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Internet Platforms and Digital Economy

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Abstract

Data- and Internet-based technological innovations have led to new business models, products and services in recent years, bringing many benefits to consumers and businesses. A central aspect of the discussion in regards to the regulatory framework of the digital economy is the fact that in many areas, market structures are characterized by a leading or even dominant provider. On the other hand, there are many voices from the United States that do not see any problem in the concentration tendencies. In fact, digital economy platforms and data-driven offerings present significant challenges to antitrust enforcement.

Key words

Amazon, Digital Economy, Google, Platforms, Restriction on Competition

1. Introduction

Digital economy¹ has become more important in recent years and are in focus of public and political attention. The ever-increasing digitization of products and business processes as well as the ubiquitous networking, particularly in the mobile sector, are leading to a rapid development of new offerings and the improvement of processes and products. The speed of technological progress and the resulting changes in many areas of the economy. Online services are always opening up new markets where they are competing with established providers.

A central role is played by business models, which are described as "internet platforms". Internet platforms bring together diverse user groups and offer users a variety of ways to search, inform, communicate or conduct transactions. The ability to (re) track and analyze platform (user) behavior provides businesses with many opportunities to develop new business models and to leverage their private data. Under the heading "big data", new technologies are being created with which data volumes of unprecedented size and complexity can be captured, stored, combined and analyzed. Data has thus become an increasingly important economic factor or a key "raw material" for entire industries.

Data and internet-based technological innovation has in recent years led to new business models, products and services that bring many benefits to consumers and businesses. Platforms acting as intermediaries present many challenges to the legal system. They evade many established categories and thwart the logic of existing regulation. This becomes especially clear in the discussions about offers. "Sharing Economy": Are people offering a variety of services via platforms or is the platform their employer? Can the "mere intermediary" of transport services be held liable for the violation of the particular legislation? A central aspect of the discussion on the regulatory framework of the digital economy is the fact that in many areas of internet-based platform offerings, market structures have developed or evolved that are characterized by a leading or even dominating provider. Individual companies are able to extend such a position across multiple product ranges.² Google also offers "YouTube", the largest video platform, "Chrome" a widespread internet browser, and "Gmail" one of the largest e-mail services. Beyond these internet platforms, Google is also the provider of the most widely used operating system for smartphones and tablets ("Android") and penetrates through acquisitions and proprietary research in areas such as home automation and the development of self-driving cars. European policy has been calling for regulatory intervention, ranging from non-discriminatory or "search neutrality" obligations, to compulsory disclosure of the search algorithm, to the unbundling of Google's various business units. A discussion about the "gatekeepers" of the internet, their economic and social power, and the appropriate governmental responses have flared up. It partly sees the need to re-think fundamental issues of dealing with economic power and draws historical comparisons of the early days of industrial capitalism. On the other hand, there are many voices from the United States that do not see any problem in the concentration tendencies. Referring to the complexity and dynamics of digital markets, government intervention is considered unnecessary or even dangerous. The process of creative destruction is emphasized by innovative or "disruptive" technologies and business models. In fact, digital economy platforms and data-driven offerings present significant challenges to antitrust enforcement. Traditional methods of measuring competitive relationships and identifying market power are not immediately applicable. The conceptualization of the platforms and

¹ FUNTA, R. (2019): Economic and Legal Features of Digital Markets.

² BODNÁR, P. M. (2019): Some problems of company law.

their market relevance must take into account the interactions between different market sides as well as the role of data as a "return".

2. Internet platforms and digital economy

Markets of the digital economy are characterized by special mechanisms and phenomena. Although the platforms provide very different services, they share certain characteristics. While the exact market definition and market share as such may be less significant in innovation-driven digital markets than in traditional markets, a good understanding of competitive relationships is needed. This raises the fundamental question of which relationships are included in the antitrust analysis, in particular whether an independent market relationship can be assumed. If market relationships exist on several market sides, then the question arises whether they should be analyzed separately or whether the analysis should be based on an overarching (platform) market. In determining market concentration and market power, network and economies of scale as well as the possibility of market entry play a central role.³

2.1. Business models of internet platforms

(1) Content

Content providers show concrete digital content such as online news, music or movies. This can be provided for a particular fee, but often the main revenue is generated through promotional offers, which are adjusted to their preferences based on user behavior. Content providers often use offers from search providers for such user-targeted advertising placements.

(2) Search

These offerings initially include so-called general search engines that display users when entering certain search terms links to websites of other (content) providers. In this case, a listing is carried out according to certain criteria, for example, based on the frequency of visits by other users ("clicks") or the references of other websites ("links"). The listing of the search results is determined by a search algorithm. Central to the business model of many search engines is the collection and analysis of user data. These data are used to improve results. Above all, however, there is an economic utilization of the generated user data through the sale of advertising space. For example, web page providers may display ads to previously defined search terms.

(3) Trading or brokerage platforms

Trading platforms bring sellers buyers together (incl. broker transactions), which in individual cases are also handled via the platform. Such platforms may be specialized (e.g. Booking for hotel rooms, comparison portals for insurance etc.) or cover entire ranges of products (e.g. Amazon or eBay). Financing is primarily performed through commission and offer fees. The placement of promotional offers by relevant providers can generate additional revenue.

(4) Communication networks

Social networks allow users to connect with other users or within different groups for the purpose of internet-based communication. Social networks can economically exploit the generated data by third-party providers; On the other hand, there are also social networks that are financed (in part) through paid memberships (e.g. monthly subscription fees) with less or no additional advertising funding.

3. Internet platforms as two-sided markets

The typical way an internet platform makes profit is by acting as a two sided market. The classical understanding of markets is based on the cooperation of suppliers and buyers. A group of providers is therefore faced with a group of consumers. Suppliers focus their strategic behavior on the demand side, and the interaction between suppliers and buyers determines the price of a product. This view of markets has been supplemented for certain market events. This applies in particular to the internet platforms mentioned above, but also to traditional media markets. Two- or multi-sided markets serve two (or more) market sides and allow direct interaction between these sides. Such organizations are also referred to as platforms. The core idea is that the platform enables the interaction between the sides without being involved in the interaction itself. Rather, the platform allows the sides to find each other, and thus the interaction is possible or at least simplified. However, facilitating or simplifying a transaction is, also guaranteed by a trader. Do traders therefore also use two-sided markets? Traders are usually characterized by the fact that they buy products from suppliers (manufacturers) in order to resell them to buyers (consumers). In this respect, traders naturally also have contact with two or more market sides. However, the activity of traders is not considered to be a two-sided market. A critical demarcation is made through the control of important variables of the transaction, e.g. in the form of price sovereignty over a product.

³ LOPATKA, J. E. (2011): "Market Definition?"

4. Definition and characteristics of two-sided markets

One way to define two-sided markets is through the external effects that act between the different sides of a platform. The decisions of individuals may affect the benefits or choices of other individuals within a group (direct network effects) or interconnected groups (indirect network effects). In the first case, members of a group benefit immediately from the fact that their group is getting bigger. A typical example of this is operating systems insofar as users benefit from other users using the same operating system because users can help each other in using and sharing with each other. In the second case, members of a group indirectly benefit from the fact that their group grows, as this creates an incentive for the other group to grow as well, which in turn has a positive effect on the first group. For example, users benefit from the fact that many people use the same operating system because it makes it more attractive for software developers to program software for that operating system.

There is also the distinction between so-called transaction and non-transaction platforms.⁴ A transaction platform is defined as an intermediary between two sides with the aim of enabling a direct (observable) transaction between these sides. Both sides have the identical goal of achieving a transaction with the other side. There are mutually beneficial positive indirect network effects between the user groups that are internalized by the transaction platform. The mediation service of the platform requires that both sides are connected to the platform. Examples are trading platforms or real estate platforms. Non-transactional platforms also mediate between two or more sides, but their clashes result in non-specific interaction (e.g., viewing advertising) rather than a direct transaction. For non-transaction platforms, positive indirect network effects usually only act in one direction, meaning that only one user group has a positive effect on the growth of the other user group. If, for example, readers and advertisers of a newspaper are considered, an increasing number of readers is positive for advertisers.

For the antitrust review, a definition of the platform concept could be useful in order to have a clear starting point for the special concepts. In that regard, a combination of some of the mentioned elements would be considered: as platforms would then be considered companies that allow the direct interaction of two or more user sides, between which indirect network effects exist as intermediaries.⁵ This definition would focus on the importance of indirect network effects in the market power test, while allowing differentiation to dealer relations. The differentiation between transaction platforms and non-transaction platforms,

on the other hand, seems too narrow for antitrust practice. E.g. the search engine Google fulfills the platform definition regarding the group of search users and the advertisers in the form of the attention platform, since there are positive and negative indirect network effects between these groups. Here, the search engine enables the advertising contact between search user and advertiser, an interaction in which the search engine is no longer involved. In addition, it should be discussed whether the websites listed in the (general) search result list also represent a platform side and the search engine could fulfill the definition of a matching platform to that extent.

In the case of the online sales platform Amazon, on which an extensive range of goods is sold by Amazon as well as by third-party merchants via the so-called marketplace, it is necessary to delimit the platform offer from the merchant activity.⁶ Amazon presents both segments as a unified integrated store that does not separate Amazon's proprietary and marketplace businesses. However, Amazon's own business is clearly a trading business where Amazon procures goods itself and resells them in its own name via the online shop. On the other hand, when operating the Marketplace, Amazon generally acts as an intermediary, enabling the direct interaction or transaction between the user group and the end user's user group. Amazon is no longer involved in the transaction between Marketplace merchant and consumer. Amazon proprietary trading can also be seen as a vertically integrated part of the merchant user group that contributes to possible indirect network effects. However, to what extent there are actually indirect network effects between these groups may be questionable.

5. Market relationship in terms of competition law

The possibility of interaction between two or more sides provided by a platform can vary greatly in individual cases. In many cases, the activity of a platform is limited to mediation and does not include a subsequent transaction. For example, trading platforms can simply provide a technical way for two sides to search and find each other. Platforms can intervene supportively by making a presorting of suitable members of the other side by means of corresponding search options. In addition, it is also conceivable that platforms may offer companion transaction services (clearing) without being directly involved in the transaction. It also varies as to the extent to which there are explicit contractual relationships between the platform and the various affiliated sides. The pricing of a platform is mainly based on the external effects that act between different sides of this platform. The (regularly) different prices, which demands a platform from several sides, represents in this view ultimately nothing else than a price differentiation by groups. For example, currently active online real estate platforms

⁴ FUNTA, R. (2019): Economic and Legal Features of Digital Markets.

⁵ FUNTA, R. - BOVOLI, V. (2011): Freedom of establishment of companies in the EU.

⁶ FUNTA, R. (2018): Amazon a presadzovanie antitrustového práva.

charge (normally) no fees to the searching user side. The turnover of the platforms is achieved in this respect only with fees that are payable by the real estate providers. This raises the fundamental question of whether the relationship of a platform can be regarded as a market relationship.

In the proceeding against Google, the European Commission has for the first time considered a "search engine services market" between Google and users, although Google's services on this market are free. Also in the merger case Microsoft/Skype, the European Commission accepted a market for video communications services offered free of charge by the parties to the merger.⁷ Similarly, in the case of Facebook/Whatsapp, the approach was in the area of "end-customer communications services" and "social networking services".⁸

Against the backdrop of the functioning of two-sided markets, it is increasingly being argued that a market can exist even if products are offered for consideration other than monetary consideration. Especially in the digital economy there is often no pecuniary price (for one side). Rather, certain market participants pay compensation in the form of attention. In addition, Internet users leave a price by revealing information, i.e. data, their search behavior, shopping habits or their preferences. This information is very valuable from the point of view of the Internet platforms, as the advertising offers can be individually adapted to the user and thus content and advertising can be more targeted to the customer. For the purposes of antitrust enforcement, it may be useful to regard "fee-free" services of platforms as market relationships with regard to the single economic purpose of the multilateral activity, irrespective of the most profitable monetary pricing.

5.1. Market definition

The relationship between the platform and the individual sides could each be regarded as an independent market. Secondly, it could be assumed that there was a single market covering both sides. The question of whether bilateral markets can be based on separate markets or a single market depends on how pronounced the characteristics of two-sidedness are in each individual case. In the case of non-transaction platforms, the market definition will be separate across the different sides, but the interdependencies between the separate markets will have to be respected.

Incidentally, antitrust law may also apply recognized market definition instruments with some adjustments in the field of digital economy. Thus, the demand market concept should provide sufficient leeway to consider the specificities of platform markets as part

⁷ Case COMP/M.6281 – Microsoft/Skype.

⁸ Case COMP/M.7217 – Facebook/WhatsApp.

of the examination of the "functional interchangeability" of a product. In particular, positive effects caused by direct and indirect network effects on the user can be important for the question as to the extent to which a particular product is functionally interchangeable with other products. Insofar as a "single-platform market" can be considered from the users' point of view, the market definition considerations overlap considerably with the market power test. The demand market concept could be supported by considering the switchover flexibility on the supplier side. Far more critical is the applicability of price-related market definition instruments - such as the so-called hypothetical monopole test or SSNIP test.⁹

5.2. Market concentration and market power

When taking into account the dynamic environment, the different user groups and the interrelations between them, market power in the context of antitrust law is not easy to ascertain. Market power in this sense means, in particular, the possibility of increasing prices or limiting quantities.¹⁰ It is also possible for large companies to close competitors' markets and recover any costs of investing in welfare-reducing behaviors at a later date. Decisive is the statement as to when the neutralization of economic power can no longer be left to the market and market-dominant companies are subject to behavioral requirements that do not apply to other companies. Although there is at least the theoretical possibility of directly measuring market power (for example, by the so-called Lerner index), the practical applicability of these methods is limited. Thus, the indirect approach when estimating market power has prevailed, taking into account a number of different factors for each individual case. In addition, two-sided markets need to take into account the specificities of platforms.

It is questionable to what extent traditional market power factors can be used in platforms for determining market power. In particular, market shares are generally regarded as a "first filter" in one-sided markets in order to obtain an assessment of the market positions achieved and to identify potential risks to future competitive behavior. Even against the background of network effects, market shares can have significance, since relatively larger networks are regularly favored by new users. In the case of two-sided markets, the assessment of welfare effects may be made differently or by a supplementary feature. For example, to assess market power in two-sided markets, it would also be possible to assess the internalisation of network effects in addition to assessing allocative and dynamic efficiency. The inherent nature of the increase in market share of platforms does not always

⁹ FUNTA, R. (2012): Legal & economic analysis of cartels, their enforcement and the leniency program.

¹⁰ KALESNÁ, K. – HRUŠKOVIČ, I. – ĐURIŠ, M. (2011): *Europske právo*.

have to be negative to the competitive environment if the dynamic nature of these markets is denied. Similarly, the European Commission argued in Microsoft/Skype that an emerging market share of around 90% was not considered critical as this market was characterized as still vulnerable due to low entry barriers and changing user preferences. At the same time, however, it should also apply to digital markets and platforms that monopoly positions have a negative impact in the medium to long term, in particular on innovation incentives and allocative efficiency. The debate over the digital economy touches on the normative as well as economic question, to which market power can be economically advantageous and acceptable.

However, market shares can only be one factor among many indicators of market power estimation. Here, similar but also different factors may play a role compared to one-sided markets. Often, in this regard, the great importance of intellectual property rights or user data is called. For some platforms, access to user data is a very valuable and critical factor. This is especially relevant for offers where (online) advertising is the key financing factor (examples are Google or Facebook). Especially the possibility of combining data from different sources can increase their value and the unique position of the owner. In that regard, it does not seem excluded that data may act as a market entry barrier. This raises the question, which is difficult to answer in each individual case, about the stock of data required to make a successful bid, and to what extent additional data further enhances the quality of the offer (such as a search engine). Also, it should not be ignored that the importance of data can at the same time provide incentives for new, innovative products to consumers.

6. Restrictions on competition

The conceptual challenges when analyzing platform markets are focused on question of how to use competitive intelligence instruments in digital economy markets; in particular which restrictions of competition or theories of damage can justify regulatory intervention.¹¹ Since the acquisition of WhatsApp by Facebook, however, more and more discussions appear on how network effects, user data and possible, but difficult to predict, market developments in platform mergers can be adequately taken into account.

6.1. Internet platforms and merger control

It is by no means that platforms grow as a result of superior innovation and network effects. Rather, external growth through acquisitions has and will play an important role. Google has acquired more than 200 companies since 2015. These acquisitions contributed significantly to platforms and digital "ecosystems" often spreading across a variety of different sectors. A

¹¹ KARAS, V. - KRÁLIK, A. (2012): Právo Európskej únie.

reduction in the number of platforms may lead to increased competitive intensity, in the context of a simplified internalisation of network effects and concomitant improvement in competitive opportunities. However, the self-reinforcing network effects and inherent dynamic expansion of market share also pose a competitive threat to merger control. For example, if a platform dominates a two-sided market, a merger between market-leading companies and further narrowing the market may be defended because of the specificities of these markets in order to prevent tipping and maintain competition between two (or a few) larger platforms.

Due to the importance of the economic factor of data for many sectors and business models of the digital economy, the strategic interest in a merger may also lie in improved access to data. The merger of established platforms with innovative newcomers can open up new data access and increase the data concentration in the market. At the same time, such concentrations may lead to a reduction in the innovation potential of certain sectors and thus the vulnerability of existing market positions. Access to data has at least an indirect effect on the competitive assessment. To a certain extent, new forms of mergers can be identified in the digital economy: demand-side conglomerate mergers can be characterized by supplier-side synergies, in particular the collection and linking of data from different sources. Linking data from previously separate sources can also facilitate product enhancements and generate efficiencies. Especially in the context of such data-driven mergers, the question of the relationship between antitrust law and data protection is raised. There is relative agreement that antitrust law can not or should not be used originally for data protection. Concentrating and linking data is not necessarily a competition issue, and tracking privacy-related concerns alone is not assigned to the antitrust authorities. On the other hand, privacy can be seen as a parameter of non-competitive competition. For example, less privacy may allow product improvements that are appreciated by many consumers. It should be noted that competition and data protection can go hand in hand, but this need not always be the case. For example, the simplified possibility of data portability between different platforms under the European Data Protection Law would have a direct positive impact on competition.¹² In particular, possible lock-in effects would be directly counteracted by users and would limit market power. On the other hand, certain solutions to competition problems can be quite problematic in terms of data protection law - such as access to or sharing of user data. As it can be seen in the Facebook/WhatsApp merger, but also in similar past acquisitions (e.g. Google/ DoubleClick),¹³ it makes sense to discuss the extent to which mergers with established providers who have significant financial reserves can prevent

¹² BORCHARDT, K. D. (2010): Die Rechtlichen Grundlagen der Europäischen Union.

¹³ Case COMP/M.4731 – Google/DoubleClick

potential competition in the foreseeable future and consolidate their market position. As a result, dynamic competition could be harmed as acquirers have less incentive to invest in innovations. The separation tendencies could be stopped or significantly delayed.

7. Contractual restrictions and cooperations

7.1. Price parity and most favored nation clauses

Price parity and most-favored-nation clauses are contractual arrangements that can restrict competition between platforms. Restrictive effects may arise as there is no possibility for them to differentiate themselves from other platforms through lower sales commissions and concomitant lower retail prices. In addition, lower levels of competition may lead to higher commissions and retail prices. There is often a competition between platforms for users, characterized for example by high investments in (search) advertising, which are financed by increasing commissions vis-à-vis providers operating on the platform. An additional problem may arise if the platform operator itself, as a provider on its platform, is in direct competition with other providers using its platform. Price parity clauses are then given the character of a horizontal price agreement.¹⁴

7.2. Market power transfer and discrimination

In digital markets, the abuse test can be based on case constellations in which a dominant company attempts to exploit its market power to hinder another company on an upstream or downstream market.¹⁵ The transfer of market power - so-called "leveraging" - from one dominant to a neighboring market seeks to counteract a possible loss of dominant position by hindering innovation competitors. On the one hand, this can become relevant if a neighboring market has the potential to substitute the technology in the dominated market. On the other hand, entering a neighboring market can accelerate the market penetration of the product or service of the dominant company. The means used by Internet platforms go beyond classical strategies of coupling and bundling and, in particular, concern the "steering" of users through appropriate visual presentations, presettings etc. From the point of view of market power transfer and discrimination, one can also see the question that has been raised in the discussion as to whether Internet companies must grant competitors and other companies access to Internet-specific services. This does not mean access to technical infrastructure such as wiring networks, but access to intellectual property rights (e.g., software patents), other business services (e.g., interfaces, search algorithms), or business secrets (e.g., user data). It also addresses the question of when internet platforms have a "bottleneck" or "gatekeeper"

¹⁴ KALESNÁ, K. – BLAŽO, O. (2012): Zákon o ochrane hospodárskej súťaže-komentár.

¹⁵ SVOBODA, P. (2010): Úvod do evropského práva.

function, so other companies need to share a facility or service in order to operate on a (upstream or downstream) market. It is questionable how to estimate a possible preference for own services by such dominant Internet platforms. With regard to the general search engine of Google, the possibility of a review of the search algorithm under the aspect of the prohibition of discrimination and non-discriminatory access is discussed.

7.3. Price-related abuses

Characteristic for two-sided markets is a simultaneous and interdependent pricing for the different sides of a platform, which usually includes i.a. the demand elasticities and marginal costs of both sides. Considering the price setting on a single side would not reflect the strategic behavior of the platform correctly. Thus, in assessing the price it is generally not possible to refer to the deviation from the marginal cost or any other defined competitive price. For a platform it can be optimal to set the price on one side above and on the other side below the marginal cost. The higher price on one side is an expression of strong indirect network effects on the other side and is a kind of subsidization of this other side. The assessment of abusive price setting would therefore have to be based on price structure and price level, including both sides.¹⁶ Under certain circumstances, such pricing can lead to the extent that other providers are displaced from the market. On the one hand, this can express successful innovation competition. On the other hand, for markets with well-established providers, this can be associated with a reduction in welfare.

The collection and exploitation of user data by internet platforms is also discussed in the context of "data misuse" through excessive collection and commercial use. In addition to the question of a breach of data protection provisions, an antitrust review could also be appropriate. Specifically, the collection of user data often takes place in that users agree to the General Terms and Conditions (GTC) of the internet platform. In that regard, parallel aspects of consumer protection are relevant, for example in the form of the inclusion of terms and conditions and the possibilities to use alternative providers with other, more data-saving terms. The terms and conditions usually contain a clause that allows users to agree to a survey of personal data. The use of inadmissible terms and conditions by dominant companies can in principle constitute an abuse.¹⁷ It is questionable to what extent excessive data collection under the aspect of a misuse can also be detected outside of data protection law. A benchmark for excessiveness from a competitive point of view does not exist.

¹⁶ JONES, A. - SUFRIN, B. (2016): EU Competition Law: Text, Cases, and Materials.

¹⁷ SVOBODA, P. - MUNKOVÁ, J. - KINDL, J. (2012): Soutěžní právo.

7.4. Exclusivity agreements

Against the background of different user behavior regarding the parallel use of multiple platforms (multi-homing) or the use of a single platform (single-homing), the competitive effects of exclusivity agreements must also be assessed. Particularly in the case of single-homing, it can be expected that exclusivity agreements will be concluded which can have a positive reinforcement effect for a platform. A longer-range platform offers greater incentives for exclusive user-side offers, especially for single-homing, which in turn reinforces the other side of the platform. Abuse control raises the question of whether, and under what circumstances, such practices are abusive.¹⁸

8. Concluding remarks

The ever-increasing digitization of products and business processes as well as the ubiquitous networking via the internet, increasingly in the mobile sector, are leading to a rapid development of new offerings and the improvement of processes and products. The speed of technological progress and the resulting changes in many areas of the economy and everyday life are already compared to the industrial revolution of the 19th century. Online services are always opening up new markets and competing with established providers. As a result of reduced barriers to entry to the market, new ideas can evolve into offerings with considerable reach in a short time. A central role is played by business models, which are described as "internet platforms". In fact, digital economy platforms and data-driven offerings present significant challenges to antitrust enforcement. Traditional methods of measuring competitive relationships and identifying market power are not immediately applicable. The conceptualization of the platforms and their market relevance must take into account the interactions between different market sides as well as the role of data as a "return", as an entrepreneurial resource and as a potential market entry barrier.

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9. Literature summary

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European Standards of Children's Right to Mental Health

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Abstract

The right of a person to mental health should be considered in the context of the legal status of certain groups of persons (women, children, migrants, refugees, etc.). For the purposes of this article, we will consider the right of children to mental health. The choice of this category of persons is due, in particular, to the steady increase in the number of nervous, unbalanced, hyperactive children with mental disorders, both in Ukraine and in the world as a whole. The future mental health of the nation depends on the extent to which the growing person will be provided with conditions that would guarantee mental health, optimal physical, spiritual and social well-being. Proceeding from the general principles of the European vector of development of the state, the formation of an institution for the social protection of children and the implementation of European standards of children's right to mental health in order to create favorable conditions for the formation of future generations is the most important task for Ukraine.

Key words

Mental health, children's rights, legal regulation, prevention of mental health, early psychological help

1. Introduction

The right to health, which includes not only the absence of somatic illnesses, but also mental and social well-being is one of the most important rights of people, recognized at the international and national levels. According to WHO definition, mental health is not simply a lack of mental disorder. It is a state of well-being in which each person can reach his or her own potential, cope with life's stresses, work productively and fruitfully, and contribute to the life of his community.

2. Problems in the field of mental health in Ukraine

In Ukraine there are a number of problems in the field of mental health and mental health of children in particular. These include: lack of a functioning mental health prevention system,¹ underdevelopment of the early psychological care system, early intervention

¹ POPOV, G. (2012): Prosecution activities in the field of protection of children's rights.

programs,² shortages and low availability of mental health services, lack of differentiation in providing care taking into account age and needs of different segments of the population, imperfection of normative-legal acts of Ukraine in the field of mental health care,³ lack of national standards of mental health care and national programs on mental health, low levels of funding in the sphere of mental health, lack of human resources.⁴

Ukrainian legislation mainly regulates the provision of specialized psychiatric care rather than a holistic cross-sectoral mental health care system, as is the case in most EU Member States. In Ukraine, despite the number of measures taken recently to protect the mental health of children, there are still many problems in this area, and above all in the implementation of mental health support and prevention of mental disorders in children and adolescents. This leads to an active involvement of comparative legal studies aimed at understanding trends, patterns and features of legislation aimed on protection of mental health of children in Europe.

3. Legal regulation of children's mental health protection in the EU

Mental health is an important part of EU social policy.⁵ In addition to the prevalence of mental illness, the urgency of development of a single EU policy to promote the mental health of citizens is driven by the close link between mental illness and suicide, heavy burden on economic, social and educational systems, and tendency to discriminate mental illness that is incompatible with EU values. The Mental Health Declaration for Europe adopted at the WHO European Ministerial Conference on Mental Health in Gelsinki (Finland) on January 12–15, 2005 defines the basic principles and guidelines for reforming the mental health system in Europe: promoting the psychological well-being of the population; ensuring the protection of human rights and dignity and the implementation of legislation that

² ONISCHENKO, N. – LVOVA, O. – SUNEGIN, S. (2013): Rights and freedoms of the child: introduction to the problem.

³ VOLOSCHUK, I. (2015): Child rights theory: the current state of development of the problem.

⁴ STESHENKO, V. (2018): Legal protection of children and adolescents.

⁵ FUNTA, R. - NEBESKÝ, Š. - JURIŠ F. (2014): Právo Európskej Únie

would allow people with mental health problems to fully participate in public life; development and implementation of preventive measures and assistance to people in difficult life circumstances, in particular pregnant women and children; build the capacity and ability of general practitioners and primary care services to effectively identify and treat people with mental health problems; the introduction of integrated strategies to combat stigma.⁶

The European Mental Health Action Plan proposes effective action to improve psychological health and well-being in the European region. In particular, it identifies a number of specific measures aimed at improving the mental well-being of the pediatric population: awareness of the importance of mental well-being as an important component of quality of life; recognition of mental health of children as a priority problem in mental health; shifting emphasis from biological treatment to psychological and social forms of care; focusing on preventative measures (development and providing access to effective parental support and education programs, starting with healthy lifestyles of pregnant women, prevention of domestic violence and child abuse in particular, investigation of problems and reduction of alcohol and drug use).⁷ Green Paper Improving the Mental Health of the Population: Towards a Strategy on Mental Health for the European Union is the basic document containing proposals for the unification of relevant EU policies. Its main aspects are as follows: promotion of mental health of all persons, prevention, improvement of the quality of life of patients with mental illness through social inclusion and protection of their rights, development of preventive measures, dissemination of information, research and knowledge on mental health issues.⁸

Other EU instruments on mental health include a number of documents of the EU Council (Conclusions of 2002, 2003, 2005) and Mental Health European Parliament resolution. The relevant resolution of the European Parliament focuses on the prevention of depression and suicide, mental health of young people and education, mental well-being of the elderly, and the prevention of social exclusion and stigma. Therefore, given the importance of protection of the public from the negative effects of mental illness, in the EU particular attention is paid to the development of strategic policy areas in the field, but not in the form of specific proposals (which are more specific to the "white paper"), but more generally, creating a basis for development of national strategies.⁹

⁶ Mental Health Declaration for Europe (2005).

⁷ The European Mental Health Action Plan 2013 – 2020.

⁸ Green Paper Improving the Mental Health of the Population: Towards a Strategy on Mental Health for the European Union (2005).

⁹ RABINOVYCH, M. L. (2013): European Standards for the Right of the Person to Mental Health: Toward a Problem Statement.

Prevention, treatment and provision of social services for children with mental disorders in the EU Member States is mainly done at the community level. Children receive medical and psychological care at the stage of primary medical and social care, which makes it possible to significantly reduce the number of hospitalizations. Also in European countries, considerable attention is paid to the prevention of mental illness of children. For example, in Germany, since 1971, there is a nationwide program on the early prevention of childhood diseases aimed at detection of diseases at early-stage. This program provides for ten compulsory medical examinations of a child from birth to the age of five. Because medical examinations are compulsory, they must be passed by all children. Some countries have established additional medical care for schoolchildren on their territory. Early diagnosis of diseases contributes to better health care delivery and faster recovery and, as a consequence, children grow healthier. However, recent statistical studies have found that the possibility of receiving medical care is not the same for all families living in Germany. In particular, lower-income families are at greater risk of developing children's diseases, and these diseases are not so well recognized even during the aforementioned preventive examinations.¹⁰

Therefore, in some countries in Germany, in recent years, in order to prevent childhood diseases, local authorities are obliging family doctors and nurses to visit families with children known to have health, social or psychological problems. Early childhood education programs support families with children with disabilities or with children who are likely to become disabled due to genetic defects, perinatal complications, infectious diseases, accidents, or stress. A separate group consists of children with mental disorders, the care of which is regulated by the German Social Code, Book VIII.¹¹

The existence of early childhood education programs is another positive experience of Germany. The purpose of educational programs for children and young people is to create a positive atmosphere in families, to support parents in the upbringing of children, to support children and adolescents in their individual and social development, to develop parenting abilities, to enhance interaction between parents and children. There is a practice of sending letters to parents, developing family guides, providing family counseling, holding seminars on raising children. Seminars aimed at enhancing parenting skills or supporting parents in parenting are often held at family education centers and counseling centers. The disadvantage is that they are usually visited by parents who themselves want to continue their education. However, parents who really need help because of the difficult life circumstances they find themselves in are much less likely to participate in the programs mentioned above.

¹⁰ Health care systems: Germany (2015).

¹¹ Early childhood education programs (2016).

In terms of prevention priorities, suicide, not surprisingly, is a common theme for countries with relatively high rates of suicide (for example, Belgium, Hungary, Latvia and Lithuania). Suicide reduction measures in these countries sometimes coincide with policies on reduction of drug use and / or alcohol (for example, in Lithuania). In Belgium, the Flemish suicide action plan for 2006-2010 was founded in 2006 and received positive feedback from the public and was therefore extended with changes in 2012. According to the Action Plan, the number of suicides is expected to be reduced by 20% by 2020. The plan includes 5 strategies: promoting mental health; building a network to provide ongoing assistance, combating suicide provocation, targeting specific target groups (e.g. support of survivors). The Action Plan includes, in particular: creation of an electronic help desk for general practitioners; development of recommendations for the media; psychosocial assessment and hospital assistance to persons trying to commit suicide (Limburg Province); relapse prevention for suicide attempts in collaboration with general practitioners; support for relatives of people who committed suicide; strengthening further activity of mental health centers. Similar initiatives have been implemented by the Belgian French community.¹²

Other prevention priorities, including those related to the reduction of mental illness, are focused on specific age groups, including children and adolescents (e.g. Belgium, Croatia, France, Hungary, Italy and Slovakia). The action plans developed in these countries for those at risk or for people with mental health problems include early detection of a threat and early intervention. As a rule, these normative documents are aimed at reducing the number of long-term / severe mental illnesses and relapses of mental illness and reducing the level of social exclusion. Stigma has also been addressed in a number of government programs (for example, in Greece, Norway, Poland, Portugal, Slovenia and Spain).

In some European countries, NGOs are involved in creating a network of agencies dedicated to supporting the special needs of children related to health, education, and culture providing social assistance to children with psychological disorders. Hungary's National Child Health Program, launched in 2010, focuses on mental health determinants outside the healthcare sector, involving various institutions such as schools, churches and the media.¹³ The program prioritizes the mental health promotion of children and adolescents in schools. Several suicide prevention programs have been launched both regionally and through the Internet. These programs are co-financed by EU funds.

¹² Development of an action plan for the prevention of suicide in Flanders (Belgium) (2012).

¹³ Hungary Essential values and fundamental principles (2011).

4. Concluding remarks

The foundation for good mental health is laid in the early years, and it is beneficial for society as a whole to invest in children and family. Fortunately, most young people in the EU have good mental health. However, on average, one of five children and adolescents suffer from developmental disabilities, emotional or behavioral problems, and approximately 1/8 have clinically diagnosed mental disorders. Unfortunately, new member states and candidate countries for accession to the EU are facing greater mental health problems for children and adolescents, which are manifested in severe mental illness among children and young people. Therefore, there is a clear and urgent need to develop effective cross-sectoral policies and practices to promote the mental health of children and adolescents in an enlarged Europe, to engage and actively share information between European countries.

5. Literature summary

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The Idea of Federalisation of the European Union

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Abstract

More than half a century ago, Europe's visionary leaders suggested the creation of the European Union. Without their energy and motivation, there would not be a zone of peace and stability today, which we take for granted. The Fathers, the founders of a united Europe, were a group of people of different professions who were united by the common ideal of a prosperous common Europe in which peace is established. Even in the 21st century, some authors are returning to the ideas of federalism in the context of the debate about the final form of the EU. It is clear that the ideas of federalization are still alive.

Key words

EU, State, Federation, Supranationalism

1. Introduction

It has been more than half a century since Europe's visionary leaders suggested the creation of the European Union as a part of which we live today. Without their energy and motivation, there would not be zone of peace and stability today, which we take for granted. The fathers and founders of a united Europe were a group of people of different professions who were united by the common ideal of a prosperous common Europe where peace is established.¹

From the 1840's to the beginning of the 20th century a different visionary leader was concerned with the European integration process. For example, Karl Ludwig von Bruck, who developed the plan of Central European customs union, monetary Union and Central European federation plan, Sándor Matlekovics, who spoke of the Central European customs union or Charles Mackay, who as one of the first used the term United States of Europe analogous to the United States of America and many others. In the last ten years before The First World War, a new stage seemed to be starting in the development of European integration. In the spring of 1909, at the initiative of British industrialist Max Waechter, an international congress convened to discuss the possible creation of a European federation.

The propaganda file of Prince Cassan La federazione europea and the establishment of the Union for European Unity, aimed at unifying the continent on an economic basis and, in principle, the positive attitude of some politicians suggested that such considerations would not have to be left only on paper.² For many people, First World War (1914-1918) meant the beginning of the end of European civilization. Others in the minority professed the idea that Europe's future depended on the possibility of overcoming aggressive nationalism, which brought a war disaster to the continent, and embraced the idea of a united Europe in which peace is to reside as a common project.

2. Richard Nicolaus Coudenhove-Kalergi

One of the first visionaries was Richard Nicolas Coudenhove-Kalergi, founder of the Paneuropean Movement. In 1926 he organized the first Pan-European Congress in Vienna, attended by two thousand delegates from 24 countries. Among the designs for the Paneuropean movement symbol were twelve stars on a blue background, which are now one of the symbols of the European Union. The blue sky is a symbol of peace. Later in 1955, he proposed to the Council of Europe that Beethoven's Ode to Joy, which has been the anthem of the European Union since 1993, should become the anthem of the Paneuropean movement. In 1947 he founded the European Parliamentary Union and became its Secretary General. He was also the initiator of the creation of the Council of Europe on 5 May 1949.

In his literary work written in 1923, called Paneurope, he writes: *"Europe as a political concept does not exist. This part of the world includes nations and states that are installed in chaos, in a barrel of gunpowder from international conflicts, and they are creating fertile ground for future conflicts. There is hatred in Europe... The European question can only be solved through the union of European nations. The main obstacle to the creation of the United States of Europe is a thousand years of rivalry between the two most populous states: Germany and France ..."* In a united Europe, he saw a tool to ensure peace and freedom in Europe.³

During his life, he met several times with President T.G. Masaryk, whom he proposed in 1920 to become

¹ COMISIÓN EUROPEA (2013): Los padres fundadores de la Unión Europea. p. 3.

² HORČIČKA, V. (2005): Dějiny evropské integrace I. p. 22.

³ La historia de la Unión Europea.

President of the United States of Europe, told him that the United States of Europe would be created in the future, but that time had not yet reached them. In 1944 he published an article in the American Mercury magazine called „Why not the United States of Europe? which ended with following sentence “We sowed seeds of freedom and unity that will grow everywhere on earth. One day, along the lines of the United States, the United States of Europe will be established.”⁴

Among the basic features of Paneurope Movement Kalergi included:

1. Paneurope as an opportunity for peace.
2. The economic necessity of Pan-Europe.
3. Pan-Europe as a protection against the expansion of Russia.
4. Pan-Europe as the handling of border and minority issues.
5. Pan-Europe as a way of reviving creative forces in Europe.
6. Pan-Europe as a necessary consequence of technical progress.

Richard Nicolaus Coudenhove-Kalergi argues that there is only one radical way of resolving Europe's border problems in a lasting and fair way: not pushing borders but cancelling them. Kalergi's vision of a united Europe is now becoming a reality and affecting every citizen living in Europe. Kalergi's work can be an example of a peaceful life in society and could bring people a peaceful life and the opportunity to participate in creating the well-being of society⁵ Luxembourg industrialist Emil Mayrisch, a supporter of a united Europe and German-French rapprochement, founded a steel cartel in 1926, bringing together smelters from France, Germany, Belgium, Luxembourg and Saarland to cross the international conflict. In 1928, the writer, political activist and convinced European Gastón Riou published the book called Europe, my country. He introduced Europe as a federal association, the only one able to prevent Europe from becoming a vassal of Russian, American or British dominance. In 1929, Count Carlo Sforza, who resigned as ambassador in exile to Mussolini's policy and went into exile, published the book United States of Europe.⁶

3. Aristide Briand

In 1929, Aristide Briand, Prime Minister of France, spoke at the League of Nations on the idea of federalizing Europe based on solidarity and seeking economic prosperity and political and social cooperation. The speech was particularly successful

with the German government and many important economists: “I think that there must be a federation between nations that are geographically connected like the nations of Europe. These nations must always have the opportunity to be in touch, to discuss, to take common decisions, to create the bonds of solidarity that can be created to solve serious problems ... It is obvious that this cooperation will manifest itself especially in the economic field. This is the most pressing problem, but I am sure that even from a political and social point of view, such a federal bond can be useful, while not undermining the common sovereignty of the nations that will be members of the association...”⁷

The League of Nations instructed Briand to develop a specific project. A French politician presented a memorandum on the organization of the Federal European Union system in 1930. This memorandum envisaged a degree of liberalization of the movement of goods, persons and capital. The Assembly of the League of Nations believed that the Memorandum would contribute to peacekeeping on the European continent and set up a Commission for the Study of Briand's proposals, which worked until 1938. Briand's proposals even spoke of the concept of "European Union" within the League of Nations.⁸

However, during this period the economic crisis culminated, the ideas of solidarity and international cooperation were rejected. The people who followed the idea of a common Europe, including the French politician Edouard Herriot, who published a book called The United States of Europe in 1931, remained in the minority and even the memorandum of Briand fell into oblivion for several years. Hitler's rise to office in 1933 marked the end of the idea of a united Europe and the establishment of nationalism in its worst form.⁹ II. World War II (1939-1945) meant the need to change the political map of Europe. In the first place, II. World War brought the end of traditional European hegemony in the world. Two new superpowers, USA and the Soviet Union, had economic, political and military power over European states. Secondly, the two world wars were seen as "civil wars" and the European continent was seen as the main battlefield in both cases. The most important way to achieve unity was to remove the discrepancies between France and Germany. Unity was the only way to guarantee peace in Europe. Third, the desire of Europeans to create a freer, fairer and more prosperous continent in which international relations will develop in unity.

4. Winston Churchill

Winston Churchill was one of the first personalities to appeal to the creation of the United States of Europe.

⁴ KLINEC, I. (2014): Richard N. Coudenhove-Kalergi a začiatky idey zjednotenej Európy. p. 8-10.

⁵ Richard Nikolaus Coudenhove-Kalergi a jeho vízie zjednotenej Európy ako cesta k európskemu mieru.

⁶ Projekty sjednocené Evropy.

⁷ Briand, A.: cited in: La historia de la Unión Europea.

⁸ TÝČ, V. et al. (2013): Právo Evropské unie. p. 34-35.

⁹ La historia de la Unión Europea.

He was convinced that only a single Europe could secure peace. Its aim was to eliminate disputes that lead to wars and nationalism present in Europe. He summed up his views and opinions in a famous speech for academic youth at the University of Zurich in 1946: *“There is a way ... to make Europe all over the years ... a free and ... happy place. It consists in rebuilding the European family, at least to the extent that we can do it, and in creating a structure that would cover its peace, security and freedom. We must build something like the United States of Europe.”* He said that *“Europe cannot afford to be drawn into hate conflicts and vengeance for the wrongs of the past, and that the first step towards re-shaping the “European family” of justice, mercy and freedom is creation of the United States of Europe. Only in this way will hundreds of millions of hardworking people be able to gain hope and feel the joy of life.”*¹⁰

His appeal to create the United States of Europe became one of the first advocates of European integration to prevent the repetition of atrocities in the form of two world wars. The first instrument of achieving this was the creation of the Council of Europe, in which it also attended the first meeting in person. He was the first to propose the idea of a common European army to defend Europe and promote diplomacy. He also advocated the creation of a European Court of Human Rights. Its aim was to fight against fascism and Nazism and also helped the peoples of Europe to bring them together. He became a fighter for European integration.¹¹

5. The Marshall Plan

A Europe heavily affected by war events needed to suddenly strengthen its economic situation. The aim of the project was to launch a process of economic recovery in Europe, leading to trade liberalization. It was also an opportunity for USA to build new business relationships and strategic ties on the continent. It allowed USA businesses to enter the European market, start long-term cooperation and create the conditions for the development of USA investment. The United States' efforts to rebuild the European continent also sought to create the preconditions for the participation of European states in the maintenance of world security, in which only a stable and economically strong Europe could participate. The Marshall Plan therefore went beyond the dimension of the economic agenda and became a significant moment of the Cold War with its political dimension. At the Paris Conference in 1947, the USSR refused to participate in the reconstruction program, followed by states under its influence, including Czechoslovakia. The Marshall Plan thus confirmed the long-term division of the boundaries of influence.¹²

¹⁰ Churchill, W.: cited in: Zakladatelia EÚ.

¹¹ Zakladatelia EÚ.

¹² FIALA, P. et al. (2003): Evropská unie. p. 44-45.

On 16 April 1948, the Organization for European Economic Co-operation (OEEC) was set up to distribute economic aid and to manage the related agenda. Individual countries had different views on the functioning of this organization and therefore their views were sought to be consolidated by the European Economic Co-operation Committee. Within the OEEC, two views have been developed on its structure:

1. The British image was based on the formation of a grouping of States which would cooperate under international agreements without losing their sovereignty.
2. The French idea sought to create a transnational organization.

The result was based on a compromise. An organization based on an intergovernmental principle with a unanimous vote was thus established. The emergence of the OEEC is not understood as the beginning of European integration, but as a space for solving problems regarding the further integration process in Europe. The OEEC contributed to the clarification of positions and marked the positions of States on issues related to cooperation in individual areas. Later, it was transformed into the OECD, the International Organization for Economic Cooperation and Development, which focuses mainly on economic research.¹³

Another important step in the integration process was the creation of the Council of Europe in 1949. This international organization, which still exists today, seeks to ensure political cooperation between European states. However, its statutes are not aimed at joining, federation or any way of losing sovereignty. Its primary function is to strengthen the democratic system and human rights in its Member States. It contributes to the development of a European identity, harmonizes the rights of European countries and addresses environmental, minority, xenophobia issues and facilitates modernization reforms in Eastern European countries.

6. From the Schuman Declaration to the Treaties of Rome

The first step in the creation of The European Union is given by the French Foreign Minister, Robert Schuman, on 9 May 1950, submitting a plan (created by French Minister Monet) to integrate France and Germany in the area of coal and steel. The Schuman Declaration contains three basic objectives:

1. Immediate objective: Franco-German Reconciliation - France proposes to control the coal and steel production of France and Germany under the

¹³ PAVLÍKOVÁ, Z. (2006): Myšlienka zjednotenia Európy. pp. 90-91.

High Authority, to open and integrate each other's markets for coal and steel and, as these are raw materials needed to produce weapons, to avoid any future wars between them.

2. Strategic objective: the creation of a united Europe - the gradual creation of a political union that will prevent war conflicts between European nations and increase the political weight of Western Europe in the international arena: „...The solidarity in production that comes about will result in any war... being not only unthinkable, but also virtually impossible." As economic goals are motivated by political goals, the basis of a certain preference of political and strategic aspects lies in front of pure economic efficiency, which distinguishes the EU from other world players.

3. A step-by-step method: Europe will not be created at the same time, but within a common building; it will be created by concrete implementations, first creating real solidarity, by a Community method - functionalism over an institutional approach - federalism, Schuman and Monnet preferred not to discourage those states that could be intimidated by a transnational vision that would involve the immediate transfer of extensive state powers and sovereignty.

Six states adopted The Schuman Declaration (Belgium, France, Italy, Luxembourg, the Netherlands and Germany) and signed on 18 April 1951 the Treaty of Paris - the Treaty establishing the European Coal and Steel Community for 50 years. This Treaty established a common sectoral market in an economically very narrow area. The ECSC had the power, within its remit, to receive contributions directly from undertakings or to direct their investment policies. This is the first experience of a regional integration supranational organization, whose supranational institutions have genuine normative powers with effect in the internal legal order of the Member States.

Jean Monnet devoted his whole life to the idea of integration within Europe. It was a model for the Schuman Declaration he drafted, which led to the creation of The European Coal and Steel Community, which is considered to be the forerunner of today's European Union. He was also the first chairman of his executive body. He was a supporter of the idea of a united Europe, arguing that there would be no peace in Europe until individual states stopped forming on the basis of national sovereignty ... European countries are too small to provide their citizens with the necessary prosperity and social development. European states must create a federation ... In 1954, the Action Committee for the United States of Europe set up the idea of European integration. He also stimulated the creation of a European monetary system, a common market or the organization of European Council summits and general elections to the European Parliament.¹⁴

¹⁴Jean Monnet.

Konrad Adenauer, West German Chancellor, was an important figure in the integration process that supported the idea of pan-European cooperation. The Adenauer Bureau accepted The Schuman Declaration as a way of improving and normalizing relations with the occupying powers. He argued that the adoption of The Schuman Declaration would improve Germany's international position and lay the foundations for transnational Europe.¹⁵

Konrad Adenauer appointed Walter Hallstein as the Head of Delegation who led the negotiations on the creation of The European Coal and Steel Community, who also contributed to European integration. He became a supporter of the single Europe by participating in the creation of the European Economic Community. Initially, he supported overall integration, which is to be achieved as quickly as possible, but later on, it led him to believe that integration would be achieved by gradually merging Member States' markets. In 1958, when the Treaty of Rome came into force, he became the first President of the Commission of the European Economic Community. During his term, he began to consolidate European law, which affected the legislation of the Member States. He supported the creation of a federal Europe with a strong Parliament and the Commission. Its aim was to unite Europe along the lines of The Schuman Declaration. French President de Gaulle took a different view on future developments. He preferred the Confederation's path, leaving most of the power to the Member States, while Hallstein supported a federation that would assume the transfer of powers to the Union. This contradiction led to the crisis of empty seats in 1965, when France removed its representatives from the European institutions until they reached a compromise. Hallstein's commitment to the speed of European integration in this period is due to his persuasion skills and great enthusiasm.¹⁶

Joseph Bech, a Luxembourgian politician who stood in the creation of The European Coal and Steel Community, argued that inter-state cooperation and internationalism were most important if a strong and prosperous Europe was to be achieved. He was involved in the creation of a union of the Benelux countries, which is seen as the prototype of the creation of the European Union itself.¹⁷

There were only two options to further expand cooperation. The first was to maintain an intergovernmental approach to cooperation and to renounce the idea of creating supranational bodies. This option did not represent a deepening of integration but was an opportunity to involve more countries in the cooperation process. The second option was to maintain and deepen the transnational

¹⁵ ČÁKY, M. (2004): Róbert Schuman a vytváranie európskych štruktúr. p. 4.

¹⁶ Walter Hallstein.

¹⁷ Joseph Bech.

character, to which only a limited number of countries associated in the ECSC would add.

The Committee of Governmental Experts, headed by Paul - Henry Spaak, drafted two treaties, signed in Rome on 25 March 1957. They established the European Economic Community and the European Atomic Energy Community. The Treaties of Rome represent a new generation of primary law. They less threaten the sovereignty of Member States with supranationalism. These communities provide the basis for integration in Europe, which has continued to lead to closer cooperation between Member States in several areas, on the one hand, and has gradually been extended to other countries.¹⁸

Paul - Henri Spaak was a Belgian and supporter of European unity and political and economic cooperation. In 1944 he created the Benelux, a customs union between Belgium, the Netherlands and Luxembourg, which is seen as an inspiration for the next European integration. He has always advocated the need for European integration and the independence of the European Commission. He claimed that Europe of tomorrow must be transnational. European unity rests on the economy.¹⁹

7. The Single European Act

Altiero Spinelli participated in the creation of the so-called The Spinelli Plan - Treaty on the Federal European Union in 1984, adopted by the European Parliament. Although not adopted by the national parliaments, it became the basis for the adoption of The Single European Act and in 1992 The Maastricht Treaty. He has contributed to deepening European integration by convincing his federalist enthusiasm for French President Mitterrand to remove his hostile attitude towards everything that is not an intergovernmental approach. Spinelli fought to create a transnational government to prevent the emergence of wars and unite the continent's states into a united Europe. It has contributed to a number of changes in the European Union, including, in particular, strengthening the powers of the European Parliament. His name contains the name of the main building of the European Parliament in Brussels.²⁰

Since the signing of The Treaties of Rome, the Single European Act came into force in 1987, by which Member States tested a new type of international cooperation. In addition to the achievement of objectives and deepening integration between Member States, the new Member States were also admitted, and the EEC extended.²¹

¹⁸ PAVLÍKOVÁ, Z. (2005): Zmluvy stanovujúce základné pravidla EÚ, p. 4.

¹⁹ Paul-Henri Spaak.

²⁰ Altiero Spinelli.

²¹ SVOBODA, P. (2010): Úvod do Evropského práva. p. 5-7.

In essence, The Single European Act meant a return to the original objectives, i. towards the goal of creating a single market. It also touched on political cooperation. It introduced new forms of decision-making, influenced the normative process in the Community. He also dealt with defence and foreign policy. The core of the act was the creation of a common market by 1992 to allow the free movement of persons, goods and capital. The logical outcome of the act was the Schengen Treaty of five states on the abolition of border controls.²²

8. The Maastricht Treaty

The Luxembourgers, who presided over the Community in the first half of 1991, inserted a remark on the federalist goals of the newly formed group in the draft Treaty on Political Union. British Prime Minister Major, however, at the Luxembourg summit insisted on the deletion of the passage, which in exchange for some concessions achieved.

The Maastricht Treaty was signed on 7 February 1992. It established the European Union, which is not a legal person and does not replace Member States but has an institutional framework and its objectives are in line with the ideas of federalists. It establishes an institute of common citizenship and, within the three pillars, the European Council, composed of the Heads of State or Government of the Member States, the Parliament, the Council of Ministers, the Commission and the Court of Justice, decide within the Union. The most important part is the first pillar revising the Treaties of Rome. Its main objective was to strengthen the legitimacy of the joint institutions and to facilitate the decision-making process. The subsidiarity principle has been adopted and a new Committee of the Regions' advisory body has been established. The powers of the European Parliament have also been strengthened, its right to approve Council decisions in certain areas such as the admission of new Member States or the free movement of citizens has been extended. The European Parliament has been given the opportunity to co-decide with the Council on important decisions such as transport, the social fund or development cooperation. In case of disagreement, the Council decided. Parliament also obtained the right of codecision in the legislative process.

Negotiations on the second pillar, i. on the Common Foreign and Security Policy was very complicated. This was because it was a key issue of state sovereignty that national states did not want to lose, and at the same time it reflected the different national interests and traditions of the Member States. The most significant outcome of the Maastricht Summit was the agreement on the introduction of the EMU,²³

²² HORČIČKA, V. (2005): Dějiny evropské integrace II. p. 88-92.

²³ Economic and Monetary Union - is informally referred to as the last (third) stage of Economic and Monetary Union (ie

or the first pillar. The second and third pillars, judicial and internal security cooperation has not undergone any major change. In the area of the third pillar, the Schengen Agreement was followed up. The Maastricht Treaty essentially speeded up the integration process, especially the EMU was a revolutionary step forward.²⁴

9. From the Treaty of Amsterdam to The Treaty of Lisbon

Following the introduction of The Maastricht Treaty, the construction of a monetary union continued. In mid-1994 its second phase began; at the same time, the European Monetary Institute was set up to prepare the third phase, i. the introduction of a common currency. Initially, the euro was supposed to operate in non-cash payments only, with the Union's citizens receiving cash only on 1 February 2002. The third phase of the monetary union was finally launched on 1 February 1999 with the participation of 11 countries that were associated in the euro area. Great Britain, Denmark and Sweden remained on their own. Greece did not meet the convergence criteria, but the euro was also introduced here. The European Monetary Institute was replaced by the European Central Bank at the beginning of the third phase. Economic and Monetary Union was part of a broad-based European integration process. The Single Market has continued to be built, but this process has not yet been completed.

On 2 October 1997, The Treaty of Amsterdam was signed and entered into force on 1 May 1999. It brought only minor changes in the area of institutional change. These concerned mainly the Parliament, which had the right to approve the President of the Commission appointed by the Member States, while previously expressing only his opinion. Its legislative powers have been extended; the number of Members was limited to seven hundred. The number of Commissioners was set at one per Member State. The Treaty also meant a certain shift beyond the institutional area. First of all, it allowed more flexibility in implementing common policies. The Treaty of Amsterdam further modified the distribution of the three fundamental pillars of the European Union. Some matters that were part of the third pillar were moved to the first pillar. These included, inter alia, the issues of visa policy, asylum and cooperation in criminal matters. The Schengen system also became part of the treaty. The second pillar, i. the Common Foreign and Security Policy has hardly seen any changes. But the Treaty of Amsterdam did not address the functioning of the Union after enlargement.

the existence of the euro); sometimes the whole Economic and Monetary Union. Replacing the correct designation Economic and Monetary Union with European Monetary Union appears to occur because both terms have the same abbreviation EMU in English.

²⁴ HORČÍČKA, V. (2005): Dějiny evropské integrace II. p. 105-112.

Consequently, The Treaty of Nice was signed on 26 February 2001, which entered into force on 1 February 2003. That Treaty regulated the Commission's position. It is proposed by the Council, acting by a qualified majority, in accordance with the Treaty of Amsterdam, and then nominated by Parliament. However, a qualified majority is also sufficient to approve individual Commissioners. In addition, the position of the President has been strengthened vis-à-vis the members of the Commission, one nominated by the Member States, and the ministries are assigned to them by the President, even during their term of office. The Head of the Commission may, with the consent of a majority of its members, request individual Commissioners to resign. The Treaty of Nice also regulated the powers of the European Court of Justice and the Court of First Instance; the Member States of the Union shall each appoint one representative to both institutions. Also the institute of the so-called. Judicial bodies set up by the Council, acting unanimously, for specific purposes. In addition to institutional reform, which was a precondition for the enlargement of the Union to the east, European statesmen in Nice also agreed to revise some common policies. In the field of foreign and security policy, the Institute of Enhanced Cooperation could be used, with the exception of defence matters. In the third pillar area, cooperation has been strengthened through the newly established Judicial Cooperation Unit - Eurojust. The third pillar was also related to the completed work on the Charter of Fundamental Rights of the European Union, which guarantees human and civil rights and freedoms. The Nice Summit opened the way for further progress on the two main objectives of European integration - expanding and deepening cooperation.²⁵

As the Treaty establishing a Constitution for Europe ended in failure, a conference was held in June 2007 to prepare the text of a new Reform Treaty called the Lisbon Treaty. This Treaty abandons some parts of the Constitutional Treaty. It was signed on 13 December 2007 in Lisbon. The Treaty of Lisbon amends and revises the founding treaties of the Union, but does not replace them with a single constitutional text. It also maintains the idea of the European Union as a separate entity which is the successor of the European Community. After the adoption of the Lisbon Treaty, the European Union is made up of two founding treaties: The Treaty on European Union and the Treaty on the Functioning of the European Union. The Lisbon Treaty removed the three - pillar structure of the European Union.²⁶

²⁵ HORČÍČKA, V. (2005): Dějiny evropské integrace II. p. 116-132.

²⁶ MAZÁK, J. - JÁNOŠÍKOVÁ, M. (2011): Lisabonská zmluva. Ústavný systém a súdna ochrana. p. 17-23.

10. The current view of the idea of federalization of Europe

The previous part of the paper dealt with the chronological evolution of the European Union since the early 20th century, referring to the "fathers of Europe" who laid the foundations of the Union as we know it today. Their aim was to strengthen the transnational nature of European integration or directly the creation of a European Federation, which is key to the objective of this article. Even in the 21st century, some authors are returning to the ideas of federalism as part of the debate on the final form of the EU. It is obvious that the ideas of federalization are still alive and, even if they are revised, the principle of federalism remains. According to Michael Burgess, it is possible that nation states will only save the creation of an EU based on federal principles. According to the author, the European idea is based on three concepts: first, there is Europe, second, European identity, and third, European unity. According to him, federal Europe is neither a unitary centralized state nor an empire. Burgess sees current European integration as a kind of attempt by modern states to adapt to the changes in the global political economy, which also pose some problems. These problems, according to the states, require a higher level of institutionalization - especially strengthening the powers of multinational institutions over intergovernmental ones. This can lead to a political union that is more than a free market, but less than a state.²⁷

According to Tömmel, the EU should be seen as a federation, for example because of the multi-level structure and the relationship between levels. Given the division of power and the fact that Member States have sovereignty, the author also argues that the EU cannot be considered a federal state. For this reason, it refers to the EU as a federation of *sui generis*. This means that the EU has certain principles and characteristics very close to federalism but, on the other hand, it also has certain characteristics not found in other federations.²⁸

11. The United States of Europe as a future?

Eurooptimists see the future of Europe in total unification. They call for more Europe. For them, Europe is the solution, not the problem, as the best alternative on the global scene to protect common interests. The common currency of the euro is a sign that the future of Europe lies in the creation of a single common state, a superpower that will ensure the conditions for the coexistence of peoples in Europe in peace.

²⁷ BURGESS, M. (2000): *Federalism and the European Union: The Building of Europe*. p. 1-23.

²⁸ TÖMMEL, I. (2008): *Das politische System der EU*. p. 45-60.

The United States of Europe is the name of a possible federation of European states. According to this principle, the European Federation could operate on the same or similar principle as the United States of America. A constitution that is characteristic of a federation would have to be adopted, which would only be adopted by some European countries, with others gradually joining it. The federation would be based on the principle of subsidiarity, on the basis of which federal and national competences would be resolved. The guarantor of democratic oversight should be a bicameral parliament whose upper house would be composed of Members delegated by the upper chambers of the parliaments of the Member States and the lower house would consist of Members delegated by the Member States. A federal president would have to be created to select a prime minister who would have to be approved by both chambers. The case would be an institution of the Council of the Federation, composed of representatives of each Member State.

It is only a hypothetical model of a possible federation created within Europe, which represents the most likely model for the functioning of the future development of the European Union. Creating a kind of superstate would mean stabilizing global civilization and creating a humane, ethical and social dimension of the economy and the world market. Only the future will show whether deeper integration is the right solution. By such a development, a united Europe would help to fulfil the principles of humanism, ethics and justice.

12. Conclusion

The authors and representatives of the idea of federalization of Europe considered national states unsuitable instruments for integration and therefore advocated transnational cooperation in which they sought to strengthen the powers of transnational institutions and limit the sovereignty of Member States, thereby hoping to strengthen the transnational character of the EU and create political or federal Union, which they often called the European Federation. On the other hand, it is very important to note that there are other perspectives on the direction of European integration. There are the Eurosceptics who, on the contrary, seek to devolve powers from supranational institutions to national states, as they reject the integration process.

13. Literature summary

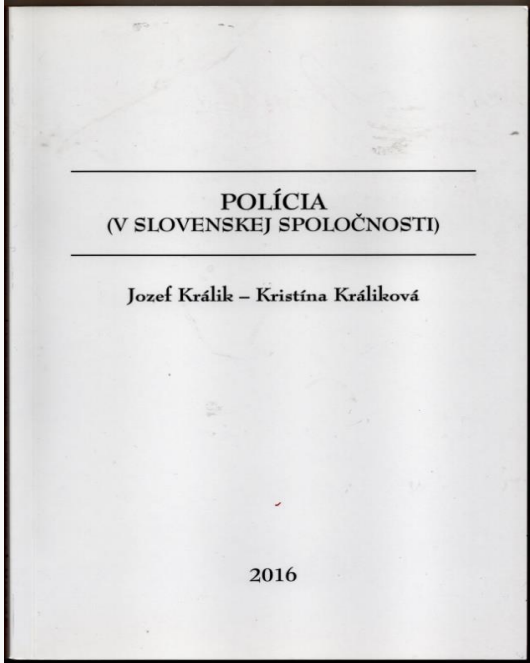
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Police (in Slovak society)
(Jozef Králik and Kristína Králiková)
book review
Rastislav Funta



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The police institution and the police procedures provide the support and guarantee of trouble-free life for every society. That is why the police pay attention not only to politicians, lawyers, sociologists, psychologists or the scientific community. The police pay particular attention to citizens. Nowadays, the great interest in the police is also reflected in the activities of journalists, in the professional and popular activities of publicists and writers. The interest in policeman and their work in the eyes of the public is increased by cinematography products and TV series. However, the most valuable information about the police is excerpted from professional literature. We also include a reviewed work in its circle. At the beginning, its authors analyze and partially compare excerpted knowledge of the police as a state authority and its activities in society. They present the goals they want to achieve with this work. In particular to increase the level of solid awareness of police and police officers. They present to the reader certain hypotheses. The authors analyze, synthesize and finalize the acquired knowledge into the form of their own original conclusions. In this way they create a literary work full of original opinions and outputs.

These are based on an independent scientific investigation of the police and its activities and its evaluation. The work is characterized by a living language. It is characterized by a high degree of concentration of information, a comparison of opinions and views from a broader interdisciplinary perspective. Many of the presented findings and recommendations are inspiring. Their critical observations and insights stimulate controversy about this issue. However, the authors present the criticism of the status quo as well as the legal regulation of the police science.

The text of the publication is divided into several thematic sections. The first, general part is characterized by its scientific procedures. The authors use the method of work by the historical method, the method of comparison and the method of compilation. For this reason this part has a descriptive character.

Other parts of the monograph have an analytical and synthesizing character. They are devoted to issues of organizational base of police, personnel base of police and related problems. Particularly remarkable is the authors' focus on the issue of possible solutions to defects in the management of police, police activities, police law and police personnel management.

The results of the research appear to be extremely valuable. The authors of the work performed on a quantitative and qualitative representative sample of respondents. The evaluation of these results allowed the authors to receive and publish at the end of their work unknown, unverified, although largely expected information on the police, police officers and their service to society.

The authors themselves guarantee the seriousness of scientific research and guarantee the truthfulness of its outputs. They are generally known for their long-term activity on campus and in police services. The book is thus a reflection of the current present of police and police activity. It represents internal police relations as well as public relation with the police. It constitutes the basis for further scientific investigation of this issue, which needs to be continuously monitored.