70€	9.10€
the old age pension/1/2	2.60€	2.70€	2.70€	2.90€
early old-age pension 1/2	3.00€	3.00€	3.20€	€3.30

Source: Social Insurance Agency 2018–2021.

19 In 2018, from 18 March the SR Government was reconstructed. With the Prime Minister replaced, a new government was formed, which appeared before the Slovak Parliament with a request for a vote of confidence. Mr Pellegrini's newly-formed government essentially respected the results of the 2016 parliamentary elections, and the new government programme statement of 2018 also copied that of 2016. The new government (2018–2020) did not violate the redistribution of the value theses of the 2016–2018 government, and thus also in the area of social insurance, valorisations of old age pensions were conducted according to the percentage key.

20 The Social Insurance Agency, online: https://www.socpoist.sk/aktuality/54309c (Downloaded 24 March 2021).

21 The head office of the Social Insurance Agency provides the information, online: https://www.socpoist.sk/3077-aktuality/48411s65096c (Downloaded 24 March 2021).

22 The head office of the Social Insurance Agency provides the information, online: https://www.socpoist.sk/aktuality-valorizacia-dochodkov-od-1-januara-2019/48411s66866c? (Downloaded 24 March 2021).

23 Increasing pensions in 2020 online: https://www.socpoist.sk/zvysenie-dochodkov-v-roku-2020/68032s (Downloaded 24 March 2021).

24 Calculator for calculating the pension valorisation from 1 January 2021 online: https://www.socpoist.sk/kalkulacka-na-vypocet-valorizacie-dochodku-od-1-januara-2021/68030s (Downloaded 24 March 2021).

Table 4 Average amounts of pension benefits for the needs of valorisation (as at 30.6.).

year	2018	2019	2020
old age pension	432.7650665	449.9720304	468.1733788
Early old age pension	413.4832766	434.9960174	451.6934628

Source: Social Insurance Agency 2017.[25]

The valorisation of all types of pensions in 2019, including old age pensions, is based on data on year-on-year growth in consumer prices for pensioner households for the first half of 2018. According to data from the Statistical Office of the Slovak Republic reported this figure was 2.6%. This means that pension benefits increased in 2019 either by 2.6% or by the minimum valorisation fixed amount of the given type of pension, whichever was the more advantageous for the old age pensioner. The amount of the increase in the old age pension in 2019 was at least a fixed amount of €8.70 for old age pensions and €8.30 for early old age pensions. The amount of the increase in the pension paid in the amount of one half was €2.70 for the old age pension and €3.00 for the early retirement pension.[26] As regards 2020, here the Social Insurance Agency increased old age pensions in the year according to Section 82 and Section 293dx of Act no. 461/2003 Coll. on social insurance, as amended, by 2.9% of the monthly amount of pensions, at least, though, in the fixed amount determined as 2% of the average monthly sum of individual types of pensions reported by the Social Insurance Agency as at 30 June 2019. The guaranteed, and therefore fixed, amounts of the increases in 2020 were as follows. In the case of an old age pension in the full amount of €9, the amount of the pension increase paid out in the amount of one half represented €2.70. In the case of an early retirement pension, this was the value of €8.70, the amount of the pension increase paid out in the amount of one half was €3.20. The valorisation of old age pensions for 2020 was prepared by the government comprising the entities SMER-SD, SNS, MOST – HÍD (centre-left value orientation) and the valorisation for 2021 was then under the direction of the new government, which currently consists of the subjects OĽANO, SME RODINA, SaS and ZA ĽUDÍ (Table 1). In the given period since the start of 2020, the Covid-19 pandemic has significantly affected the overall economic and social situation, which has required and still does require extremely high investment in research, development and the implementation of solutions to this serious problem. Part of the pre-election struggle was also the topic of 13th pension in the Slovak Republic, which was partly reflected in the socio-economic reality already in December 2020. It is this moment that can be understood as key in identifying the understanding of social justice in the period observed.

Over the period 2020 to 2021 two government coalitions alternated in power in the Slovak Republic in the standard term of parliamentary elections. As mentioned above, up until

25 The Social Insurance Agency, online: https://www.socpoist.sk/aktuality/54309c (Downloaded 24 March 2021).

26 Social Insurance Agency, online: https://www.socpoist.sk/aktuality-valorizacia-dochodkov-od-1-januara-2019/48411s66866c? (Downloaded 24 March 2021).

30.4.2020 power was held by a coalition of SMER-SD, SNS, MOST – HÍD. On 29.2.2020 the Parliamentary elections were held, in which the political entities OĽANO, SME RODINA, SaS and ZA ĽUDÍ succeeded, forming a government coalition. This political cooperation resulted on 30.4.2020 in the formation of a government coalition and, on the basis of an expression of confidence and approval of the Government's programme statement 2020–2024 by the Parliament of the Slovak Republic they took over the creation and implementation of political power in the state.

The solution for the increase in old age pensions was in the competence of the new centre-right government representation in the year. In January 2021, more than 1.4 million old age pensioners received more money.[27] In January 2021, pension benefits were increased (table 3) either by a percentage of the year-on-year increase in consumer prices for pensioner households, i. e. by the so-called pensioner inflation, or by the minimum valorisation fixed amount pertaining to the given kind of pension. Year-on-year growth in consumer prices for the first half of 2020, based on data published by the Statistical Office, was 2.6 %. More than 1.51 million pensions, out of more than 1.7 million pensions paid, grew by the pensioner inflation, i. e. by 2.6% of the monthly pension amount. For almost 87 % of pensioners, percentage valorisation was more advantageous.[28]

Another moment on the basis of which it is possible to observe which model of old age pension valorisation is preferred by which political subject through its axiological system is the institute of the 13th pension. The discussion, especially political-populist on the issue, has been going on for several years. It is demonstrable that while the centre-left political representation prefers a uniform amount of the 13th pension for all categories of old age pensioners, the centre-right part of the political spectrum supports the 13th pension on the basis of the classical percentage model based on performance and merit.

If we follow the institute of the 13th pension in the Slovak Republic I refer the time period 2012–2021, it can be said that valorisation in the form of the 13th old age pension took place essentially only once, in the following form. In 2020, SMER-SD promoted again in 2020 the 13th pension in a uniform amount of €460, whilst early retirees were to receive €433. This amount was based on the average pension. The legislation for this model received support from SMER-SD, SNS and SME RODINA. However, as follows from the above, parliamentary elections were held in the Slovak Republic on 29 February 2020, and the government coalition composed of OĽANO, SME RODINA, SAS and ZA ĽUDÍ intervened in the form of implementation of the institute of the 13th pension in December 2020. The actual model of the 13th pension in the Slovak Republic in 2020 was as follows: The maximum amount of the 13th pension in 2020 was €300. This was paid to pensioners with a pension of €214.83 or less. For recipients of a pension in the range from €214.84 to €909.27 the amount the 13th pension was reduced down to a minimum of €50.01.

27 It is pertinent to ask whether more money in 2021 also means higher real purchasing power. This question is connected also with the target group of old age pensioners, as well as all other social groups. The process of massive quantitative easing again in 2021 meant a negative development of multiple economic indicators, for example inflation, which significantly affects the real value of money. It is also questionable whether this constitutes valorisation or indexation, but we also have in mind here the global perspective, the Bretton Woods monetary system, which though, is not directly a subject of examination in this paper.

28 The head office of the Social Insurance Agency provides the information, online: https://www.socpoist.sk/aktuality-ako-sa-zvysia-dochodky-v-roku-2021/48411s69059c (Downloaded 24 March 2021).

The lowest 13th pension in the amount of €50 is paid to those pensioners who received a pension in the amount from €909.28 or more.[29]
Since January 2021, there has been an amendment to Act no. 461/2003 Coll. on social insurance. Under this amendment, the amount of the minimum old age pension has remained at the level from 2020. The SR Parliament passed a return to the conditions of qualified years, as well as earnings at least at the level of 24 % of the average wage. A recipient of the minimum pension whose pension was, even after the January valorisation, lower than the statutory minimum pension receives a pension in an unchanged amount, for reason of "preserving the minimum pension". From the beginning of the 2021 calendar year, the legislative amendment allows for the setting of the minimum pension amount to be re-evaluated only after those periods of pension insurance that are considered qualified. Thus, in terms of a pension's applicant entitlement to a minimum pension, there are again considered only those years of pension insurance in which the applicant earned in close monthly at least 24.1 % of the average wage, i. e. a little less than €274. The amount of the minimum pension for 30 years of a qualified pension insurance period thus remains at €334.3 monthly. The amount of the minimum pension may be increased again only once an amount representing 136 % of the amount of the subsistence minimum for one adult natural person exceeds the amount of €334.30. Seemingly, the minimum pension amounts will be frozen for the next 12 years. The Ministry of Labour, Social Affairs & Family of the Slovak Republic has proposed freezing the nominal amounts of the minimum pension to the level of 2020, due to the introduction of justice and the adjustment of conditions for the provision of the minimum pension, and its fair valorisation.[30]

Conclusion

The aim of this paper has been to address the understanding of social justice by government groups in the Slovak Republic through the mechanisms of valorisation of old age pensions in the period 2012–2021. The objective of the study to highlight the fact that the axiological basis and models of social policy can serve as a key to understanding the essence and implementation of specific political steps of government representations, made it possible to emphasise the lasting significance of values in political practice. It was confirmed that the classical typology of social policy is relevant also in the case of monitoring valorisation mechanisms applied by individual government coalitions, and this also in the Slovak Republic, which is part of the span of Western civilisation with its axiological basis. As has been proven, the value orientations of non-classical political entities, which currently represent the dominant part of the political spectrum, essentially correspond to the value lines of traditional political entities, now currently in decline. It remains relevant that left-wing political subjects perceive social justice through a dominant standing of the state, which is reflected in an across-the-board raising of old age pensions. Right-wing political subjects emphasise lifelong work performance and merit, which should

29 The head office of the Social Insurance Agency provides the information, online: https://www.socpoist.sk/aktuality-socialna-poistovna-dnes-zacina-vyplacat-13-dochodok--dostane-ho-priblizne-1-4-mil-dochodcov/48411s69131c (Downloaded 24 March 2021).

30 Pension by design, online: http://pensionbydesign.com/# (Downloaded 24 April 2021).

also be reflected in the valorisation mechanism for the old age pension via a percentage increase. The value basis of the policy is a historically stable indicator that still resists various changes, even at this time, which is characterised by the building of a new metamodern[31] globalised world.

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REVIEWS

Andrea SZABÓ, Dániel OROSS, Viktor PAPHÁZI,
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A magyar társadalom politikai értékei, identitásmintázatai, 2020 [Political Values, Identity Patterns of Hungarian Society, 2020]

Budapest: TK PTI, Eötvös Loránd Kutatási Hálózat 2021, 119 pages.
ISBN 978-963-418-043-2

The examination of value and identity categories has become a central point of research in social sciences in Central-Eastern Europe and Hungary in recent decade. This book that shows an empirical study came to its end in December 2020 and evaluates its results is a proof of this tendency. Authors are sociologists, politologists, and PhD students. Andrea Szabó, vice director of Institute for Political Sciences of Social Sciences Research Institute led the research and the collecting of the evaluation work in a volume. Considering last year's difficulties caused by the pandemic, results of this research achieved a dual aim: in the one hand, in the framework of a comparative analysis they evaluated the results of the fundamental research conducted five years earlier as well as presented a view of Hungarian society's current status of mental health.

This research, as well as the book, followed Social Sciences Research Institute's tradition born in 2015 when the final large sample fundamental study was being conducted in Hungary, the results of which were revealed for the public at that time. In 2015 two books were issued titled *Társadalmi tükör*, and *Politikai tükör* ("Social Mirror", "Political Mirror"). Both of them showed the fundamental results of Hungarian society's degree of integration from the point of view of political sciences and sociology. This research began in the turn of 2017/2018 with the final results from December 2020. The starting point for this research, the contentual basis for its hypotheses was provided by a lecture held by István Stumpf inspired by that of Francis Fukuyama's. As 2008's financial crisis undermined belief in the almightiness in liberal world order and market economy, it provided a space for rethinking the role of state intervention and the state itself (good governance vs. good government debate) as well as upvalued nation-state approaches, and resulted in strict and - as liberal interpretation regards - populist, anti-elite leaders' gaining ground. It states that migration crisis put identity politics in the centre of political conflict both in America and Europe. Authors committed to conduct an empirical study to examine this strong statement. Interestingly, most part of the interval of this social sciences scrutiny coincided with the period fraught with difficulties emerged from the worldwide spread of corona virus.

The results of this research have been interpreted by the authors in eight chapters: 1. values, identities, 2. political ideologies orientations, 3. political preferences, 4. trust in political institutions, 5. individuals' relation to democracy, 6. political socialization mechanisms, 7.

issues of public politics in the agenda of public opinion, 8. political participation beyond elections (in this order).

Information containing results gained from comparisons with researches conducted between 2014-2016 and international public policy studies is to be highlighted.

Value sets orienting our life, influencing our social conduct, determining community-individual relationship reflect in people's mindset and social processes. They can make easier or prevent, facilitate or slow down social changes. Changes in these values have their effects on relation to democracy, degree of trust in political institutions, as well as mechanisms of socialization. The first large chapter deals with characteristics of values and identities. Authors emphasize that values are largely abstract categories, therefore measuring them empirically is quite a difficult task for researchers. However, sociologists have applied numerous well-functioning measurement tools for the examination of value structures in different societies, amongst which some are shown in the book. In relation to this, Francis Fukuyama's and István Stumpf's opinion of the changes in political-ideological and economical dividing lines is also described. While the American philosopher, economist emphasizes left-right division as the main consequence of these changes, Stumpf considers national sovereignty vs. federalization to be highlighted. The research itself was being conducted in a hybrid structure; it applied Inglehart's 12 statement question series for value examination, applied in Word Values Surveys, completed with 3x4 value items originating from Fukuyama's perception. Summarizingly, research team comes to the conclusion that identity that is sovereignist, concerns its national sovereignty, and presents nation-state approaches is more related to physical needs, materialist values, while federalist, supranational views are more connected to post-materialist approach, values emphasizing social- and self-realization. Research executed in 2020 pointed out that Hungarian society regards economical and physical security, material needs and stability as the most important values.

A particularly important part of the book is the one including the presentation of issues of relation to democracy and trust in institutions. Hungarian society's relation to democracy is one of the most hotly discussed issues examined in the framework of recent years' studies conducted in Hungary. In relation to this, it is important to note that authors differentiate between view of democracy and Hungarian society's assessment of democracy. They consider that while the former includes mainly opinion forming in a normative dimension, the latter is undoubtedly embedded in the context of people's direct, personal experiences. Hungarian adult society is more pro-democracy than earlier and more satisfied with the function of it. What researchers add to all this is that while democratic order is preferred by the larger part of society, fewer are satisfied with how it functions.

Trust in institutions have been examined with a questionnaire including questions regarding Hungarian Parliament, Police, Constitutional Court, churches, politicians, political parties and civil societies. For testing their theses, authors used qualitative and quantitative methods. Trust in institutions has already been measured in the framework of several international studies, for example in European Social Survey (ESS), among others. According to their results, members of Hungarian society provide their confidence mostly to the police, while the least do to political parties and politicians. Public trust index shows an increasing tendency between 2010-2020.

The 8 topics included in the book, that are presented in 119 pages, illustrated with numerous graphs, diagrams, completed with clear and thorough introductions regarding methods used, reveal all details of research to readers. Visual elements have been laid out in proper space and format between the text. The presentation of agents and dynamics made by authors provided new elements to the interpretation of the view formed about Hungarian society's perception before elections in Hungary due in 2022.

(Andrea, Szabó, Dániel, Oross, Viktor, Papházi, Zsanett, Pokornyi, Annamária, Sebestyén: *A magyar társadalom politikai értékei, identitásmintázatai, 2020* ("Political Values, Identity Patterns of Hungarian Society, 2020"). Budapest, TK PTI, Eötvös Loránd Kutatási Hálózat, 2021, 119 p. ISBN 978-963-418-043-2.

„Prepared with the professional support of the Doctoral Student Scholarship Program of the Co-operative Doctoral Program of the Ministry of Innovation and Technology financed from the National Research, Development and Innovation Fund."

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